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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to delegate the authority vested in the Secretary pursuant to section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 to provide outreach and technical assistance to socially disadvantaged farmers and ranchers and to make grants and enter into contracts and other agreements to provide such outreach and technical assistance.

EFFECTIVE DATE: January 8, 1997.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, General Law Division, Office of the General Counsel, Department of Agriculture, Room 2321–S, 1400 Independence Avenue, S.W., Washington, DC 20250, telephone 202–720–6035.

SUPPLEMENTARY INFORMATION: Pursuant to section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, 7 U.S.C. 2279(a), the Secretary of Agriculture is authorized to provide outreach and technical assistance to encourage and assist socially disadvantaged farmers and ranchers to own and operate farms and ranches and to participate in agricultural programs. Under the authority of 7 U.S.C. 2279(a)(2), the Secretary may make grants and enter into contracts and other agreements with certain community based organizations and educational institutions to provide outreach and technical assistance to socially disadvantaged farmers and ranchers.

The delegations of authority of the Department of Agriculture are amended to delegate to the under Secretary for Natural Resources and Environment the authority vested in the Secretary by 7 U.S.C. 2279(a) to provide outreach and technical assistance to socially disadvantaged farmers and ranchers and to make grants and enter into contracts and other agreements to provide such outreach and technical assistance. Further, that authority is redelegated by the Under Secretary for Natural Resources and Environment to the Chief, Natural Resources Conservation Service.

Prior delegations of authority by the Secretary to the Under Secretary for Farm and Foreign Agricultural Services, and by the Under Secretary for Farm and Foreign Agricultural Services to the Administrator, Farm Service Agency, to make grants and enter into contracts and other agreements to provide outreach and technical assistance to socially disadvantaged farmers and ranchers under 7 U.S.C. 2279 are removed.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order Nos. 12866 and 12988. In addition, this action is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and, thus, is exempt from the provisions of that Act. Accordingly, as authorized by section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, this rule may be made effective upon publication in the Federal Register.

Accordingly, 7 CFR part 2 is amended as set forth below.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: Sec. 212(a), Pub. L. 103–354, 108 Stat. 3210, 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR, 1949–1953 Comp., p. 1024.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretaries and Assistant Secretaries

§ 2.16 [Removed and reserved]

2. In § 2.16, paragraph (a)(2)(iv) is removed and reserved.

3. In § 2.20, paragraph (a)(9) is added as follows:

§ 2.20 Under Secretary for Natural Resources and Environment.

(a) * * *

(9) Related to outreach and technical assistance to socially disadvantaged farmers and ranchers. Provide outreach and technical assistance to socially disadvantaged farmers and ranchers and make grants and enter into contracts and other agreements to provide such outreach and technical assistance under 7 U.S.C. 2279.

* * * * *

Subpart F—Delegations of Authority by the Under Secretary for Farm and Foreign Agricultural Services

§ 2.42 [Amended]

4. In § 2.42, paragraph (a)(31) is removed and reserved.

Subpart J—Delegations of Authority by the Under Secretary for Natural Resources and Environment

5. In § 2.61, paragraph (a)(25) is added as follows:

§ 2.61 Chief, Natural Resources Conservation Service.

(a) * * *

(25) Provide outreach and technical assistance to socially disadvantaged farmers and ranchers and make grants and enter into contracts and other agreements to provide such outreach and technical assistance under 7 U.S.C. 2279.

* * * * *

For Subpart C.

Dated: October 1, 1996.

Dan Glickman,

Secretary of Agriculture.

For Subpart F.

Eugene Moos,

Under Secretary for Farm and Foreign Agriculture Services.

For Subpart J.

Dated: October 2, 1996.

James R. Lyons,

Under Secretary for Natural Resources and Environment.

[FR Doc. 97–360 Filed 1–7–97; 8:45 am]

BILLING CODE 3410–14–M

Agricultural Marketing Service

7 CFR Part 33

[Docket No. FV96–33–1 FIR]

Regulations Issued Under the Export Apple and Pear Act; Relaxation of Grade Requirements for Apples and Pears Shipped to Pacific Ports of Russia

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, with appropriate modifications, the provisions of an interim final rule relaxing the minimum grade requirements issued under the Export Apple and Pear Act for U.S.-grown apples and pears shipped to Pacific ports of Russia. Container marking provisions also are relaxed for such shipments. These changes are designed to develop Eastern Russia as an export market for apples and pears. This rule was recommended by the Northwest Horticultural Council (Council), an organization representing the Northwest fruit industry.

EFFECTIVE DATE: This final rule becomes effective January 9, 1997.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax # (503) 326–7440; or William R. Addington, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, D.C. 20090–6456; telephone: (202) 720–2412, Fax # (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456; telephone: (202) 720–2491, Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under authority of the Export Apple and Pear Act, as amended, [7 U.S.C. 581–590], hereinafter referred to as the ''Act.'' This rule amends ''Regulations Issued Under Authority of the Export Apple and Pear Act'' [7 CFR part 33].

The Department is issuing this rule in conformance with Executive Order 12866.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The Act and regulations effective thereunder apply to exporters and export carriers of apples and pears. In the United States, there are approximately 450 firms which pack and export apples and 300 firms which pack and export pears that are potentially subject to regulations under the authority of the Act. Small agricultural service firms, which include firms that pack and export apples and pears, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000. The majority of apple and pear exporters regulated under the Act may be classified as small entities. This rule relaxes the minimum grade requirements issued under the Act for U.S.-grown apples and pears shipped only to Pacific ports of Russia. Container marking provisions also are relaxed for such shipments. This rule provides all exporters additional flexibility in marketing apples and pears of different grades and quality in Russian port cities and areas along the Pacific Ocean. These changes are designed to develop export markets for apples and pears in these areas. This rule does not preclude shipments of apples and pears of higher than the minimum quality from being shipped to Russian Pacific ports. This benefits both large and small exporters of apples and pears. Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Section 33.10 of the ''Regulations Issued Under Authority of the Export Apple and Pear Act'' establishes minimum grade and container marking requirements for export shipments of apples and pears. Prior to the issuance of the interim final rule, export shipments of apples were required to meet a minimum grade of U.S. No. 1 or U.S. No. 1 Early as specified in the United States Standards for Grades of Apples (7 CFR part 51, sections 51.300–51.323). Exports of summer and fall pears were required to meet a minimum grade of U.S. No. 2 as specified in the United States Standards for Grades of Summer and Fall Pears (7 CFR part 51, sections 51.1260–51.1280). Exports of winter pears were required to meet a minimum grade of U.S. No. 2 as specified in the United States Standards for Grades of Winter Pears (7 CFR part 51, sections 51.1300–51.1323). Additional restrictions for apple maggot and San Jose scale apply to both apples and pears.

This final rule continues in effect the reduction of the minimum grade requirements, as follows:

The minimum grade for fresh apples exported to Russian Pacific ports is reduced to U.S. Utility grade (7 CFR part 51, section 51.303) or U.S. No. 1 Hail (7 CFR part 51, section 51.302(b)) for apples damaged by hail.

The minimum requirements for summer and fall pears exported to Russian Pacific ports are listed in the regulatory text of this final rule. The requirements provide that the pears be of one variety that are mature, hand picked, clean, sound and free from hard-end; and free from serious damage caused by broken skin, insects, disease, hail marks, limbrubs, heavy russet, or other means; and not so excessively elongated or flattened as to preclude the cutting of one good half. The requirements also include necessary definitions and explanations of some provisions and a list of tolerances which are applied to each lot at the time of packing.

Finally, the minimum requirements for winter pears exported to Russian Pacific ports also are listed in the regulatory text of this final rule. The requirements provide that the pears be of one variety which are mature, hand

picked, clean, sound, not very seriously misshapen, free from black end, free from damage caused by hard end, broken skins, and free from serious damage caused by cork spot or bruises. ''Very seriously misshapen'' means that the pear is excessively flattened, elongated for the variety, or is constricted or deformed so it will not cut one good half or two fairly uniform quarters. The requirements also include necessary definitions and explanations of some provisions and a list of tolerances which are applied to each lot at the time of packing.

Handlers may ship apples and pears of higher grade quality than the minimum requirements established in this regulation.

The additional restrictions for apple maggot and San Jose scale continue to apply to apples and pears shipped to any foreign destination.

The Council, an organization that represents a substantial portion of the fruit industry in the Northwest States of Oregon, Washington, and Idaho, recommended these changes in the current export regulations.

The Council advised that a change in requirements is needed to develop export markets for apples and pears to Pacific ports of Russia. According to the Council, exporters indicate that there is a demand in this relatively new export market of Eastern Russia for apples and pears of a lower grade than the previous requirements allowed. This change will increase sales opportunities in a market willing to accept apples and pears that are lower in overall quality and less uniform in appearance than most export markets will accept.

The Council reported that weather and growing conditions are expected to adversely affect the appearance and quality of a significant portion of the 1996 pear crop. The Council believes this change will facilitate market development efforts for apples and pears to Pacific ports of Russia. Apples and pears which are not shipped for fresh consumption in either domestic or foreign markets are usually disposed of in processing outlets, such as juice. Processing outlets are not normally as profitable as fresh market outlets.

The interim final rule concerning this action was published in the September 26, 1996, Federal Register (61 FR 50421), with a 30-day comment period ending October 28, 1996. One comment was received in favor of the interim final rule suggesting several revisions.

The comment was submitted by Northwest Fruit Exporters (NFE), a non-profit organization, whose members grow, pack, ship, and export fresh apples and pears regulated under the Act. NFE members are located in Washington, Oregon, and Idaho. NFE suggested that the U.S. Utility grade not be added as an option for apple exports because the intent of the rule is to allow shipments of hail damaged apples. NFE suggested using U.S. No. 1 Hail grade which is specifically designed to allow shipment of hail damaged apples. NFE stated further that the Utility grade makes an allowance for other quality factors but remains restrictive regarding hail damaged apples. The Department believes that it would not be appropriate to remove the U.S. Utility grade because it allows exporters the opportunity to sell apples of a lower grade even though they are not hail damaged. This provision is intended to provide exporters with flexibility. Therefore, no change is being made to the rule in response to this comment.

NFE pointed out the word ''apples'' is incorrectly used in paragraph (b) in Section 33.10. The paragraph refers to pears. The Department will make this correction in the regulatory text.

NFE pointed out that the proposed general definition of ''damage by hard end'' does not apply to the quality requirements for winter pears as stated in Section 33.10 (b)(2) and should be replaced with language commonly used to describe damage to winter pears. The following language was recommended: ''Damage by skin break means any pear with one skin break larger than 3⁄16 inch in diameter or depth, or with more than one skin break 1⁄8 inch or larger in diameter or depth. Such pear shall be considered damaged, and scored against the grade tolerance.'' The Department concurs with this recommended change. The regulatory text will be modified accordingly.

NFE further suggested additional language establishing grade defect lot tolerances be included under Section 33.10(b)(2) because grade defect tolerances for a lot of pears were omitted. The Department inadvertently omitted lot tolerances for pears and therefore, the regulatory text will be modified accordingly.

NFE went on to suggest that grade defect tolerances are applicable at the time of packing; however, subsequent to storage and/or transit, only permanent type quality defects should be considered as grade defects and applied to the stated grade tolerance. NFE stated that the provision ''condition after storage or transit'' exists in the current U.S. Standards for Grades of Winter Pears and a new paragraph should be added to section 33.10 to capture this type of language. The Department recognizes that this provision currently exists in the U.S. Standards for Grades of Winter Pears as well as in the U.S. Standards for Grades of Summer/Fall pears and apples. For the sake of clarity, the regulatory text will be modified by adding a new paragraph (c) to state that decay, scald or any other deterioration which may have developed on apples or pears after they have been in storage or transit shall be considered as affecting condition and not the grade.

Finally, NFE suggested that requirements be modified to permit shipments of U.S. No. 1 Hail grade apples to Mexico, using the same rationale and justification for this request as stated for shipments of U.S. No. 1 Hail grade apples to Russia. The Department believes this recommendation is beyond the scope of the interim final rule.

After analyzing the comment received and other available information, the Department finds that this final rule is appropriate.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because: (1) This rule continues in effect a relaxation of the grade requirements for apples and pears shipped to Pacific ports of Russia; (2) exporters have indicated that sales opportunities exist in Eastern Russia and shipments have already begun to take advantage of these opportunities; (3) apples and pears are shipped throughout the year, and this rule should be in effect promptly so exporters can make marketing plans; and (4) a 30-day comment period was provided for in the interim final rule and recommended modifications should be implemented as soon as possible.

List of Subjects in 7 CFR Part 33

Administrative practice and procedure, Apples, Exports, Pears, Reporting and record keeping requirements.

Accordingly, the interim rule amending 7 CFR part 33 which was published at 61 FR 50421 on September 26, 1996, is adopted as a final rule with the following changes:

PART 33—EXPORT APPLE AND PEAR ACT

1. The authority citation for 7 CFR part 33 continues to read as follows:

Authority: 7 U.S.C. 581–590.

2. In § 33.10, paragraphs (c) and (d) are redesignated as (d) and (e), respectively; a new paragraph (c) is added; and paragraph (b) is revised to read as follows:

§ 33.10 Minimum requirements.

* * * * *

(b) Pears grade at least U.S. No. 2 as specified in the United States Standards for Summer and Fall Pears, such as Bartlett, Hardy, and other similar varieties (Sections 51.1260–51.1280 of this chapter), or in the United States Standards for Winter Pears, such as Anjou, Bosc, Comice, and other similar varieties (Sections 51.1300–51.1323 of this chapter), do not contain apple maggot, and do not have more than 2 percent, by count, of pears with apple maggot injury, nor more than 2 percent, by count, of pears infested with San Jose scale or scale of similar appearance: *Provided,* That the minimum quality requirements for pears exported to Pacific ports of Russia are as follows:

(1) Summer and fall pears shall be of one variety which are mature, hand picked, clean, sound and free from hard-end; and free from serious damage caused by broken skin, insects, disease, hail marks, limbrubs, heavy russet, or other means; and shall not be so excessively elongated or flattened as to preclude the cutting of one good half. Broken skin must not exceed 1/4 inch in diameter. The following definitions shall apply to all varieties:

Clean means reasonably free from dust, dirt, or honey dew.

Free from serious damage means defects when taken singly or collectively shall not seriously affect the edible or culinary value of the fruit.

Hand picked means that pears do not show evidence of rough handling or of having been on the ground.

Hard-end means pears which show an abnormally yellow or green color at the blossom end or an abnormally smooth rounded base with little or no depression at the calyx, or if the flesh near the calyx is abnormally dry and tough or woody. Pears affected by hard-end shall be considered defects. Rat-tail shaped pears, or second bloom pears that are tough or ridged shall be considered defects. At the time of packing, not more than 10 percent, by count, of any lot may be below the requirements of the grade, and not more than one-tenth of this amount or 1% shall be allowed for decay and/or breakdown. For a tolerance of 10 percent or more, individual packages in any lot may contain not more than one and one-half times the tolerance specified, except that when the package contains 15 specimens or less, individual packages may contain not more than double the tolerance specified. For a tolerance of less than 10 percent, individual packages in any lot may contain not more than double the tolerance specified, provided at least one specimen which does not meet the requirements shall be allowed in any one package. Slight imperfections which are not discernible in good commercial sorting practice shall not be considered as defects. Small inconspicuous skin breaks of less than ⅛ inch in diameter or depth shall not be considered as damage, and not more than 15 percent of the pears in any container may have not more than one skin break from ⅛ inch to 3⁄16 inch, inclusive, in diameter or depth. After pears have been placed in storage, or in transit; scald, breakdown, decay, bitter pit, or physical injury affecting keeping quality, which may have developed or may only have become evident after pears are packed, are defined as applying to condition rather than to grade. Pears also shall not contain apple maggot, and shall not have more than 2 percent, by count, of pears with apple maggot injury, nor more than 2 percent, by count, of pears infested with San Jose scale or scale of similar appearance.

Mature means having reached the stage of maturity which will insure a proper completion of the ripening process. Firmness of the flesh shall be considered only in connection with other factors to determine the degree of maturity.

Sound means that pears at time of packing are free from visible defects such as decay, breakdown, scald, bitter pit, or physical injury affecting keeping quality. The following conditions shall not be considered serious damage: healed insect depressions or other surface blemishes which do not prevent the cutting of one good half;

(2) Winter pears shall be of one variety which are mature, hand picked, clean, sound, not very seriously misshapen, free from black end, free from damage caused by hard end, broken skins, and from serious damage caused by cork spot or bruises. The following definitions shall apply to all varieties:

Black end is evidenced by an abnormally deep green color around the calyx, or black spots usually occurring on one-third of the surface nearest to the calyx, or by an abnormally shallow calyx cavity.

Clean means free from excessive dirt, dust, spray residue, or other foreign material. *Damage* by skin break means any pear with one skin break larger than 3⁄16 inch in diameter or depth, or with more than one skin break ⅛ inch or larger in diameter or depth. Such pear shall be considered damaged, and scored against the grade tolerance.

Damage by skin break means any pear with one skin break larger than 3⁄16 inch in diameter or depth, or with more than one skin break ⅛ inch or larger in diameter or depth. Such pear shall be considered damaged, and scored against the grade tolerance.

Handpicked means that the pears do not show evidence of having been on the ground.

Hard end is an abnormal yellow color at the blossom end, or an abnormally smooth, rounded base with little or no depression at the calyx, or if the flesh near the calyx is abnormally dry and tough or woody.

Mature means that the pear has reached the stage of maturity which will insure the proper completion of the ripening process.

Overripe means dead ripe, very mealy or soft, past commercial utility.

Serious damage by *cork spot* is when more than two cork spots are visible externally, or when the visible external injury affects an aggregate area of more than ½ inch in diameter. *Serious damage* by bruising is bruising which seriously affects the appearance, edible or shipping quality. For a tolerance of 10 percent or more, individual packages in any lot may contain not more than one and one-half times the tolerance specified, except that when the package contains 15 specimens or less, individual packages may contain not more than double the tolerance specified. For a tolerance of less than 10 percent, individual packages in any lot may contain not more than double the tolerance specified, provided at least one specimen which does not meet the requirements shall be allowed in any one package. Pears also shall not contain apple maggot, and shall not have more than 2 percent, by count, of pears with apple maggot injury, nor more than 2 percent, by count, of pears infested with San Jose scale or scale of similar appearance;

(c) Decay, scald or any other deterioration which may have developed on apples or pears after they have been in storage or transit shall be considered as affecting condition and not the grade.

* * * * *

Dated: December 31, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–279 Filed 1–7–97; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 982

[Docket No. FV96–982–2 IFR]

Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1996–97 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes interim and final free and restricted percentages for domestic inshell hazelnuts for the 1996–97 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

DATES: Effective January 9, 1997 through June 30, 1997; comments which are received by February 7, 1997, will be considered prior to any finalization of the interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, 1220 SW Third Ave., Room 369, Portland, OR 97204; telephone (503) 326–2055 or Mark A. Slupek, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 205–2830. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491; FAX (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Order No. 982 (7 CFR Part 982), hereinafter referred to as the ''order,'' both as amended, regulating the handling of hazelnuts grown in Oregon and Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is intended that this action apply to all merchantable hazelnuts handled during the 1996–97 marketing year (July 1, 1996–June 30, 1997). This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule establishes marketing percentages which allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts the handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three ''normal'' years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine released percentages are specified in section 982.40 of the order.

The National Agricultural Statistics Service (NASS) estimated hazelnut production at 20,000 tons for the Oregon and Washington area. After discussion, the consensus of the Board was to use the NASS estimate as the basis for the preliminary, interim final and final free and restricted percentage computations.

The majority of domestic inshell hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

The quantity marketed is broken down into free and restricted percentages to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which are exported, shelled or otherwise disposed of (restricted). The preliminary free percentage releases 80 percent of the adjusted inshell trade demand. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate. The Board used the NASS crop estimate of 20,000 tons.

At its August 29, 1996, meeting, the Board computed and announced preliminary free and restricted percentages of 16 percent and 84 percent, respectively. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage was to guard against underestimates of crop size. The preliminary free percentage released 3,238 tons of hazelnuts from the 1996 supply for domestic inshell use. The preliminary restricted percentage of the 1996 supply for export and kernel markets totaled 13,007 tons.

Under the order, the Board must meet a second time, on or before November 15, to recommend interim final and final percentages. The Board uses then current crop estimates to calculate the interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining

20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season. The final free and restricted percentages must be effective by June 1, at least 30 days prior to the end of the marketing year, June 30. The final free and restricted percentages can be made effective earlier, if recommended by the Board and approved by the Secretary. Revisions in this marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with section 982.40(e).

The Board met on November 12, 1996, and reviewed and approved an amended marketing policy. The Board recommended that the three-year average trade acquisition figure of 4,513 tons be increased by 100 tons to provide product for an experimental marketing program using roasted inshell hazelnuts. The Board also recommended the establishment of interim final and final free and restricted percentages. Interim final percentages were recommended at 20 percent free and 80 percent restricted. The interim final percentage makes an additional 809 tons of inshell hazelnuts available for the domestic inshell market including roasted product. The interim final marketing percentages are based on the industry's final production estimates (20,000 tons) and release 4,047 tons to the domestic inshell market from the 1996 supply subject to regulation. The interim final restricted percentage resulted in a restricted obligation of 13,007 tons.

The final free and restricted percentages were recommended at 23 percent and 77 percent, respectively. The Board also recommended that the final percentages be effective on June 1, 1997. The established final marketing percentages release for domestic inshell use an additional 677 tons from the supply subject to regulation. Thus, a total of 4,724 tons of inshell hazelnuts will be released from the 1996 supply for domestic inshell use.

The marketing percentages are based on the Board's production estimates and the following supply and demand information for the 1996–97 marketing year:

	Tons
Inshell Supply:	
(1) Total production (NASS estimate)	20,000
(2) Less substandard, farm use (disappearance)	1,362
(3) Merchantable production (the Board's adjusted crop estimate)	18,638
(4) Plus undeclared carryin as of July 1, 1996, subject to regulation	1,668
(5) Supply subject to regulation (Item 3 plus Item 4)	20,306
Inshell Trade Demand:	
(6) Average trade acquisitions of inshell hazelnuts for three prior years	4,513
(7) Increase to encourage increased sales (2.2 percent of Item 6)	100
(8) Less declared carryin as of July 1, 1996, not subject to regulation	566
(9) Adjusted Inshell Trade Demand	4,047
(10) 15 percent of the average trade acquisitions of inshell hazelnuts for three prior years (Item 6)	677
(11) Adjusted Inshell Trade Demand plus 15 percent for carryout (Item 9 plus Item 10)	4,724

Percentages	Free	Restricted
(12) Interim final percentages (Item 9 divided by Item 5) × 100	20	80
(13) Final percentages (Item 11 divided by Item 5) × 100	23	77

In addition to complying with the provisions of the marketing order, the Board also considered the Department's 1982 ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situation. At its November 12, 1996, meeting, the Board recommended that an increase of 2.2 percent (100 tons) for market expansion be included in the inshell trade demand which was used to compute the interim percentages. The established final percentages are based on the final inshell trade demand, and will make available an additional 677 tons for desirable carryout. The total free supply for the 1996–97 marketing year is 5,290 tons of hazelnuts, which is the final trade demand of 4,724 tons plus the declared carryin of 566 tons. This amount is 117 percent of prior years' sales and exceeds the goal of the Guidelines.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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

There are approximately 1,000 producers of hazelnuts in the production area and approximately 23 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Using this criteria, virtually all of the producers are small

agricultural producers and an estimated 20 of the 23 handlers are small agricultural service firms. Thus, the great majority of hazelnut producers and handlers may be classified as small entities.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. The current volume control procedures fully supply the domestic inshell market, provide for market expansion, and help prevent oversupplies in that market.

Inshell hazelnuts sold to the domestic market provide higher returns to the industry than are obtained from shelling. The inshell market is inelastic and is characterized as having limited demand and being prone to oversupply.

Industry statistics show that total hazelnut production has varied widely over the last ten years, from a low of 13,000 tons in 1989 to a high of 41,000 tons in 1993. Average production has been around 24,000 tons. While crop size has fluctuated, the volume regulations contribute toward orderly marketing and market stability, and help moderate the variation in returns for all growers and handlers, both large and small. For instance, production in the shortest crop year (1989) was 54 percent of the ten-year average (1985–1995). Production in the biggest crop year (1993) was 170 percent of the ten-year average. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic inshell market. That market is available to all handlers, regardless of handler size.

NASS statistics show that the grower price per pound has increased steadily over the last four years from $.28 in 1992 to $.46 in 1995.

While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the U.S. This production represents approximately 3 percent of total U.S. tree nut production and approximately 3 percent of the world's hazelnut production.

This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the U.S. Section 982.40 or the order establishes a procedure and computations for the Board to follow in recommending to the Secretary release of preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Currently, U.S. hazelnut production can be successfully allocated between the inshell domestic and secondary markets. One of the best secondary markets for hazelnuts is the export market. Inshell hazelnuts produced under the marketing order compete well in export markets because of quality. Europe, and Germany in particular, is the primary world market for U.S. produced inshell hazelnuts. A third market is for shelled hazelnuts sold domestically. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand secondary markets, especially the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

There are some reporting, recordkeeping and other compliance requirements under the marketing order. The reporting and recordkeeping burdens have been accepted by the handlers as necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This interim final rule does not change those requirements.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this regulation.

Written comments as to the effect of this action on small business entities, timely received will be considered before finalization of this rule.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) The 1996–97 marketing year began July 1, 1996, and the percentages established herein apply to all merchantable hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this rule, which was recommended at an open Board meeting, and need no additional time to comply with this rule; and (3) interested persons are provided a 30-day comment period in which to respond. All comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 982 is amended as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR Part 982 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 982.244 is added to read as follows:

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

§ 982.244 Free and restricted percentages—1996–97 marketing year.

(a) The interim final free and restricted percentages for merchantable hazelnuts for the 1996–97 marketing year shall be 20 and 80 percent, respectively.

(b) On June 1, 1997, the final free and restricted percentages for merchantable hazelnuts for the 1996–97 marketing year shall be 23 and 77 percent, respectively.

Dated: December 31, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–277 Filed 1–7–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–276–AD; Amendment 39–9876; AD 96–26–51]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes Powered By Rolls Royce Model RB211 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) T96–26–51 that was sent previously to all known U.S. owners and operators of certain Boeing Model 747 series airplanes powered by Rolls Royce Model RB211 series engines by individual telegrams. This AD requires a one-time inspection to detect cracks and corrosion of various areas at all four engine pylons, and repair of any cracked or corroded engine pylon. This action is prompted by reports of cracking of the aft torque bulkhead at the number 1 and number 2 engine pylons. The actions specified by this AD are intended to detect and correct such cracking, which could result in failure of the pylon and consequent separation of the engine from the wing.

EFFECTIVE DATE: January 13, 1997, to all persons except those persons to whom it was made immediately effective by telegraphic AD T96–26–51, issued on December 13, 1996, which contained the requirements of this amendment.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–276–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information concerning this AD may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamara Dow, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2771; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On December 13, 1996, the FAA issued telegraphic AD T96–26–51, which is applicable to certain Boeing Model 747 series airplanes powered by Rolls Royce Model RB211 series engines.

That action was prompted by two reports of cracking of the aft torque bulkhead at the number 1 and number 2 engine pylons. This cracking occurred on a Boeing Model 747–200F series airplane powered by Rolls Royce Model RB211 series engines. The airplane had accumulated 69,506 total flight hours and 17,499 total flight cycles.

Investigation revealed that the aft torque bulkhead at the number 1 pylon was cracked completely through just above the lower spar fitting where the fitting attaches to the diagonal brace. The crack extended eight inches forward on the outboard side skin of the number 1 pylon. In addition, the lower portion of the aft torque bulkhead at the number 1 pylon had separated and had dropped down approximately 0.5 inch.

Investigation also revealed that the aft torque bulkhead at the number 2 pylon was cracked (1.2 inch) in approximately the same location as the cracking on the number 1 pylon.

The cause of this cracking is unknown at this time. Modification of the strut/wing, which is currently required by AD 95–13–05, amendment 39–9285 (60 FR 33333, June 28, 1995), had not yet been accomplished on the airplane at the time of discovery of the cracking. However, it also is not known if this modification would have prevented this condition.

Cracking of the aft torque bulkhead at the engine pylons, if not detected and corrected in a timely manner, could result in failure of a pylon and consequent separation of the engine from the wing.

FAA's Determination

The FAA has determined that a one-time inspection to detect cracks and corrosion of the aft torque bulkhead at all four engine pylons is necessary to address the identified unsafe condition in a timely manner.

Explanation of Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued telegraphic AD T96–26–51 to require a one-time detailed visual inspection to detect cracks and corrosion in the following areas: (1) The external surface of the lower half of the aft torque bulkhead at all four engine pylons, and (2) the external surface of the inboard and outboard side skins for a distance of 36 inches forward of the plane of the aft torque bulkhead at all four engine pylons. The AD also requires repair of any cracked or corroded engine pylon. In addition, the AD requires that operators submit a report of all inspection findings to the FAA.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on December 13, 1996, to all known U.S. owners and operators of certain Boeing Model 747 series airplanes powered by Rolls Royce Model RB211 series engines. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Interim Action

This is considered to be interim action. The reports of inspection results that are required by this AD will enable the FAA to obtain better insight into the nature, cause, and extent of cracking found at the number 1 and number 2 engine pylons, and eventually to develop final action to address the subject unsafe condition. Once final action has been identified, the FAA may consider further rulemaking.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in

evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–276–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–26–51 Boeing: Amendment 39–9876. Docket 96–NM–276–AD.

Applicability: Model 747 series airplanes powered by Rolls Royce Model RB211 series engines, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the aft torque bulkhead, which could result in failure of a pylon and consequent separation of the engine from the wing, accomplish the following:

(a) Prior to the accumulation of 12,000 total flight cycles, or within 10 days after the effective date of this AD, whichever occurs later, gain access to the aft torque bulkhead at each of the four engine pylons through the aft fairing doors. Prior to further flight after gaining access, accomplish paragraphs (a)(1) and (a)(2) of this AD.

(1) Perform a one-time detailed visual inspection to detect cracks and corrosion of the external surface of the lower half of the aft torque bulkhead at all four engine pylons. Pay particular attention to the area near the diagonal brace fitting.

(2) Perform a one-time detailed visual inspection to detect cracks and corrosion of the external surface of the inboard and outboard side skin for a distance of 36 inches forward of the plane of the aft torque bulkhead at all four engine pylons.

(b) If any crack or corrosion is detected during any inspection required by this AD, prior to further flight, repair the cracked/corroded pylon in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(c) Within 10 days after accomplishing the inspections required by paragraphs (a)(1) and (a)(2) of this AD, submit a report of any findings to the Manager, Seattle ACO, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, fax (206) 227–1181; and to the appropriate FAA Principal Maintenance Inspector. The report shall include the items specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2120–0056.

(1) Airplane serial number;

(2) Total number of landings accumulated; and

(3) Location, size, and orientation of each crack.

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

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

(e) This amendment becomes effective on January 13, 1997, to all persons except those persons to whom it was made immediately effective by telegraphic AD T96–26–51, issued on December 13, 1996, which contained the requirements of this amendment.

Issued in Renton, Washington, on December 31, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–255 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–ANE–06; Amendment 39–9864; AD 96–26–01]

RIN 2120–AA64

Airworthiness Directives; General Electric Aircraft Engines CT7 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to General Electric Aircraft Engines (GE) CT7 series turboprop engines, that requires replacement of the gas generator turbine stage 2 forward cooling plates prior to the published cyclic life limits. The AD also defines the new, reduced cyclic life limits for the affected forward cooling plates. This amendment is prompted by reports of gas generator turbine stage 2 forward

cooling plate failures. The actions specified by this AD are intended to prevent gas generator turbine stage 2 forward cooling plate failure, which could result in an uncontained engine failure.

DATES: Effective March 10, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 10, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from GE Aircraft Engines, 1000 Western Ave., Lynn, MA 01910; telephone (617) 594–3140, fax (617) 594–4805. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dave Keenan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7139, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to General Electric Aircraft Engines (GE) CT7 series turboprop engines was published in the Federal Register on September 17, 1996 (61 FR 48866). That action proposed to require replacement of the gas generator turbine stage 2 forward cooling plate within 30 days after the effective date of the AD, or prior to reaching the new, reduced cyclic life limits listed in the Accomplishment Instructions of GE Aircraft Engines (CT7–TP Series) SB A72–381, dated January 17, 1996, whichever occurs later.

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

The FAA has determined that an additional paragraph (e) is necessary to fully implement the new life limits for gas generator turbine (GGT) stage 2 forward cooling plates, Part Number (P/N) 60604T10P01 and P/N 5086T91P02. The FAA has determined that air safety and the public interest require the adoption of the rule with this change, and that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,100 engines of the affected design in the worldwide fleet. The FAA estimates that 500 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Parts will be supplied by the manufacturer to operators under GE's Engine Care Maintenance Plan (ECMP). At this time, all operators fall under the ECMP. Based on these figures, the total cost impact of the AD of U.S. operators is estimated to be $240,000.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–26–01 General Electric Aircraft Engines: Amendment 39–9864. Docket 96–ANE–06.

Applicability: General Electric Aircraft Engines (GE) Models CT7–5A2, –7A, –9B, and –9C turboprop engines, with gas generator turbine (GGT) stage 2 forward cooling plates, Part Number (P/N) 6064T10P01 and P/N 5086T91P02, installed. These engines are installed on but not limited to Construcciones Aeronauticas, SA (CASA) CN–235 series and SAAB–SCANIA SF340 series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent GGT stage 2 forward cooling plate failure, which could result in an uncontained engine failure, accomplish the following:

(a) Within 30 days after the effective date of this AD, or prior to reaching the new, reduced cyclic life limits listed in the Accomplishment Instructions of GE Aircraft Engines (CT7–TP Series) Service Bulletin (SB) A72–381, dated January 17, 1996, whichever occurs later, remove from service GGT stage 2 forward cooling plates, and replace with a serviceable part, which is defined as a GGT stage 2 forward cooling plate that has less than the new, reduced cyclic limits on the effective date of this AD, as defined in that SB.

(b) This action establishes the following new, reduced cyclic life limits for affected GGT stage 2 forward cooling plates:

(1) 8,000 cycles since new (CSN) for GGT stage 2 forward cooling plates, P/N 6064T10P01, identified by serial numbers listed in Tables 1 and 2 of GE Aircraft Engines (CT7–TP Series) SB No. A72–381, dated January 17, 1996, for GE CT7–5A2, –7A, –9B, and –9C engine models.

(2) 12,000 CSN for GGT stage 2 forward cooling plates, P/N 6064T10P01 (not listed in (1) above), and P/N 5086T91P02, for GE CT7–5A2 and –7A engine models.

(3) 9,000 CSN for GGT stage 2 forward cooling plates, P/N 6064T10P01 (not listed in (1) above), and P/N 5086T91P02, for GE CT7–9B/–9C engine models.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

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

(e) Thereafter, except as provided in paragraphs (c) and (d) of this AD, no alternative replacement times may be approved for GGT stage 2 forward cooling plates, P/N 6064T10P01, and P/N 5086T91P02.

(f) The actions required by this AD shall be done in accordance with the following GE Aircraft Engines (CT7–TP Series) SB:

Document No	Pages	Date
A72–381 ..... Total Pages: 13.	1–13	Jan. 17, 1996.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from GE Aircraft Engines, 1000 Western Ave., Lynn, MA 01910; telephone (617) 594–3140, fax (617) 594–4805. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 10, 1997.

Issued in Burlington, Massachusetts, on December 16, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–474 Filed 1–7–97; 8:45am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–ANE–66; Amendment 39–9863; AD 96–25–20]

RIN 2120–AA64

Airworthiness Directives; Hamilton Standard 14RF and 14SF Series, and Hamilton Standard/British Aerospace Model 6/5500/F Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Hamilton Standard 14RF and 14SF series, and Hamilton Standard/British Aerospace Model 6/5500/F propellers, that requires initial and repetitive inspections of critical control components, and removal and replacement with serviceable parts those critical control components that do not meet the return to service criteria. This amendment is prompted by failure modes effects analysis (FMEA), certification test data, engineering analysis, and repair actions performed at overhaul depots. The actions specified by this AD are intended to prevent loss of propeller control due to failure of critical control components, which could result in loss of control of the aircraft.

DATES: Effective February 7, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 7, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Publication Distribution, Hamilton Standard, One Hamilton Road, Windsor Locks, CT 06096–1010; fax (860) 654–6906. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Frank Walsh, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7158, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Hamilton Standard Models 14RF–9, 14RF–19, 14RF–21; 14SF–5, 14SF–7, 14SF–11, 14SF–11L, 14SF–15, 14SF–17, 14SF–19, 14SF–23; and Hamilton Standard/British Aerospace 6/5500/F propellers was published in the Federal Register on December 13, 1995 (60 FR 63988). That action proposed to require initial and repetitive inspections of critical aspects of the transfer tube assembly, actuator assembly, and propeller control unit (PCU) for wear. This AD would also require, prior to further flight, removing and replacing with serviceable parts those critical components that do not meet the return to service criteria.

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

Three commenters state that the initial AD inspection interval for the transfer tube should be 10,500 hours time in service (TIS) as noted in the appropriate Hamilton Standard Service Bulletin (SB) and supported by the manufacturers wear data. The commenters also indicated that the time interval of 10,500 hours TIS is significant since it coincides with the Major Inspection Interval (MII) that many operators adhere to on certain propeller installations. In addition, the commenters requested that credit be given to MII inspections that have been done recently that meet the inspection requirements of the appropriate SBs.

The FAA concurs in part. Although the wear data supports an inspection interval by more than 3 times the 10,500 hour TIS interval, the FAA has determined that the initial inspection should be accomplished within 6,000 hours TIS, or 3 years, whichever occurs first, after the effective date of this AD. The initial inspection compliance time was selected because the transfer tubes have not been time tracked. The 6,000 hours TIS initial inspection compliance time will result in all transfer tubes to be inspected within a time interval supported by the wear data. Also, credit cannot be given to components inspected during the MII unless the components were inspected in accordance with the appropriate critical parts inspection SBs. The FAA intends to give credit for critical parts inspections performed in accordance with the appropriate SBs that have already been performed within the 10,500 hours TIS interval.

The initial inspection also coincides with the installation of the new major alteration feature, Secondary Drive Quill (SDQ) that is mandated by AD 95–22–12 to be completed prior to June 30, 1998. This coordination effort will give a smooth phase-in of all requirements with a minimal impact on record keeping and operational commitments. To conclude, the FAA has determined that an initial inspection within 6,000 hours TIS, or 3 years whichever occurs first, after the effective date of this AD will safely introduce the transfer tube into a repetitive inspection at 10,500 hours TIS intervals thereafter.

Two commenters state that at present there is no tracking of time in service for these components and that tracking will be unduly burdensome. The FAA concurs that there is no current requirement to track component time in service, but disagrees that adding the requirement to track time would be unduly burdensome since time tracking

is currently conducted on other propeller components. Systems to track time on propeller components have already been established. The FAA program to introduce these components to time tracking begins with an initial phase in interval of 6,000 hours TIS, or 3 years, whichever occurs first, after the effective date of this AD, followed by a repetitive inspection of these components at a 10,500 hours TIS interval that was not required at certification.

Two commenters state that the total economic impact of the proposed rule has been underestimated because the FAA did not include costs such as loss of revenue from having aircraft sit idle while awaiting the required inspections. The FAA does not concur. The cost impact of this AD was calculated using data from the industry as to the time and parts needed to accomplish the required actions. The FAA does not include the costs of secondary effects of performing the actions required by the AD in its economic analysis. As a matter of law, in order to be operated in commercial service, an aircraft must conform to its type design and be in a condition for safe flight. The type design of the affected propellers was certificated only after the FAA found that the design complied with all applicable airworthiness requirements. In adopting those certification requirements, the FAA already determined a level of safety that is cost beneficial. With this AD, the FAA has determined that an unsafe condition exists, that means that a cost-beneficial level of safety is no longer achieved, and that additional requirements must be performed in order to restore that level of safety. Because that level of safety was already determined to be cost-beneficial, a full cost analysis is not required for each AD, and the costs of the secondary effects of performing the actions required by the AD are not added to the cost analysis of the AD.

In addition the FAA has increased the initial inspection compliance time to 6,000 hours TIS, or 3 years, whichever occurs first, after the effective date of this AD. The increase in initial inspection compliance time will smooth the transition to the 10,500 hours TIS repetitive inspection program and minimize the impact on aircraft operation.

Three commenters state that, to date, there is no evidence of in-service wear of the affected components. The FAA concurs in part. The engineering and repair data indicate wear does exist but at an extremely low level. Since wear does occur on these critical components they must be inspected periodically and these components must be removed from an unspecified repair status to a defined inspection interval category.

Two commenters state that the PCU inspection is already required by another AD. The FAA concurs in part. The purpose of this new AD is to integrate inspection items not covered by AD 95–22–12 into a comprehensive coordinated inspection requirement for the propeller control system. Airworthiness directive 95–22–12 only addresses inspection of the PCU servo ballscrew internal spline, installation of a secondary drive quill, and a torque check inspection of the primary ballscrew quill.

One commenter states that the repetitive inspection interval should be reduced from 10,500 hours TIS to 2,500 hours TIS. The FAA does not concur. Engineering investigation, analysis, and field and laboratory testing reveal these components can operate safely within the 10,500 hours TIS inspection interval so the interval does not need to be reduced further.

Two commenters state that credit should be given for Critical Parts Inspections (CPIs) that have already been performed within the previous 10,500 hours TIS MII. The FAA concurs in part. This final rule increases the initial inspection interval from 1,000 hours TIS to 6,000 hours TIS, or 3 years, whichever occurs first, after the effective date of this AD, for these CPI items, and thereafter requires inspection at intervals of 10,500 hours TIS in accordance with the applicable SBs. The FAA intends to give credit for those CPIs conducted in accordance with the SBs applicable to this AD.

One commenter requests clarification on the definition of time in service, TIS. The FAA concurs. The FAA interprets this question that time in service, for the purpose of this AD, is defined as operating time since issuance of this AD or operating time since last inspection in accordance with this AD. The FAA has added this definition to the AD as new paragraph (d).

One commenter states that there is insufficient time to accomplish the inspections based upon limited repair shop capacity. The FAA re-evaluated the overall phase in program and determined that an initial inspection compliance interval 6,000 hours TIS, or 3 years, whichever occurs first, after the effective date of this AD would safely introduce components to the repetitive inspection program while alleviating the repair shop capacity problem.

Since publication of the NPRM, Hamilton Standard has issued Revision 1, dated April 23, 1996, to the following SBs: 14RF–9–61–64, 14RF–19–61–32, 14RF–21–61–51, 14SF–61–70, and 6/5500/F–61–25. This revision modifies a figure, adds an additional figure, deletes the requirement to inspect the PCU retaining nut, and makes minor editorial changes for clarification only. This final rule references this new revision as well as the original issuances.

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

There are approximately 3,280 propellers of the affected design in the worldwide fleet (excluding spares). The FAA estimates that 1,370 propellers installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 4.3 work hours per propeller to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $353,460 per fleet inspection.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–25–20 Hamilton Standard: Amendment 39–9863. Docket 95–ANE–66.

Applicability: Hamilton Standard Models 14RF–9, 14RF–19, 14RF–21, and 14SF–5, 14SF–7, 14SF–11, 14SF–11L, 14SF–15, 14SF–17, 14SF–19, 14SF–23 and Hamilton Standard/British Aerospace 6/5500/F propellers installed on but not limited to Embraer EMB–120 and EMB–120–RT; SAAB–SCANIA SF 340B; Aerospatiale ATR42–100, ATR42–300, ATR42–320, ATR72; DeHavilland DHC–8–100 series, DHC–8–300 Series; Construcciones Aeronauticas SA (CASA) CN–235 series and CN–235–100; Canadair CL–215T and CL–415; and British Aerospace ATP Airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of propeller control due to failure of critical components, which could result in loss of control of the aircraft, accomplish the following:

(a) Inspect transfer tube assemblies and propeller control units (PCUs) for wear within 6,000 hours time in service (TIS), or 3 years, whichever occurs first, after the effective date of this AD. Perform inspections of the critical aspects of these components in accordance with the applicable service bulletins (SBs) listed in paragraph (c) of this AD. Thereafter, inspect at intervals not to exceed 10,500 hours TIS since last inspection. Prior to further flight, remove and replace with serviceable parts those components that do not meet the return to service criteria defined in the applicable SBs. (For PCUs that have a Secondary Drive Quill (SDQ) installed in accordance with AD 95–22–12, it is not necessary to conduct an initial inspection again. They may advance to the repetitive inspection interval based on the TIS since SDQ installation.)

(b) Inspect actuator assemblies for wear within 10,500 hours TIS after the effective date of this AD, or at the next major inspection interval (MII), whichever occurs first. Perform inspections of the critical aspects of these components in accordance with the applicable service bulletins (SBs) listed in paragraph (c) of this AD. Thereafter, inspect at intervals not to exceed 10,500 hours TIS since last inspection. Prior to further flight, remove and replace with serviceable parts those components that do not meet the return to service criteria defined in the applicable SBs.

(c) Perform the inspections for wear required by this AD in accordance with, and use the return to service criteria defined in, the following applicable Hamilton Standard SBs, Revision 1, all dated April 23, 1996, or Original, dated November 27, 1995: 14RF–9–61–64, 14RF–19–61–32, 14RF–21–61–51, 14SF–61–70, and 6/5500/F–61–25.

(d) For the purpose of this AD, time in service (TIS) is defined as operating time since issuance of this AD or operating time since last inspection in accordance with this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Boston Aircraft Certification Office.

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

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

(g) The actions required by this AD shall be done in accordance with the following Hamilton Standard SBs:

Document No.	Pages	Revision	Date
14RF–9–61–64	1, 2	1	April 23, 1996.
	3	Original	November 27, 1995.
	4	1	April 23, 1996.
	5–11	Original	November 27, 1995.
	12, 13	1	April 23, 1996.
	14–28	Original	November 27, 1995.
	29	1	April 23, 1996.
	30, 31	Original	November 27, 1995.
	32	1	April 23, 1996.
	33	Original	November 27, 1995.
	34	1	April 23, 1996.
Total Pages: 34.			
14RF–9–61–64	1–33	Original	November 27, 1995.
Total Pages: 33.			
14RF–19–61–32	1, 2	1	April 23, 1996.
	3	Original	November 27, 1995.
	4	1	April 23, 1996.
	5–11	Original	November 27, 1995.
	12, 13	1	April 23, 1996.
	14–28	Original	November 27, 1995.
	29	1	April 23, 1996.
	30, 31	Original	November 27, 1995.
	32	1	April 23, 1996.
	33	Original	November 27, 1995.
	34	1	April 23, 1996.
Total Pages: 34.			
14RF–19–61–32	1–33	Original	November 27, 1995.
Total pages: 33.			
14RF–21–61–51	1, 2	1	April 23, 1996.
	3	Original	November 27, 1995.

Document No.	Pages	Revision	Date
	4	1	April 23, 1996.
	5–11	Original	November 27, 1995.
	12, 13	1	April 23, 1996.
	14–27	Original	November 27, 1995.
	28	1	April 23, 1996.
	29–31	Original	November 27, 1995.
	32	1	April 23, 1996.
	33	Original	November 27, 1995.
	34	1	April 23, 1996.
Total Pages: 34.			
14RF–21–61–51	1–33	Original	November 27, 1995.
Total Pages: 33.			
14SF–61–70	1, 2	1	April 23, 1996.
	3	Original	November 27, 1995.
	4	1	April 23, 1996.
	5, 6	Original	November 27, 1995.
	7	1	April 23, 1996.
	8–11	Original	November 27, 1995.
	12–14	1	April 23, 1996.
	15–29	Original	November 27, 1995.
	30	1	April 23, 1996.
	31, 32	Original	November 27, 1995.
	33	1	April 23, 1996.
	34	Original	November 27, 1995.
	35	1	April 23, 1996.
Total Pages: 35.			
14SF–61–70	1–34	Original	November 27, 1995.
Total Pages: 34.			
6/5500/F–61–25	1, 2	1	April 23, 1996.
	3	Original	November 27, 1995.
	4	1	April 23, 1996.
	5, 6	Original	November 27, 1995.
	7	1	April 23, 1996.
	8–10	Original	November 27, 1995.
	11–13	1	April 23, 1996.
	14–28	Original	November 27, 1995.
	29	1	April 23, 1996.
	30, 31	Original	November 27, 1995.
	32	1	April 23, 1996.
	33	Original	November 27, 1995.
	34	1	April 23, 1996.
Total Pages: 34.			
6/5500/F–61–25	1–33	Original	November 27, 1995.
Total Pages: 33.			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Publication Distribution, Hamilton Standard, One Hamilton Road, Windsor Locks, CT 06096–1010; fax (860) 654–6906. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(h) This amendment becomes effective on February 7, 1997.

Issued in Burlington, Massachusetts, on December 11, 1996.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–475 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–88–AD; Amendment 39–9869; AD 96–26–05]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, that requires an inspection to detect cracking of the torque tube assembly of the left-hand (LH) elevator and surrounding structure; and to detect loose or sheared rivets in that assembly. This amendment also requires either replacement or repair of discrepant parts, as appropriate. This amendment is prompted by a report of fatigue cracking found on the torque tube support of the LH elevator. The actions specified by this AD are intended to ensure that cracking is detected and corrected in a timely manner so as to prevent failure of the torque tube or its support structure, which could result in reduced controllability of the airplane.

DATES: Effective February 12, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 12, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport

Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes was published in the Federal Register on September 13, 1996 (61 FR 48439). That action proposed to require a one-time inspection to detect fatigue cracking of the torque tube of the left-hand (LH) elevator and its surrounding structure, and repair, if necessary. That action also proposed to require an inspection to detect loose or sheared rivets of the same torque tube assembly, and replacement with serviceable rivets, if necessary.

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

Conclusion

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

Cost Impact

The FAA estimates that 34 Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $8,160, or $240 per airplane.

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

Should an operator be required to replace the torque tube assembly of the LH elevator, the FAA estimates that it will take approximately 2 work hours per airplane to accomplish, and that the average labor rate is $60 per work hour. Replacement of the assembly will cost approximately $1,500 per airplane. Based on these figures, the cost impact of the replacement is estimated to be $1,620 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–26–05 Fokker: Amendment 39–9869. Docket 96–NM–88–AD.

Applicability: All Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that cracking is detected and corrected in a timely manner so as to prevent failure of the torque tube of the left-hand (LH) elevator or its support structure, which could result in reduced controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 45,000 total flight cycles, or within 4 months after the effective date of this AD, whichever occurs later, perform an inspection to detect cracking of the torque tube assembly and the surrounding structure of the LH elevator, and to detect any loose or sheared rivets of that assembly, in accordance with ''Part 1'' of the Accomplishment Instructions of Fokker Service Bulletin F27/55–66, dated December 21, 1994.

(b) If no cracking is detected, and if no loose or sheared rivet is detected, during the inspection required by paragraph (a) of this AD: No further action is required by this AD.

(c) If any discrepancy is detected during the inspection required by paragraph (a) of this AD: Accomplish the applicable requirements of paragraph (c)(1), (c)(2), or (c)(3) of this AD at the time specified in that paragraph, and in accordance with Fokker Service Bulletin F27/55–66, dated December 21, 1994.

(1) If any cracking of the torque tube is detected, or if any loose or sheared rivet is detected: Prior to further flight, replace the discrepant part(s) in accordance with ''Part 2,'' paragraph A., of the Accomplishment Instructions of the service bulletin.

Note 2: Fokker Service Bulletin F27/55–66 references Fokker Service Bulletin F27/55–40 as an additional source of service information for procedures to replace the torque tube assembly with a serviceable assembly.

(2) If any cracking of the rib at station 300 is detected: Prior to further flight, repair in accordance with ''Part 2,'' paragraph B., of the Accomplishment Instructions of the service bulletin.

(3) If any cracking in the torque tube support is detected: Prior to further flight, accomplish the requirements of either paragraph (c)(3)(i) or (c)(3)(ii) of this AD, as applicable.

(i) If the crack length does not exceed 30 mm, stop drill the crack and, thereafter, repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 50 flight hours, in accordance with ''Part 2,'' paragraph C., of the Accomplishment Instructions of the service bulletin.

(ii) If the crack length exceeds 30 mm, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

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

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

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

(f) The actions shall be done in accordance with Fokker Service Bulletin F27/55–66, dated December 21, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on February 12, 1997.

Issued in Renton, Washington, on December 23, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–476 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 96–ASO–25]

Amendment to Class D Airspace; Hollywood, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies Class D surface area airspace at Hollywood, FL. A GPS RWY 9R Standard Instrument Approach Procedure (SIAP) has been developed for North Perry Airport. Additional controlled airspace extending upward from the surface is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at North Perry Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of this SIAP.

EFFECTIVE DATE: 0901 UTC, March 27, 1997.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

On October 21, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying Class D airspace at Hollywood, FL (61 FR 54585). This action would provide adequate Class D airspace for IFR operations at the North Perry Airport.

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) modifies Class D airspace at Hollywood, FL. A GPS RWY 9R SIAP has been developed for North Perry Airport. Additional controlled airspace extending upward from the surface is needed to acommodate this SIAP and for instrument flight rules (IFR) operations at North Perry Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of this SIAP.

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 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 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

ASO FL D Hollywood, FL [Revised]

Hollywood, North Perry Airport, FL
(Lat. 26°00′05″ N, long. 80°14′26″ W)
Opa Locka Airport
(Lat. 25°54′26″ N, long. 80°16′48″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 3.5-mile radius of the North Perry airport; excluding the portion north of the north boundary of the Miami, FL, Class B airspace area and that portion south of a line connecting the 2 points of intersection with a 3.5-mile circle centered on the Opa Locka Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 23, 1996.

Lacy E. Wright,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–304 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASO–28]

Amendment to Class E Airspace; Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Miami, FL. A GPS RWY 9R Standard Instrument Approach Procedure (SIAP) has been developed for the North Perry Airport at Hollywood, FL. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of this SIAP.

EFFECTIVE DATE: 0901 UTC, March 27, 1997.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

On October 21, 1996, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Miami, FL (61 FR 54587). This action would provide adequate Class E airspace for IFR operations at the North Perry Airport.

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. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996. 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) modifies Class E airspace at Miami, FL. A GPS RWY 9R Standard Instrument Approach Procedure (SIAP) has been developed for the North Perry Airport at Hollywood, FL. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of this SIAP.

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 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 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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 6005 Class E airspace areas extending upward from 700 feet above the surface of the earth.

* * * * *

ASO FL E5 Miami, FL [Revised]

Miami International Airport, FL
(Lat. 25°47′35″ N, long. 80°17′25″ W)
Dade County-Homestead Regional Airport
(Lat. 25°29′18″ N, long. 80°23′01″ W)
Opa Locka Airport
(Lat. 25°54′25″ N, long. 80°16′42″ W)
Fort Lauderdale-Hollywood International Airport
(Lat. 26°04′21″ N, long. 80°09′10″ W)
Kendall-Tamiami Executive Airport
(Lat. 25°38′52″ N, long. 80°25′58″ W)
QEEZY LOM
(Lat. 25°38′14″ N, long. 80°30′17″ W)
Fort Lauderdale Executive Airport
(Lat. 26°11′50″ N, long. 80°10′14″ W)
Pompano Beach Airpark
(Lat. 26°14′49″ N, long. 80°06′40″ W)
North Perry Airport
(Lat. 26°00′05″ N, long. 80°14′26″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Miami International Airport, Dade County-Homestead Regional Airport, Opa Locka Airport, Fort Lauderdale-Hollywood International Airport and Kendall-Tamiami Executive Airport, and within 2.4 miles each side of the 267° bearing from the QEEZY LOM extending from the 7-mile radius to 7 miles west of the LOM, and within a 6.5-mile radius of Fort Lauderdale Executive Airport, Pompano Beach Airpark and North Perry Airport.

* * * * *

Issued in College Park, Georgia, on December 23, 1996.

Lacy E. Wright,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 97–305 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASO–24]

Amendment to Class E Airspace; Claxton, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Claxton, GA. A NDB RWY 9 Standard Instrument Approach Procedure (SIAP) has been developed for the Claxton-Evans County Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport.

EFFECTIVE DATE: 0901 UTC, March 27, 1997.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, PO. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

On October 21, 1996, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Claxton, GA (61 FR 54586). This action would provide adequate Class E

airspace for IFR operations at the Claxton-Evans County Airport.

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. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996. 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) modifies Class E airspace at Claxton, GA. A NDB RWY 9 SIAP has been developed for the Claxton-Evans County Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport.

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 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 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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 6005 Class E airspace areas extending upward from 700 feet above the surface of the earth.

* * * * *

ASO GA E5 Claxton, GA [Revised]

Claxton-Evans Airport, GA

(Lat. 32°11′42″ N, long. 81°52′17″ W)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of the Claxton-Evans County Airport.

* * * * *

Issued in College Park, Georgia on December 23, 1996.

Lacy E. Wright,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 97–303 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AWP–8]

Establishment of Class E Airspace; Hemet, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Hemet, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 05 to Hemet-Ryan Airport has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Hemet-Ryan Airport, Hemet, CA.

EFFECTIVE DATE: 0901 UTC March 27, 1997.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On November 20, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Hemet, CA (61 FR 59041). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 05 at Hemet-Ryan Airport, Hemet, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 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 designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at Hemet, CA. The development of a GPS SIAP to RWY 05 has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the GPS RWY 05 SIAP at Hemet-Ryan Airport, Hemet, CA.

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 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this 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 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

September 16, 1996, is amended as follows:

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

* * * * *

AWP CA E5 Hemet, CA [New]

Hemet-Ryan Airport, CA
(Lat. 33°44′02″ N, long. 117°01′21″ W)

* * * * *

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Hemet-Ryan Airport and within 2 miles each side of the 242° bearing from the Hemet-Ryan Airport extending from the 6-mile radius to 10.2 miles southwest of Hemet-Ryan Airport, excluding the Riverside, CA, Class E airspace area.

Issued in Los Angeles, California, on December 19, 1996.

Sabra W. Kaulia,

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

[FR Doc. 97–396 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 28767; Amdt. No. 1775]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include ''or GPS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand along GPS procedure is developed, the procedure title will be altered to remove ''or GPS'' from these non-localizer, non-precision instrument approach procedure titles). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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, there—(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. For the same reason, the FAA certifies that this amendment 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 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on December 27, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR

part 97), is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective January 30, 1997*

Walnut Ridge, AR, Walnut Ridge Regional, NDB or GPS RWY 17, Amdt 3B Cancelled
Walnut Ridge, AR, Walnut Ridge Regional, NDB RWY 17, Amdt 3B
Jefferson, GA, Jackson County, VOR/DME or GPS RWY 34, Amdt 1 Cancelled
Jefferson, GA, Jackson County, VOR/DME RWY 34, Amdt 1
Norfolk, NE, Karl Stefan Memorial, VOR or GPS RWY 1, Amdt 6 Cancelled
Norfolk, NE, Karl Stefan Memorial, VOR RWY 1, Amdt 6
Frederick, OK, Frederick Muni, NDB or GPS RWY 35L, Amdt 1A Cancelled
Frederick, OK, Frederick Muni, NDB RWY 35L, Amdt 1A

[FR Doc. 97–316 Filed 1–7–97; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 28766; Amdt. No. 1774]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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. For the same reason, the FAA certifies that this amendment 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 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC, on December 27, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . .*Effective Upon Publication*

FORT LAUDERDALE-HOLLYWOOD INTL, FORT LAUDERDALE, FL. VOR OR GPS RWY 27R AMDT 10C
FORT LAUDERDALE-HOLLYWOOD INTL, FORT LAUDERDALE, FL. RADAR-1 AMD 3B12/17/96
FORT LAUDERDALE-HOLLYWOOD INTL, FORT LAUDERDALE, FL. ILS RWY 27R AMDT 5
ST AUGUSTINE, ST AUGUSTINE, FL. VOR RWY 31 ORIG
ST AUGUSTINE, ST AUGUSTINE, FL. VOR OR GPS RWY 13 AMDT 5
FAIRFIELD COUNTY, WINNSBORO, SC. GPS RWY 22 ORIG
PORTLAND INTL, PORTLAND, OR. ILS RWY 10R AMDT 30A
CRAIG MUNI, JACKSONVILLE, FL. ILS RWY 32 AMDT 3A
MONROE, MONROE, NC. VOR OR GPS-A AMDT 11
MONROE, MONROE, NC. VOR/DME OR GPS-B AMDT 6
MONROE, MONROE, NC. NDB OR GPS RWY 5 AMDT 2
MONROE, MONROE, NC. ILS RWY 5 ORIG
METROPOLITAN OAKLAND INTL, OAKLAND, CA. ILS RWY 29 'CAT II' AMDT 23...ILS RWY 29 'CAT III' AMDT 23
STUART/WITHAM FIELD, STUART, FL. GPS RWY 29, ORIG
CHARLOTTE/DOUGLAS INTL, CHARLOTTE, NC. LOC BC RWY 23 AMDT 10
BURLINGTON-ALAMANCE REGIONAL, BURLINGTON, NC. NDB OR GPS RWY 6, AMDT 3
BURLINGTON-ALAMANCE REGIONAL, BURLINGTON, NC. VOR/DME OR GPS-A, ORIG
TAMPA INTL, TAMPA, FL. ILS RWY 18L, AMDT 38D
TAMPA INTL, TAMPA, FL. VOR OR GPS RWY 9, AMDT 7A
CRAIG FIELD, SELMA, AL. ILS RWY 33, ORIG-C
FI/P AUBURN-OPELIKA ROBERT G. PITTS, AUBURN, AL. RNAV OR GPS RWY 36, AMDT 3
AUBURN-OPELIKA ROBERT G. PITTS, AURBURN, AL. VOR/DME OR GPS-A, AMDT 6
AUBURN-OPELIKA ROBERT G. PITTS, AUBURN, AL. VOR OR GPS RWY 28, AMDT 9
AUBURN-OPELIKA ROBERT G. PITTS, AUBURN, AL. NDB RWY 36, ORIG
AUBURN-OPELIKA ROBERT G. PITTS, AUBURN, AL. LOC RWY 36, AMDT 2
BEAUMONT-PORT AUTHUR/JEFFERSON COUNTY, BEAUMONT-PORT AUTHOR, TX. GPS RWY 34, ORIG

[FR Doc. 97–315 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 28765; Amdt. No. 1773]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is

contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, and effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment 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 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC, on December 27, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * *Effective January 30, 1997*

Anvik, AK, Anvik, GPS RWY 35, Orig
Noatak, AK, Noatak, NDB/DME RWY 36, Amdt 1
Harrisburg, IL, Harrisburg-Raleigh, NDB RWY 24, Amdt 10
Newberry, MI, Luce County, VOR or GPS RWY 11, Amdt 10
Newberry, MI, Luce County, VOR or GPS RWY 29, Amdt 10
Weslaco, TX, Mid Valley, VOR/DME–A, Orig
Weslaco, TX, Mid Valley, VOR/DME OR GPS–A, Orig, cancelled

** * *Effective February 27, 1997*

San Diego, CA, Brown Field Muni, VOR OR GPS–A, Amdt 4
Houston, TX, Houston Intercontinental, ILS RWY 9, Amdt 4
Houston, TX, Houston Intercontinental, ILS RWY 26, Amdt 15
Houston, TX, Houston Intercontinental, GPS RWY 27, Orig
Leesburg, VA, Leesburg Muni/Godfrey Field, RNAV RWY 17, Amdt 9, Cancelled
Manassas, VA, Manassas Muni/Harry P. Davis Field, VOR–B, Amdt 3, Cancelled

** * *Effective March 27, 1997*

Lake Village, Lake Village Muni AR, GPS RWY 1, Orig
Lake Village, Lake Village Muni AR, GPS RWY 19, Orig
Magnolia, AR, Magnolia Muni, NDB RWY 36, Amdt 1
Magnolia, AR, Magnolia Muni, GPS RWY 18, Amdt 1
Magnolia, AR, Magnolia Muni, GPS RWY 36, Amdt 1
Monticello, AR, Monticello Muni/Ellis Field, VOR–A, Amdt 5
Monticello, AR, Monticello Muni/Ellis Field, GPS RWY 3, Orig
San Diego, CA, Brown Field Muni, GPS RWY 8L, Orig
Hays, KS, Hays Muni, GPS RWY 16, Orig
New Orleans, LA, New Orleans (Moisant Field), GPS RWY 10, Orig
New Orleans, LA, New Orleans (Moisant Field), GPS RWY 19, Orig
Bedford, MA, Laurence G. Hanscom, GPS RWY 23, Orig
Adrian, MI, Lenawee County, GPS RWY 5, Orig
Jefferson City, MO, Jefferson City Memorial, GPS RWY 12, Orig
Jefferson City, MO, Jefferson City Memorial, GPS RWY 30, Orig
Albany, NY, Albany County, ILS RWY 19, Amdt 20
Hudson, NY, Columbia County, NDB OR GPS–A, Amdt 3
Hudson, NY, Columbia County, GPS RWY 21, Orig
Penn Yan, NY, Penn Yan, NDB RWY 28, Amdt 6
Penn Yan, NY, Penn Yan, NDB RWY 1, Orig
Penn Yan, NY, Penn Yan, NDB RWY 19, Orig
Hazen, ND, Mercer County Regional, GPS RWY 14, Orig
Hazen, ND, Mercer County Regional, GPS RWY 32, Orig
Chandler, OK, Chandler Muni, GPS RWY 17, Orig
Chandler, OK, Chandler Muni, GPS RWY 35, Orig
Providence, RI, Theodore Frances Green State, GPS RWY 16, Orig
Hondo, TX, Hondo Muni, NDB OR GPS RWY 35R, Amdt 4
Hondo, TX, Hondo Muni, VOR RWY 17L, Orig, Cancelled
Hondo, TX, Hondo Muni, GPS RWY 17L, Amdt 1
Houston, TX, Ellington Field, NDB RWY 22, Orig
Houston, TX, Ellington Field, GPS RWY 4, Orig
Houston, TX, Ellington Field, GPS RWY 17R, Orig

Houston, TX, Ellington Field, GPS RWY 35L, Orig
Waco, TX, McGregor Muni, GPS RWY 17, Orig
Waco, TX, McGregor Muni, GPS RWY 35, Orig
Blacksburg, VA, Virginia Tech, NDB OR GPS–A, Amdt 2

[FR Doc. 97–314 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AE61

Reduction in Supplemental Security Income (SSI) Payable to Institutionalized Children Whose Medical Costs Are Covered by Private Insurance

AGENCY: Social Security Administration.

ACTION: Interim final rules with request for comments.

SUMMARY: These regulations implement an amendment to section 1611(e)(1)(B) of the Social Security Act (the Act) made by section 214 of Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 214 extends applicability of the reduced SSI benefit rate (currently $30.00 per month) to children under age 18 in medical care facilities receiving payments on their behalf under a health insurance policy issued by a private provider. With these rule changes, children with private health insurance coverage will be treated the same as children with Medicaid coverage in terms of the amount of benefits for which they are eligible. While the major impact of these regulations will be to reduce benefits for those children described above, some children residing in public institutions, which receive private health insurance payments and which currently do not receive any SSI benefits on their behalf, will become eligible for SSI benefits up to $30 per month.

DATES: These interim final rules are effective beginning January 8, 1997. To be sure that your comments are considered, we must receive them no later than March 10, 1997.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235; sent by telefax to (410) 966–2830; sent by E-mail to ''regulations@ssa.gov''; or, delivered to the Division of Regulations and Rulings, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 A.M. and 4:30 P.M. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Daniel T. Bridgewater, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3298 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION:

Background

Section 1611(e)(1)(A) of the Act generally precludes eligibility for SSI benefits when a claimant is a resident of a public institution throughout a month. Section 1611(e)(1)(B) provided an exception to that bar. Under that section, payments could be made at the reduced Federal benefit rate to individuals in institutions ''receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX * * *.'' This language was implemented through regulations to mean that individuals in institutions would receive only the reduced benefit amount when ''Medicaid (title XIX of the Social Security Act) pays a substantial part (more than 50 percent) of the cost of'' the claimant's care (§ 416.211(b)).

Section 214 of Public Law 104–193, effective for benefits beginning with the month of December 1996, amends section 1611(e)(1)(B) of the Act by extending applicability of the reduced SSI benefit rate to children under age 18 in medical care facilities receiving payments on their behalf under a health insurance policy issued by a private provider (hereinafter referred to as private health insurance). Prior to the enactment of section 214, children under the age of 18 in private institutions with private health insurance generally could be eligible for a full SSI payment. Section 214 now restricts the SSI payment for such children to the Federal reduced benefit rate. Also, as is noted above, prior to this legislation, individuals in public institutions not receiving substantial Medicaid payments on their behalf generally were ineligible for SSI. However, as a result of this legislation, children under age 18 in public institutions receiving private health insurance on their behalf now are eligible for SSI payments at the reduced Federal benefit amount.

Section 214 could be interpreted as requiring application of the reduced benefit amount where *any* amount of private health insurance payments is being made on behalf of an institutionalized child for the cost of the child's care in the institution. However, if the private health insurance is not paying for a significant amount of the cost of care, we believe that application of the reduced SSI payment would be at odds with the intent of the SSI program to help provide for the basic needs of the child for food, clothing, and shelter.

Moreover, the legislative history indicates that ''[c]hildren in medical institutions whose medical costs are covered by private insurance would be treated the same as children whose bills are currently paid by Medicaid (that is, their monthly SSI cash benefit would be reduced to $30 per month).'' H.R. Conf. Rep. No. 725, 104th Cong., 2d Sess. 333 (1996). In addition, the legislative history references children whose costs are ''covered,'' not children for whom any private insurance payments are being made. Since Congress used the same phrase, ''receiving payments,'' in referring to cases where Medicaid is paying towards the cost of care and to cases where private health insurance is paying towards the cost of care, we believe that the extent of the medical coverage which would reduce the SSI payment to $30 should be the same. Therefore, we have decided that the more equitable approach is to apply the reduced benefit amount to children under age 18 with private health insurance when it pays a substantial part (more than 50 percent) of the cost of their care in the institution. Similarly, since Congress apparently wanted to treat all children with significant medical coverage in the same manner, we also have decided that the reduced benefit amount will apply in those cases where children under age 18 are in medical care facilities receiving a combination of Medicaid and private health insurance payments which combined pay a substantial part (more than 50 percent) of the cost of their care.

Regulatory Changes

Section 416.211 explains the general prohibition against SSI eligibility for residents of public institutions, as well as the statutory exceptions to that prohibition. We have revised § 416.211(b) to include a reference to private health insurance as a factor in applying the exception that permits SSI payments at a reduced rate for certain individuals in medical care facilities. The introductory text of paragraph (b)

refers to § 416.414, where the reduced benefits are described and the requirements are explained more thoroughly.

Section 416.212 explains the two statutory provisions that permit continuation of full benefits in certain cases of medical confinement. Under section 1611(e)(1)(E) of the Act, as originally implemented, a recipient whose SSI eligibility is based on section 1619(a) or (b) of the Act for the month preceding the first full month of residence in (1) a public medical or psychiatric institution or (2) a public or private institution where Medicaid is paying more than 50 percent of the cost of care can remain eligible for an SSI benefit for up to 2 full months after entering the institution, if the recipient is allowed, under agreement with the medical institution, to retain any SSI benefits. Also, under 1611(e)(1)(G) of the Act, a recipient is eligible for continuation of full SSI benefits for up to 3 full months after entering certain medical or psychiatric institutions if a physician certifies, within certain time restrictions, that the recipient's stay in the facility is likely not to exceed 3 months and if the recipient needs to continue to maintain and provide for the expenses of the home to which he or she may return.

To include the provisions of section 214, we have revised § 416.212(a) to include children under age 18 whose benefits are reduced because of residence in a public or private institution where private health insurance, or a combination of Medicaid and private health insurance, is paying a substantial part (more than 50 percent) of the cost of their care. We have also revised § 416.212(b) to extend applicability of the continued benefits to children under age 18 whose SSI benefits otherwise would be reduced because of residence in a public institution where private health insurance, or a combination of Medicaid and private health insurance, is paying a substantial part (more than 50 percent) of the cost of care.

Section 1611(e)(1)(G) specifies that the recipient must be ''* * * an inmate of a public institution the primary purpose of which is the provision of medical or psychiatric care, or which is a hospital, extended care facility, nursing home, or intermediate care facility receiving payments * * * under a State plan approved under title XIX * * *.'' Because Public Law 104–193 did not amend this section of the Act, SSI payments to children in *private* medical care facilities for whom private health insurance, or a combination of Medicaid and private health insurance, is paying more than 50 percent of the cost of care, will be limited to the reduced benefit amount beginning with their first full month of institutionalization.

Section 416.414 explains that reduced benefits are payable where Medicaid paid more than 50 percent of the cost of care, or where Medicaid would have paid more than 50 percent of the cost of care but for the application of section 1917(c) of the Act due to a transfer of assets for less than fair market value. To include the provisions of section 214, we have revised § 416.414(a) to explain that for children under age 18, the reduced benefits also apply where private health insurance, or a combination of Medicaid and private health insurance is paying a substantial part (more than 50 percent) of the cost of care in the medical facility.

Section 416.1149 explains what is a temporary absence from a living arrangement and explains how we value in-kind support and maintenance (ISM) received by an eligible individual during a temporary absence. In general, during a temporary absence we continue to value ISM the same way that we did in the permanent residence. Currently, paragraph (a)(1) of § 416.1149 states that a temporary absence from the permanent living arrangement exists if the eligible individual (or eligible individual and eligible spouse) becomes a resident of a public or private medical care facility where over 50 percent of the cost of care is paid by Medicaid, and who is eligible for the continuation of benefits payable under § 416.212. During this temporary absence we continue to value the eligible individual's support and maintenance the same way that we did in the permanent living arrangement.

We are changing paragraph (a)(1) of § 416.1149 to conform to the changes we are making in § 416.212 and § 416.414. For purposes of determining ISM, we also will consider as temporarily absent from the permanent living arrangement a child under 18, who receives a reduced benefit because of residence in a public or private medical facility where private health insurance (or a combination of Medicaid and private health insurance) pays a substantial part (more than 50 percent) of the cost of care and who is eligible for the continuation of benefits under § 416.212. For such a child, during the temporary absence we continue to value the ISM the same way that we did in the permanent living arrangement.

The existing paragraph (c) of § 416.1149 describes an exception to the general rule for temporary absences described in paragraph (b). In paragraph (c), an eligible individual is considered temporarily absent from the permanent living arrangement regardless of the length of stay, if he or she enters a medical care facility in which Medicaid pays over 50 percent of the cost of care, is eligible for a reduced payment under § 416.414, and is not eligible under § 416.212. In this situation, ISM is valued using the rules that apply to the permanent living arrangement for the month the individual enters the facility and the month the individual leaves the facility. No ISM is chargeable for the full months the individual is in the facility and receives a reduced payment under § 416.414.

We are changing paragraph (c) of § 416.1149 to conform to the changes we are making in § 416.212 and § 416.414. Thus, we will also consider as temporarily absent from the permanent living arrangement a child under 18, who is not eligible under § 416.212, and who receives a reduced payment under § 416.414 because of residence in a public or private medical facility where private health insurance (or a combination of Medicaid and private health insurance) pays a substantial part (more than 50 percent) of the cost of care. ISM will be valued for these children as it is for the eligible individuals described in the preceding paragraph.

We are also revising § 416.1165(i)(1) and § 416.1202(b)(2)(i) so that those rules conform with the revised rules in § 416.414. Section 416.1165 describes how we deem income to a child from the child's ineligible parent(s). Subsection (i) describes a situation when we do not deem income to a child. Paragraph (1) is revised so that it conforms with the revised rules in § 416.414.

Subsection 416.1202(b) describes how we deem resources to a child from the child's ineligible parent(s). Paragraph (b)(2) describes a situation when we do not deem resources to a child. Paragraph (b)(2)(i) is revised so that it conforms with the revised rules in § 416.414.

Electronic Version

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 a.m. on the date of publication in the Federal Register. To download the file, modem dial (202) 512–1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Act, 42 U.S.C. 902(a)(5), as amended by

section 102 of Public Law 103–296, the Social Security Administration follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its prior notice and public comment procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. In the case of these interim final rules, we have determined that under 5 U.S.C. 553(b)(B), good cause exists for waiving the prior notice procedures.

Public Law 104–193 was signed into law on August 22, 1996. As noted above, section 214 of Public Law 104–193, which is the subject of these interim final rules, was made effective December 1, 1996. Moreover, section 215 requires the Commissioner to issue regulations necessary to carry out the amendments made by section 214 within 3 months after the date of enactment (i.e., by November 22, 1996). Accordingly, to issue these rules as an NPRM would have delayed issuance of final rules until well past the statutorily mandated deadlines.

In light of the above statutory deadlines, we believe that, under the APA, good cause exists for waiver of the prior notice procedures since issuance of proposed rules would be impracticable. While we are issuing these rules as interim final regulations, we are interested in receiving public comments regarding the substance of these interim rules.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, these regulations reflect and implement statutory provisions effective December 1, 1996 for which publication of implementing regulations is required by November 22, 1996. In order for these regulations to be effective as close as possible to the mandated dates, we find that it is in the public interest to make these rules effective upon publication.

Executive Order 12866

These interim final rules reflect and implement the provisions of section 214 of Public Law 104–193. The Office of Management and Budget (OMB) has reviewed these interim final rules and determined that they meet the criteria for a significant regulatory action under Executive Order 12866. Therefore, we prepared and submitted to OMB, separately from these interim final rules, an assessment of the potential costs and benefits of this regulatory action. This document also contains an analysis of alternative policies we considered and chose not to adopt. This assessment is available for review by members of the public.

Regulatory Flexibility Act

We certify that these interim final rules will not have a significant economic impact on a substantial number of small entities since these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These interim final rules impose no additional reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance: Program No. 96.006–Supplemental Security Income.)

List of Subjects in 20 CFR Part 416:

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

Dated: December 6, 1996.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, subparts B, D, K, and L of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as follows:

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

Subpart B—[Amended]

1. The authority citation for subpart B of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93–66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99–643, 100 Stat. 3574 (42 U.S.C. 1382h note).

2. Section 416.211 is amended by revising paragraph (b)(1) to read as follows:

§ 416.211 You are a resident of a public institution.

* * * * *

(b) * * *

(1)(i) You reside throughout a month in a public institution that is a medical care facility where Medicaid (title XIX of the Social Security Act) pays a substantial part (more than 50 percent) of the cost of your care; you are a child under the age of 18 residing throughout a month in a public institution that is a medical care facility where a substantial part (more than 50 percent) of the cost of your care is paid under a health insurance policy issued by a private provider of such insurance; or, you are a child under the age of 18 residing throughout a month in a public institution that is a medical care facility where a substantial part (more than 50 percent) of the cost of your care is paid by a combination of Medicaid payments and payments made under a health insurance policy issued by a private provider of such insurance; or

(ii) You reside for part of a month in a public institution and the rest of the month in a public institution or private medical facility where Medicaid pays a substantial part (more than 50 percent) of the cost of your care; you are a child under the age of 18 residing for part of a month in a public institution and the rest of the month in a public institution or private medical facility where a substantial part (more than 50 percent) of the cost of your care is paid under a health insurance policy issued by a private provider of such insurance; or you are a child under the age of 18 residing for part of a month in a public institution and the rest of the month in a public institution or private medical facility where a substantial part (more than 50 percent) of the cost of your care is paid by a combination of Medicaid payments and payments made under a health insurance policy issued by a private provider; and

* * * * *

3. Section 416.212 is amended by revising paragraphs (a) introductory text and (b)(1) introductory text to read as follows:

§ 416.212 Continuation of full benefits in certain cases of medical confinement.

(a) *Benefits payable under section 1611(e)(1)(E) of the Social Security Act.* Subject to eligibility and regular computation rules (see subparts B and D of this part), you are eligible for the benefits payable under section 1611(e)(1)(E) of the Social Security Act for up to 2 full months of medical confinement during which your benefits would otherwise be suspended because of residence in a public institution or reduced because of residence in a public or private institution where Medicaid pays a substantial part (more than 50 percent) of the cost of your care or, if

you are a child under age 18, reduced because of residence in a public or private institution which receives payments under a health insurance policy issued by a private provider, or a combination of Medicaid and a health insurance policy issued by a private provider, pay a substantial part (more than 50 percent) of the cost of your care if—

* * * * *

(b) *Benefits payable under section 1611(e)(1)(G) of the Social Security Act.* (1) Subject to eligibility and regular computation rules (see subparts B and D of this part), you are eligible for the benefits payable under section 1611(e)(1)(G) of the Social Security Act for up to 3 full months of medical confinement during which your benefits would otherwise be suspended because of residence in a public institution or reduced because of residence in a public or private institution where Medicaid pays a substantial part (more than 50 percent) of the cost of your care or, if you are a child under age 18, reduced because of residence in a public institution which receives payments under a health insurance policy issued by a private provider, or a combination of Medicaid and a health insurance policy issued by a private provider, pay a substantial part (more than 50 percent) of the cost of your care if—

* * * * *

Subpart D—[Amended]

4. The authority citation for subpart D of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611 (a), (b), (c), and (e), 1612, 1617, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382(a), (b), (c), and (e), 1382a, 1382f, and 1383).

5. Section 416.414 is amended by revising paragraph (a) to read as follows:

§ 416.414 Amount of benefits; eligible individual or eligible couple in a medical care facility.

(a) *General rule.* Except where the § 416.212 provisions provide for payment of benefits at the rates specified under §§ 416.410 and 416.412, reduced SSI benefits are payable to persons and couples who are in medical care facilities where a substantial part (more than 50 percent) of the cost of their care is paid by a State plan under title XIX of the Social Security Act (Medicaid). This reduced SSI benefit rate applies to persons who are in medical care facilities where a substantial part (more than 50 percent) of the cost would have been paid by an approved Medicaid State plan but for the application of section 1917(c) of the Social Security Act due to a transfer of assets for less than fair market value. This reduced SSI benefit rate also applies to children under age 18 who are in medical care facilities where a substantial part (more than 50 percent) of the cost of their care is paid by a health insurance policy issued by a private provider of such insurance, or where a substantial part (more than 50 percent) of the cost of their care is paid for by a combination of Medicaid payments and payments made under a health insurance policy issued by a private provider of such insurance. Persons and couples to whom these reduced benefits apply are—

(1) Those who are otherwise eligible and who are in the medical care facility throughout a month. (By *throughout a month* we mean that you are in the medical care facility as of the beginning of the month and stay the entire month. If you are in a medical care facility you will be considered to have continuously been staying there if you are transferred from one medical facility to another or if you are temporarily absent for a period of not more than 14 consecutive days.); and

(2) Those who reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where Medicaid pays or would have paid (but for the application of section 1917(c) of the Act) a substantial part (more than 50 percent) of the cost of their care; and

(3) Children under age 18 who reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where a substantial part (more than 50 percent) of the cost of their care is being paid under a health insurance policy issued by a private provider or by a combination of Medicaid and payments under a health insurance policy issued by a private provider.

* * * * *

Subpart K—[Amended]

6. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

7. Section 416.1149 is amended by revising paragraph (a)(1) and the first sentence of paragraph (c)(1)(i) to read as follows:

§ 416.1149 What is a temporary absence from your living arrangement.

(a) * * *

(1) Become a resident of a public institution, or a public or private medical care facility where you otherwise would be subject to the reduced benefit rate described in § 416.414, and you are eligible for the benefits payable under § 416.212; or

* * * * *

(c) *Rules for temporary absence in certain circumstances.* (1)(i) If you enter a medical care facility where you are eligible for the reduced benefits payable under § 416.414 for full months in the facility, and you are not eligible for either benefit payable under § 416.212 (and you have not received such benefits during your current period of confinement) and you intend to return to your prior living arrangement, we consider this a temporary absence regardless of the length of your stay in the facility. * * *

* * * * *

8. Section 416.1165 is amended by revising paragraph (i)(1) to read as follows:

§ 416.1165 How we deem income to you from your ineligible parent(s).

* * * * *

(i) * * *

(1) You previously received a reduced SSI benefit while a resident of a medical facility, as described in § 416.414;

* * * * *

Subpart L—[Amended]

9. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

10. Section 416.1202 is amended by revising paragraph (b)(2)(i) to read as follows:

§ 416.1202 Deeming of resources.

* * * * *

(b) * * *

(2) * * *

(i) Previously received a reduced SSI benefit while a resident of a medical facility, as described in § 416.414;

* * * * *

[FR Doc. 97–247 Filed 1–7–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

RIN 1076–AD84

25 CFR Part 151

Land Acquisitions

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Correcting amendment.

SUMMARY: This document corrects a section title in the regulation at 25 CFR part 151 governing land acquisitions by an Indian individual or tribe. The correction eliminates the word ''nongaming'' from the title. It is being published to prevent possible confusion over the applicability of the rule.

EFFECTIVE DATE: January 8, 1997.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Office of the Commissioner, Bureau of Indian Affairs, Room 2070, Main Interior Building, 1849 C Street NW, Washington, D.C. 20240, Telephone No. (202) 219–4066.

SUPPLEMENTARY INFORMATION:

Background

On Friday, June 23, 1995, the Bureau of Indian Affairs published a final rule on Land Acquisitions, at 60 FR 32874. This rule was amended on September 21, 1995, at 60 FR 48894. The rule created a new section which contained additional criteria and requirements used by the Secretary in evaluating requests for the acquisition of lands by the United States in trust for Federally recognized Indian tribes when lands are outside and noncontiguous to the tribe's existing reservation boundaries.

Need for Correction

As published, the final rule contains an error that may prove to be misleading and is in need of clarification. The word ''(nongaming)'' was mistakenly included in the title of § 115.11 and was not removed when a correction was published on September 21, 1995. The provisions of § 151.11 cover gaming acquisitions, and it was always the intent of the Secretary to evaluate off-reservation gaming acquisitions under the § 151.11 criteria. Therefore this correction is necessary to effect Secretarial intent and remove the word ''(nongaming)'' from the title of § 151.11.

List of Subjects in 25 CFR Part 151

Indians—Lands.

Accordingly, 25 CFR part 151 is corrected by making the following correcting amendment:

PART 151—LAND ACQUISITIONS

§ 151.11 Off-reservation acquisitions.

1. In § 151.11, revise the section heading to read as set forth above.

Dated: December 26, 1996.

Elizabeth L. Homer,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 97–246 Filed 1–7–97; 8:45 am]

BILLING CODE 4310–4N–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–20

[FPMR Amendment D–95]

RIN 3090–AG00

Small Purchase Authority

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This General Services Administration (GSA) final rule revises the regulations regarding the delegation of authority to occupant agencies to contract for reimbursable space alterations. The present FPMR provisions stated in 101–20.106–1 cite a project accomplishment threshold of $25,000. This threshold was established based on the small purchase authority in place at the time of the original publication of this provision.

Since the purpose of this FPMR provision is to provide occupant agencies choices in their use of a service provider, it is recommended that the Simplified Acquisition Procurement threshold be used. Rather than establish an authority at a selected value, the reference should be changed to link it to the Federal Acquisition Streamlining Act of 1994. Therefore, if the value of the statute changes, the FPMR would not require a change. The present Simplified Acquisition Threshold (SAT) authority is $100,000 for GSA procurement activities.

Modifying the FPMR provisions to tie to the SAT authority gives occupants increased flexibility in accomplishing alteration tasks and fully delegates the authority to do the work.

No other changes are required.

EFFECTIVE DATE: January 8, 1997.

FOR FURTHER INFORMATION CONTACT: Jeffrey Neely, Director, Portfolio Support Division, PMX, (202) 501–1464.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866.

The Paperwork Reduction Act does not apply because the revisions do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

This rule is not required to be published in the Federal Register for notice and comment; therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 101–20

Concessions, Federal buildings and facilities, Government property management.

For the reasons set forth in the preamble, 41 CFR part 101–20 is amended as follows:

PART 101–20—MANAGEMENT OF BUILDINGS AND GROUNDS

1. The authority citation for part 101–20 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101–20.1—Building Operations, Maintenance, Protection, and Alterations

2. Section 101–20.106–1 is amended by revising paragraphs (b), (c) and (e) to read as follows:

§ 101–20.106–1 Placing of orders for reimbursable alterations by occupant agencies.

* * * * *

(b) No individual order, or combinations of orders for a single alteration project, shall exceed the simplified acquisition threshold, as defined in 41 U.S.C. 252a, and agencies shall not split orders so as to circumvent this limitation.

(c) For all orders placed against GSA contracts or agreements, agency ordering officials shall obtain prior written project review by GSA and provide a copy of the ordering document and final payment document to the GSA buildings manager. Agencies are responsible for inspecting and certifying satisfactory completion of the work, and for ensuring contractor compliance with contract provisions. The final payment document shall be supported by GSA Form 1142, Release of Claims; GSA Form 2419, Certification of Payments to Subcontractors and Supplies; and certification that the work has been inspected and accepted.

* * * * *

(e) Where no GSA contracts or agreements are in effect, an agency may

contract directly for services up to the simplified acquisition threshold per project after written review by GSA. Agencies contracting directly must provide GSA with complete documentation of the scope of work and contract specifications at the time of submission. Each project shall include appropriate reviews by the regional safety staff. If contracting for security systems, agencies must submit the design work for regional Federal Protective Service Division review. Agencies shall be responsible for inspecting and certifying satisfactory completion of the ordered work. All work must conform to GSA fire and safety standards. GSA at anytime has the authority to make inspections and require correction if the project is found not in compliance with GSA reviews or fire and safety standards. As-built drawings must be submitted to GSA's buildings manager within 30 days of completion of the work.

Dated: December 13, 1996.

David J. Barram,

Acting Administrator.

[FR Doc. 97–420 Filed 1–7–97; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF DEFENSE

48 CFR Part 216

[DFARS Case 96–D327]

Defense Federal Acquisition Regulation Supplement; MILCON—Environmental Restoration

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add an exception to the restriction on the use of cost-plus-fixed-fee contracts for military construction. The exception applies to contracts for environmental restoration at installations that are being closed or realigned where payments are made from a Base Realignment and Closure Account.

EFFECTIVE DATE: January 8, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131. Telefax (703) 602–0350. Please cite DFARS Case 96–D327 in all correspondence related to this case.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 216.306 to implement Section 101 of the Fiscal Year 1997 Military Construction Appropriations Act (Public Law 104–196). Section 101 continues to restrict the use of cost-plus-fixed-fee contracts for military construction, but provides an exception for contracts for environmental restoration at installations that are being closed or realigned where payments are made from a Base Realignment and Closure Account.

B. Regulatory Flexibility Act

This final rule does not constitute a significant DFARS revision within the meaning of FAR. 1.501 and Public Law 98–577 and publication for public consent is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 96–D327 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any new recordkeeping, information collection requirements, or collections of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 216

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 216 is amended as follows:

PART 216—TYPES OF CONTRACTS

1. The authority citation for 48 CFR Part 216 continues to read as follows:

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

2. Section 216.306 is revised to read as follows:

216.306 Cost-plus-fixed-fee contracts.

(c) *Limitations.*

(i) Except as provided in paragraph (c)(ii) of this section, annual military construction appropriations acts prohibit the use of cost-plus fixed-fee contracts that—

(A) Are funded by a military construction appropriations act;

(B) Are estimated to exceed $25,000; and

(C) Will be performed within the United States, except Alaska.

(ii) The prohibition in paragraph (c)(i) of this section does not apply—

(A) To contracts for environmental restoration at an installation that is being closed or realigned where payments are made from a Base Realignment and Closure Account; or

(B) To contracts specifically approved in writing, setting forth the reasons therefore, in accordance with the following:

(1) The Secretaries of the military departments are authorized to approve such contracts that are for environmental work only, provided the environmental work is not classified as construction, as defined by 10 U.S.C. 2801.

(2) The Secretary of Defense or designee must approve such contracts are not for environmental work only or are for environmental work classified as construction.

[FR Doc. 97–381 Filed 1–7–97; 8:45 am]

BILLING CODE 5000–04–M

48 CFR Part 239

[DFARS Case 96–D017]

Defense Federal Acquisition Regulation Supplement; Information Technology Management Reform Act (ITMRA)

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comment.

SUMMARY: The Director of Defense Procurement is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise guidance regarding the acquisition of information technology, for conformance with recent amendments to the Federal Acquisition Regulation.

DATES: Effective date: January 8, 1997

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before March 10, 1997, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Mr. Michael Mutty, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite DFARS Case 96–D017 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Mutty, telephone (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Regulation (FAR) was amended on August 8, 1996 (61 FR 41467; Federal Acquisition Circular 90–41, Item I), to implement Division E of the Information Technology Management Reform Act of 1996 (Public Law 104–106). This interim rule amends DFARS Part 239 for conformance with the August 8, 1996, FAR amendments.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule primarily pertains to internal Government considerations regarding the acquisition of information technology. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and cite DFARS Case 96–D017 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this interim rule does not impose any new recordkeeping, information collection requirements, or collections of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Urgent and compelling reasons exist to promulgate this rule without prior opportunity for public comment. This rule amends the DFARS for conformance with the FAR implementation of Division E of the Information Technology Management Reform Act of 1996 (Pub. L. 104–106), which was effective upon its publication in the Federal Register on August 8, 1996. However, public comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Part 239

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 239 is amended as follows:

PART 239—ACQUISITION OF INFORMATION RESOURCES

1. The authority citation for 48 CFR Part 239 continues to read as follows:

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

239.001 through 239.002 [Removed]

2. Sections 239.001 through 239.002 are removed.

3. Subpart 239.70 is revised to read as follows:

Subpart 239.70—Exchange or Sale of Information Technology (IT)

Sec.
239.7000 Scope of subpart.
239.7001 Policy.
239.7002 Conditions for using exchange/sale.
239.7003 Procedures.

Subpart 239.70 Exchange or Sale of Information Technology (IT)

239.7000 Scope of subpart.

This subpart contains unique DoD procedures for the exchange or sale of information technology using the exchange authority of the General Services Administration (GSA). This subpart only applies to items with an original acquisition cost of $1,000,000 or more.

239.7001 Policy.

Agencies should consider exchange/sale when replacing Government-owned information technology. Exchange/sale is a method of—

(a) Transferring the equipment to be replaced to—

(1) Another Government agency, with reimbursement (sale); or

(2) The supplier of the replacement information technology for a trade-in allowance (exchange).

(b) Applying the proceeds of sale or the exchange allowance toward the purchase of replacement information technology.

239.7002 Conditions for using exchange/sale.

(a) The requiring activity must make a written determination that—

(1) The trade-in allowance of the exchange or the proceeds of the sale will be applied to acquire the replacement information technology; and

(2) The exchange/sale transaction will foster the economic and efficient accomplishment of a continuing requirement.

(b) The replacement equipment must be information technology—

(1) Similar to the resource being sold or exchanged;

(2) Which will satisfy the continuing requirement currently met by the resource being replaced.

239.7003 Procedures.

(a) Comply with—

(1) This subpart;

(2) Subpart 217.70; and

(3) The Defense Automation Resources Management Manual.

(b) Solicit offers both on an exchange (trade-in for allowance) or no exchange (no trade-in) basis.

(c) Retain the option to exercise any exchange offer at the time of award.

(d) List and describe the information technology to be exchanged in the solicitation. At a minimum include—

(1) A brief description of each item;

(2) Name of manufacturer;

(3) Equipment type;

(4) Model number; and

(5) The condition code and explanation of the code.

(e) Allow sufficient time in the contracting schedule to permit screening within the Government of the information technology to be exchanged prior to contract award.

(f) Immediately upon receipt of offers, determine the highest exchange offer (if any) and use it to initiate screening under the Defense Automation Resources Management Manual.

(1) Send an SF 120, Report of Excess Personal Property, to the Defense Automation Resources Management Program Division (ATTN: DARMP Division). Prominently display the following note on the original and five copies of the SF 120:

Exchange/''Sale'' Property

A written administrative determination has been (will be) made to apply the exchange allowance or proceeds of ''sale'' to the acquisition of similar items.

(2) Include the following additional information with the SF 120:

(i) The identity of the offeror of the exchange;

(ii) The type of replacement equipment;

(iii) The acquisition method for the replacement equipment;

(iv) The anticipated purchase price of the replacement equipment; and

(v) The name and telephone number of the contracting officer.

(g) Evaluate offers using the solicitation criteria, including consideration of any exchange allowance offers. Award can be made

whether or not the replaced information technology is exchanged.

(h) Before a contract is awarded, consider the results of the screening. Do not make an exchange if another Government agency wants to acquire the replaced equipment.

(1) If another agency is going to acquire the replaced equipment, do not include the exchange allowance in the contract price.

(2) The actual sale price to the agency acquiring the replaced equipment will be the exchange allowance (if any) of the successful offeror.

(i) If no Government agency wants to acquire the replaced equipment, the contract price shall include the exchange allowance, if any.

(j) If no exchange allowance was offered by the successful contractor, see the Defense Automation Resources Management Manual for disposal instructions.

239.7102–3 [Amended]

4. Section 239.7102–3 is amended by removing the paragraph (a) designation and by removing paragraph (b).

239.7201 [Removed and Reserved]

5. Section 239.7201 is removed and reserved.

6. Section 239.7202 is amended by revising paragraphs (a) and (b) to read as follows:

239.7202 Waivers.

(a) The Secretary of Commerce has delegated to the Secretary of Defense the authority to waive FIP standards, in accordance with procedures established by the Secretary of Commerce. The Secretary of Defense redelegated that waiver authority to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C3I)). The ASD(C3I) has redelegated to the senior information technology official of each military department the authority to approve waivers to FIP standards that are applicable to military department requirements.

Waivers to FIP standards that are applicable to the requirements of DoD components outside the military departments must be approved by the ASD(C3I).

(b) Contracting officers shall ensure that all applicable FIP standards are incorporated into solicitations, except for those FIP standards for which the requiring activity has obtained a waiver from the appropriate military department or DoD senior information technology official.

* * * * *

7. Section 239.7302 is amended by revising paragraph (a), the introductory text of paragraph (b), and paragraph (b)(2) to read as follows:

239.7302 Approvals and screening.

(a) The requirements of this section highlight the redistribution requirements of the Defense Automation Resources Management Manual, and are in addition to those at FAR 45.302.

(b) If the contractor proposes acquiring ADPE subject to 239.7301(a)(1) and (2), and the unit acquisition cost is $50,000 or more—

* * * * *

(2) The administrative contracting officer—

(i) Submits a request for screening the requirement against the pool of Government-owned ADPE to determine if available excess equipment could satisfy the contractor's needs. The request should include the contractor's supporting documentation. The request is sent to—Defense Information Systems Agency, Chief Information Officer, ATTN: Defense Automation Resources Management, Program Division (D03D), 701 S. Courthouse Road, Arlington, VA 22204–2199; or

(ii) Uses the Automation Resources Management System (ARMS) to screen on-line. System access may be requested from the Defense Information Systems Agency, Chief Information Officer, Defense Automation Resources Management Program (DARMP) Division. Customers may apply for an ARMS Account Number by calling the DARMP Help Desk at (703) 696–1904; DSN 426–1904, FAX (703) 696–1908; E-mail DARMP@NCR.DISA.MIL.

(iii) Documents the result of the System query.

(iv) Upon receipt of and based on screening results from DARMP, advises the contractor that excess ADPE—

(A) Is available pursuant to the Defense Automation Resources Management Manual; or

(B) Is not available and the contractor may proceed with acquisition of the equipment.

* * * * *

8. Section 239.7304 is amended by revising paragraph (c) to read as follows:

239.7304 Purchase option credits.

* * * * *

(c) Report purchase option credits as prescribed in the Defense Automation Resources Manual.

9. Section 239.7400 is revised to read as follows:

239.7400 Scope.

This subpart prescribes policy and procedures for acquisition of telecommunications services and maintenance of telecommunications security. Telecommunications services may also meet the definition of information technology.

239.7402 [Amended]

10. Section 239.7402 is amended in paragraph (b)(4) by removing the reference ''FAR 45.303–1(a)'' and inserting the reference ''FAR 45.303'' in its place.

11. Section 239.7501 is revised to read as follows:

239.7501 Major automated information systems restriction.

Section 8028 of the FY 1992 Defense Appropriations Act (Pub. L. 102–172) and similar sections of the FY 1993, FY 1994, and FY 1995 Defense appropriations acts prohibit use of DoD appropriations for acquisition of major automated information systems, unless the systems have successfully completed oversight reviews required by DoD regulations.

239.7501–1 and 239.7501–2 [Removed]

12. Sections 239.7501–1 and 239.7501–2 are removed.

[FR Doc. 97–382 Filed 1–7–97; 8:45 am]

BILLING CODE 5000–04–M

Proposed Rules

Federal Register
Vol. 62, No. 5
Wednesday, January 8, 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. 96–NM–100–AD]

RIN 2120–AA64

Airworthiness Directives; Jetstream Model BAe ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Jetstream Model BAe ATP series airplanes. This proposal would require modification of certain parts in the elevator flight control system and the propeller pitch warning system. This proposal is prompted by a report indicating that these parts could interfere with the proper operation of these systems. The actions specified by the proposed AD are intended to prevent the flight crew from having to engage the standby elevator control system in order to regulate the pitch of the airplane; and to prevent malfunctioning of the pitch warning system for the propellers; either of which could lead to reduced controllability of the airplane.

DATES: Comments must be received by February 18, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–100–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–100–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–100–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that two unrelated unsafe conditions, which could lead to similar consequences, may exist on certain Jetstream Model BAe ATP series airplanes. The CAA advises that it has received a report indicating that there have been occurrences of restriction or interference with movement of the elevator flight control system on some of these airplanes. The manufacturer conducted a zonal survey of this airplane model to detect where movement of these controls could be impeded. That survey revealed the following information:

The flight control system for the elevators, which is located in an area under the flight deck, has small clearances between some of its components and surrounding structures. This design creates the potential for foreign objects to interfere with or restrict movement of the stop lever for this system's bellcrank assembly. If movement of this lever is impeded, the flight crew must engage the standby control system for the elevators, which enables one, but not both elevators to be operated. When only one elevator is working, it becomes more difficult for the flight crew to control the pitch of the airplane. This condition, if not corrected, could lead to reduced controllability of the airplane.

The zonal survey also indicated that there could be interference with the controls for the propeller pitch warning system on airplanes on which Jetstream Modification 35205A has been installed. (That modification is described in Jetstream Service Bulletin ATP–53–19, dated January 13, 1993, which contains procedures for installing of two access panels in the floor of the flight deck to make it easier for maintenance personnel to adjust the microswitches for the powerplant.). During normal operation of this system, a green warning light stays on when the propellers are in low pitch and the airplane does not exceed 60 knots Indicated Airspeed (IAS); when that airspeed is exceeded, a red warning light comes on and the flight crew knows that the pitch of the propellers must be increased. Should a retaining cord on the access panel impede operation of the microswitches, the green warning light could remain on when the airplane is flying at a speed greater than 60 knots IAS, and the flight

crew may not be immediately aware of the need to increase propeller pitch. This malfunctioning of the propeller low pitch warning system, if not corrected, could lead to the propeller operating at low pitch and high airspeed, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Jetstream has issued Service Bulletin ATP–27–78, Revision 1, dated January 31, 1996, which describes procedures for modification of the stop lever for the bellcrank assembly in the elevator flight control system. This modification, which entails shortening the lever and thus increasing clearance at its end, is intended to remove potential impediments to proper movement of the lever.

This service bulletin also describes procedures for modification of the two access panels to the powerplant microswitches on airplanes that have been fitted with Jetstream Modification 35205A. This modification, which entails removal of the retaining cords on these panels, is intended to remove potential impediments to proper operation of these switches and the propeller pitch warning system.

The CAA classified this service bulletin as mandatory and issued British airworthiness directive 003–12–95, dated January 31, 1996, in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since unsafe conditions have been identified that are likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the stop lever for the bellcrank assembly of the elevator flight control system. It also would require that retaining cords on the access panels to the powerplant microswitches be removed from airplanes on which Jetstream Modification 35205A has been installed previously.

These actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

The FAA estimates that 10 Jetstream Model BAe ATP series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 7 work hours per airplane to accomplish the proposed modification of the stop lever for the bellcrank assembly of the elevator flight control system, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed modification of this lever on U.S. operators is estimated to be $4,200, or $420 per airplane.

It would take approximately 1 work hour per airplane to accomplish the proposed removal of the retaining cords on airplanes that have been fitted with Jetstream Modification 35205A. The average labor rate is $60 per work hour. Based on these figures, the cost impact of this proposed removal on U.S. operators of airplanes fitted with Jetstream Modification 35205A is estimated to be $600, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Jetstream Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited): Docket 96–NM–100–AD.

Applicability: Model BAe ATP series airplanes as listed in Jetstream Service Bulletin ATP–27–78, Revision 1, dated January 31, 1996; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the flight crew from having to engage the standby elevator control system in order to regulate the pitch of the airplane, and to prevent malfunctioning of the pitch warning system for the propellers, either of which could lead to reduced controllability of the airplane, accomplish the following:

(a) For airplanes on which Jetstream Modification 35205A has been installed: Within 3 months after the effective date of this AD, remove the retaining cords on the access panels to the powerplant microswitches, in accordance with Part 2 of Jetstream Service Bulletin ATP–27–78, Revision 1, dated January 31, 1996.

Note 2: Jetstream Modification 35202A is described in Jetstream Service Bulletin ATP–53–19, dated January 13, 1993.

(b) For all airplanes: Within 18 months after the effective date of this AD, modify the stop lever for the bellcrank assembly of the elevator flight control system, in accordance with Part 1 of Jetstream Service Bulletin ATP–27–78, Revision 1, dated January 31, 1996.

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

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

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

Issued in Renton, Washington, on January 2, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–363 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 96–AWP–34]

Proposed Revision of Class D and Class E Airspace; Los Angeles, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise Class D and Class E airspace areas at Los Angeles, CA. This action is a reduction of the surface areas for the Los Angeles Hawthorne Municipal Airport, CA. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this proposal is to reduce the complexity of the air traffic procedures and reduce the number of facilities controlling traffic within this area.

DATES: Comments must be received on or before February 26, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 96–AWP–34, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

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

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

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented as particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AWP–14.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Operations Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class D and Class E airspace areas at Los Angeles Hawthorne Municipal Airport, CA. During airspace reclassification, the Hawthorne Airport Traffic Area (ATA) and the Los Angeles ATA were combined to form the Hawthorne Class D airspace. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this proposal is to reduce the complexity of the air traffic procedures and reduce the number of facilities controlling traffic within this area. Class D airspace areas are published in Paragraph 5000 and Class E airspace designations for airspace areas designated as an extention to a Class D or Class E surface area are published in Paragraph 6004 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 and Class E airspace designation listed in this document would be published subsequently in this Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D airspace.

* * * * *

Los Angeles Hawthorne Municipal Airport, CA
(Lat. 33°55′22″N, long. 118°20′06″W)

Los Angeles VORTAC
(Lat. 33°55′59″N, long. 118°25′55″W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 2.6-mile radius of the Hawthorne Municipal Airport and within 1.8 miles each side of the Los Angeles VORTAC 096° radial, extending from the 2.8-mile radius to 8.8 miles east of the Los Angeles VORTAC and within 1.8 miles each side of the Hawthorne Municipal Airport Localizer east course extending from the 2.6-mile radius to the Harbor Freeway, excluding the Los Angeles, CA, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area.

* * * * *

Los Angeles Hawthorne Municipal Airport, CA
(Lat. 33°55′22″N, long. 118°20′06″W)

That airspace extending upward from the surface within 1.8 miles each side of the Hawthorne Municipal Airport Localizer east course extending from the Harbor Freeway to 5.8 miles east of the Hawthorne Municipal Airport and within 1.8 miles each side of the 224° bearing from the Hawthorne Municipal Airport, extending from the 2.6-mile radius of the Hawthorne Municipal Airport to 4.0 miles west of the Hawthorne Municipal Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on December 23, 1996.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–394 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–ANM–033]

Proposed amendment of Class E airspace, Jackson, Wyoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This proposed rule would amend the Jackson, Wyoming, Class E airspace to accommodate a Standard Terminal Arrival Route (STAR) to the Salt Lake City (SLC) International Airport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before February 21, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, ANM–530, Federal Aviation Administration, Docket No. 96–ANM–033, 1601 Lind Avenue S.W., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James C. Frala ANM–532.4, Federal Aviation Administration, Docket No. 96–ANM–033, 1601 Lind Avenue, S.W., Renton, Washington 98055–4056; telephone number: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ANM–033.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations Branch, ANM–530, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Jackson, Wyoming, to accommodate a new STAR to SLC International Airport. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83 Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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 of reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM WY E5 Jackson, WY

Jackson Hole Airport, WY
(lat. 43°36′23″N, long. 110°44′17″W)
Jackson VOR/DME
(lat. 43°36′30″N, long. 110°44′05″W)
Dunoir VOR/DME
(lat. 43°49′42″N, long. 110°20′08″W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of the Jackson Hole Airport, and within 4.4 miles west and 8.3 miles east of the Jackson VOR/DME 200° radial extending from the VOR/DME to 21.4 miles south of the VOR/DME, and within 2.2 miles each side of the Jackson VOR/DME 020° radial extending from the VOR/DME to 10.5 miles north of the VOR/DME; that airspace extending upward from 1,200 feet above the surface within 7 miles west and 10.5 miles east of the Jackson VOR/DME 020° radial extending from the VOR/DME to 33.5 miles north of the VOR/DME, and within 4.3 miles each side of the Jackson VOR/DME 107° radial extending from the VOR/DME to 13.1 miles east of the VOR/DME, and within 5.3 miles north and 7.9 miles south of the Dunoir VOR/DME 102° and 282° radials extending from 7 miles east to 18.2 miles west of the Dunoir VOR/DME, and that airspace south of the Jackson VOR/DME bounded on the northwest by the southeast edge of V–465, on the east by the southwest edge of V–328, on the south by the north edge of V–4, and on the west by long. 112°00′00″W; excluding the Big Piney, WY, and the Rock Springs, WY, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, on December 20, 1996.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–313 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–33–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–28]

Establishment of Class E Airspace; Gregory, SD, Gregory Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Gregory, SD. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 31 has been developed for the Gregory Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before February 14, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–28, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–453, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–28.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date of comments. A report summarizing each substantive public contract with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Gregory, SD; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 31 SIAP at Gregory Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 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 proposed 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).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

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

* * * * *

AGL SD E5 Gregory, SD [New]

Gregory Municipal Airport, SD
(lat. 43°13′18″N, long. 99°24′12″W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Gregory Municipal Airport, and that airspace extending upward from 1,200 feet above the surface beginning at lat. 43°41′00″ N. long. 99°29′00″ W, southeastbound to lat. 43°00′00″N, long. 99°00′00″W, westbound to V71, northwestbound to lat. 43°29′30″N, long. 99°39′00″W, to the point of beginning, and that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 43°20′00″N, on the east by V71, on the south by lat. 43°00′00″N, and on the west by long. 100°05′00″W, excluding that airspace within the Winner, SD, E5 airspace.

* * * * *

Issued in Des Plaines, Illinois on December 19, 1996.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–312 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–29]

Establishment of Class E Airspace; Lemmon, SD, Lemmon Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace Lemmon, SD. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 29 has been developed for the Lemmon Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before February 14, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGl–7, Rules Docket No. 96–AGL–29, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plains, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–29.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for

examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace at Lemmon, SD; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 29 SIAP at Lemmon Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 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 proposed 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).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

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

* * * * *

AGL SD E5 Lemmon, SD [New]

Lemmon Municipal Airport, SD
(lat. 45°55′08″N, long. 102°06′18″W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Lemmon Municipal Airport, and that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 46°10′00″N, on the east by V169, on the south by lat. 46°33′00″N, and on the west by V491, northbound to lat. 45°45′00″N, thence eastbound to lat. 45°45′00″N, long. 102°09′00″W, thence northwestbound to lat. 46°10′00″N, long. 102°04′00″W.

* * * * *

Issued in Des Plaines, Illinois on December 19, 1996.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–311 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–AGL–30]

Establishment of Class E Airspace; Shawano; WI, Shawano Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Shawano, WI. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 29 has been developed for the Shawano Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before February 14, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–30, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related

aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–30.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Shawano, WI; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 29 SIAP at Shawano Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 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 proposed 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).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

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

* * * * *

AGL WI E5 Shawano, WI [New]

Shawano Municipal Airport, WI
(lat. 44°47′14″N, long. 88°33′35″W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Shawano Municipal Airport, and within 2 miles each side of the 115° bearing from the airport extending from the 6.4-mile radius to 10 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on December 19, 1996.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–310 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–31]

Establishment of Class E Airspace; Oakes, ND, Oakes Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Oakes, ND. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 30 has been developed for Oakes Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before February 14, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–31, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–31.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Oakes, ND; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 30 SIAP at Oakes Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL 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. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 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 proposed 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).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.2 [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 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL ND E5 Oakes, ND (New)

Oakes Municipal Airport, ND
(lat. 46°10′27″N, long. 98°04′49″W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Oakes Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on December 19, 1996.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–309 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–27]

Establishment of Class E Airspace; Hot Springs, SD, Hot Springs Municipal Airport

AGENCY: Federal Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Hot Springs, SD. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 19 has been developed for the Hot Springs Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before February 14, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–27, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon

Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–27.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Hot Springs, SD; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 19 SIAP at Hot Springs Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL 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. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 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 proposed 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 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

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

* * * * *

AGL SD E5 Hot Springs, SD [New]

Hot Springs Municipal Airport, SD
(Lat. 43°22′09″N, long. 103°23′21″W)

That airspace extending upward from 700 feet above the surface with a 7.4-mile radius of the Hot Springs Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on December 19, 1996.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–308 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–ASO–38]

Proposed Amendment to Class E Airspace; Columbia, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Columbia, SC. A GPS RWY 31 Standard Instrument Approach Procedure (SIAP) has been developed for Columbia Owens Downtown Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport.

DATES: Comments must be received on or before February 18, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 96–ASO–38, Manager, Operations

Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ASO–38.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Operations Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace area at Columbia, SC. A GPS RWY 31 SIAP has been developed for Columbia Owens Downtown Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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 6005 Class E airspace areas extending upward from 700 feet above the surface of the earth.

* * * * *

ASO SC E5 Columbia, SC [Revised]

Columbia Metropolitan Airport, SC
(Lat. 33°56′26″ N, long. 81°07′09″ W)
Corporate Airport
(Lat. 33°47′41″ N, long. 81°14′45″ W)
Columbia Owens Downtown Airport
(Lat. 33°58′15″ N, long. 81°59′44″ W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Columbia Metropolitan airport and within a 6.4-mile radius of Corporate Airport and within a 6.5-mile radius of Columbia Owens Downtown airport.

* * * * *

Issued in College Park, Georgia, on December 23, 1996.

Lacy E. Wright,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 97–307 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–ASO–33]

Proposed Establishment of Class E Airspace; Milton, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws the Notice of Proposed Rulemaking (NPRM) which proposed to establish Class E airspace at Milton, FL, to accommodate a GPS RWY 36 Standard Instrument Approach Procedure (SIAP) for Peter Prince Field. The NPRM is being withdrawn, as the current Class E airspace at Milton, FL, for NAS Whiting Field is of sufficient size to accommodate the GPS RWY 36 SIAP and for instrument flight rules (IFR) operations at Peter Prince Field, which is adjacent to NAS Whiting Field.

DATES: the withdrawal is effective January 8, 1997.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

The Proposed Rule

On November 27, 1996, a NPRM was published in the Federal Register to establish Class E airspace at Milton, FL, to accommodate a GPS RWY 36 SIAP for Peter Prince Field Airport (61 FR 60240).

Conclusion

In consideration of the existence of Class E airspace at Milton, FL, for NAS Whiting Field being of sufficient size to accommodate the GPS RWY 36 SIAP and for IFR operations at Peter Prince Field, action is being taken to withdraw the proposal to establish Class E airspace at Milton, FL, for Peter Prince Field Airport.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (Air).

Withdrawal of Proposal Rule

Accordingly, pursuant to the authority delegated to me, Airspace Docket No. 96–ASO–33, as published in the Federal Register on November 27, 1996 (61 FR 60240), is hereby withdrawn.

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

Issued in College Park, Georgia, on December 23, 1996.

Lacy E. Wright,

Acting Manager, Air Traffic Division, Southern Region

[FR Doc. 97–306 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AWP–35]

Proposed Establishment of Class E Airspace; Fallbrook, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class E airspace area at Fallbrook, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 18 at Fallbrook Community Airpark has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Fallbrook Community Airpark, Fallbrook, CA.

DATES: Comments must be received on or before February 14, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 96–AWP–35, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

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

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

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AWP–35.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace area at Fallbrook, CA. The development of GPS SIAP at Fallbrook Community Airpark has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS RWY 18 SIAP at Fallbrook Community Airpark, Fallbrook, CA. Class E airspace areas designated as an extension to a Class D or Class E surface area are published in paragraph 6004 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 would be published subsequently in this Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Paragraph 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area.

* * * * *

AWP CA E4 Fallbrook, CA [New]

Fallbrook Community Airpark, CA
(Lat. 33°21′15″N, long. 117°15′03″W)

Within 4 miles west and 5.3 miles east of the 014° bearing from the Fallbrook Community Airpark extending from Fallbrook Community Airpark to 20.5 miles north of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on December 23, 1996.

Sabra W. Kaulia,

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

[FR Doc. 97–395 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AWP–32]

Proposed Amendment of Class E Airspace; Battle Mountain, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This action corrects an error in the airspace description and allows for an extension of the comment period of a proposed notice of rulemaking that was published in the Federal Register on December 18, 1996, Airspace Docket No. 96–AWP–32.

DATES: Comments must be received on or before February 18, 1997.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 96–32018, Airspace Docket No. 96–AWP–32, published on December 18, 1996 (61 FR 66620), revised the description of the Class E airspace area at Battle Mountain, NV. An error was discovered in the airspace description for the Battle Mountain, NV, Class E airspace area. This action corrects that error and extends the comment period until February 18, 1997.

Correction to Proposed Notice of Rulemaking

Accordingly, pursuant to the authority delegated to me, the airspace description for the Class E airspace area at Battle Mountain, NV, as published in the Federal Register on December 18, 1996 (61 FR 66620), (Federal Register Document 96–32018), is corrected as follows:

§ 71.1 [Corrected]

* * * * *

AWP NV E5 Battle Mountain, NV [Corrected]

Battle Mountain Airport, NV
(Lat. 40°35′54″ N, long. 116°52′31″ W)
Battle Mountain VORTAC
(Lat. 40°34′09″ N, long. 116°55′20″ W)

On page 66621, in the first column, the airspace description for Battle Mountain, NV, is corrected to read as follows:

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of the Battle Mountain Airport and within 4.3 miles southeast and 12 miles northwest of the Battle Mountain VORTAC 218° radial extending from the Battle VORTAC to 25 miles southwest of the VORTAC. That airspace extending upward from 1,200 feet above the surface within 8.7 miles southeast and 11.7 miles northwest of the Battle Mountain VORTAC 218° and 038° radials extending from 25 miles southwest to 10.4 miles northeast of the Battle Mountain VORTAC and within 5.6 miles south and 7.8 miles north of the Battle Mountain VORTAC 077° and 257° radials, extending from 7 miles west to 161.1 miles east of the Battle Mountain VORTAC.

* * * * *

Issued in Los Angeles, California, on December 24, 1996.

Sabra W. Kaulia,

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

[FR Doc. 97–393 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–003]

Standards for Business Practices of Interstate Natural Gas Pipelines

December 18, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed rule; Notice of comment schedule.

SUMMARY: The Commission's proposed rule in this proceeding would amend its open access regulations by incorporating by reference standards promulgated by the Gas Industry Standards Board (GISB). A staff technical conference was held on December 12 and 13, 1996, to discuss the future direction of GISB's electronic communication standards and the possible need for standards in disputed areas. Comments are requested on issues considered at that technical conference.

DATES: Comments on issues considered at the technical conference are due on or before February 21, 1997.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 208–2294.

SUPPLEMENTARY INFORMATION: Notice is given that comments on issues considered at the technical conference held on December 12 and 13, 1996, are to be filed by February 21, 1997. Commenters should address the issues and questions identified in the Notice of Proposed Rulemaking [1] as the subjects for discussion at the technical conference. Further, commenters should address the issues identified by staff at the technical conference, including: whether it is important for the creation of an efficient interstate pipeline grid to have the Commission or GISB develop standards in the disputed areas; whether there are policy questions that the industry, through the Gas Industry Standards Board, will be unable to resolve and that the Commission should resolve to permit further progress in developing standards in these areas;

[1] Standards For Business Practices Of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 61 FR 58790 (Nov. 19, 1996), 77 FERC ¶ 61,143 (Nov. 13, 1996).

and, if there are such policy questions, how and why they should be resolved in a particular manner.

Commenters are encouraged to submit their comments electronically and, in particular, are encouraged to participate in the Commission's pilot project using the Internet for filing comments. Comments can be submitted on computer diskette in WordPerfect® 6.1 or lower format or in ASCII format, with the name of the filer and Docket No. RM96–1–003 on the outside of the diskette. Internet comments should be submitted through Internet E-Mail to ''comment.rm@ferc.fed.us'' in the following format: on the subject line, specify Docket No. RM96–1–003; in the body of the E-Mail message, specify the name of the filing entity and the name, telephone number and E-Mail address of a contact person; and attach the comment in WordPerfect® 6.1 or lower format or in ASCII format as an attachment to the E-Mail message.

Lois D. Cashell,

Secretary.

[FR Doc. 97–378 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 902

[AK–005, Amendment No. V]

Alaska Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Alaska regulatory program (hereinafter, the ''Alaska program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to and additions of rules pertaining to self-bonding. The amendment is intended to revise the Alaska program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., m.s.t., February 7, 1997. If requested a public hearing on the proposed amendment will be held on February 3, 1997. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.s.t., January 22, 1997.

ADDRESSES: Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Alaska program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Western Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202.

Bob Loeffler, Project Manager, Division of Mining and Water Management, Department of Natural Resources, 3601 C Street, Suite 800, Anchorage, Alaska 99503–5935.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Telephone: (303) 844–1424.

SUPPLEMENTARY INFORMATION:

I. Background on the Alaska Program

On March 23, 1983, the Secretary of the Interior conditionally approved the Alaska program. General background information on the Alaska program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Alaska program can be found in the March 23, 1983, Federal Register (48 FR 12274). Subsequent actions concerning Alaska's program and program amendments can be found at 30 CFR 902.15 and 902.16.

II. Proposed Amendment

By letter dated December 12, 1996, Alaska submitted a proposed amendment to its program pursuant to SMCRA (Amendment number V, administrative record No. AK–F–1, 30 U.S.C. 1201 *et seq.*). Alaska submitted the proposed amendment in response to required program amendments at 30 CFR 902.16(b)(1). The provisions of the Alaska Administrative Code (AAC) that Alaska proposes to revise and add are 11 AAC 90.207(f)(3), concerning requirements for self-bonds and 11 AAC 90.207(f)(8), concerning definitions of specific terms used for self-bonding.

Specifically, Alaska is proposing to revise 11 AAC 90.207(f)(3) to provide, in pertinent part, that the Commissioner [of Natural Resources] will, in the Commissioner's discretion, accept a written guarantee from a corporate guarantor if the applicant for a self-bond meets certain conditions, including designating and maintaining its own agent for service of process in Alaska.

Alaska proposes the addition of new language at 11 AAC 90.207((f)(8) (A) through (H) to provide definitions for the terms ''self-bond,'' ''current assets,'' ''current liabilities,'' ''fixed assets,'' ''liabilities,'' ''net worth,'' ''parent corporation,'' and ''tangible net worth'' as follows:

(A) ''self-bond'' means an indemnity agreement in a sum certain executed by the applicant or by the applicant and any corporate guarantor and made payable to the regulatory authority with or without a separate surety;

(B) ''current assets'' means cash or other assets or resources which are reasonable expected to be converted to cash or sold or consumed within one year or within the normal operating cycle of the business;

(C) ''current liabilities'' means obligations which are reasonably expected to be paid or liquidated within one year or within the normal operating cycle of the business;

(D) ''fixed assets'' means plants and equipment, but does not include land or coal in place;

(E) ''liabilities'' means obligations to transfer assets or provide services to other entities to the future as a result of past transactions;

(F) ''net worth'' means total assets minus total liabilities and is equivalent to owners' equity;

(G) ''parent corporation'' means a corporation which owns or controls the applicant; and

(H) ''tangible net worth'' means net worth minus intangibles such as good will and rights to patents or royalties.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Alaska program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Denver Field Division, Western Regional Coordinating Center, will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.s.t., January 23, 1997. Any disabled

individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and budget (OMB) under Executive Order 12866 (regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that 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.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or private sector.

List of Subjects in 30 CFR Part 902

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 23, 1996.

James F. Fulton,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 97–302 Filed 1–7–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AH97

Veterans Education: Submission of School Catalogs to State Approving Agencies

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the educational assistance and educational benefits regulations of the Department of Veterans Affairs (VA). The current regulations provide that schools must submit a catalog or bulletin to the State Approving Agency (SAA) when seeking approval for courses for training under VA-administered education programs. Public Law 102–568 removed this requirement for elementary and secondary schools. Accordingly, VA intends to amend the regulations to state that accredited schools, other than elementary and secondary schools, as part of the approval process must submit catalogs to the State agencies that approve courses for training under VA-administered education programs. The purpose of this document is to request Paperwork Reduction Act comments concerning requirements that accredited schools, other than elementary and secondary schools, submit a catalog or bulletin to SAAs.

DATES: Comments on this collection of information should be submitted must be received on or before March 10, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AH97''. All written comments will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service (225), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, 202–273–7187.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act of 1995

The Office of Management and Budget (OMB) has determined that the proposed 38 CFR 21.4253(d)(1) would constitute a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Accordingly, under section 3507(d) of the Act VA has submitted a copy of this rulemaking action to OMB for its review of the collection of information.

OMB assigns a control number for each collection of information it approves. VA 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.

Comments on the proposed collection of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AH97''.

Title: Submission of School Catalog to State Approving Agency (SAA).

Summary of collection of information: The provisions of the proposed 38 CFR 21.4253(d)(1) would restate a statutory requirement (under 38 U.S.C. 3675(a)) which provides that before an SAA may approve a course of an accredited educational institution (other than an elementary or secondary school) for training under VA-administered educational assistance programs (VA training), the educational institution must submit to the SAA certified copies of its catalog or bulletin containing the school's graduation requirements; institution policy and regulations containing certain information relative to standards of progress required of the student; institution policy and regulations relating to student conduct and conditions for dismissal; and any attendance standards, if enforced.

Description of need for information and proposed use of information: VA contracts with agencies of the various State governments (SAAs) to approve courses for VA training. The catalogs or bulletins referred to in this rulemaking are required by 38 U.S.C. 3675(a) to be submitted to the SAAs, not to VA. Hence, VA is not the primary user of the information, except in those rare instances where, under 38 U.S.C. 3671, VA is acting as an SAA. The SAAs use the information contained in the catalogs to help determine whether the educational institution's courses may be approved for VA training.

Description of likely respondents: Accredited educational institutions (other than elementary and secondary schools) applying to SAAs for approval of the institutions' courses for VA training.

Estimated number of respondents: 5,990.

Estimated frequency of responses: Annually. Generally, the SAAs collect this information when an educational institution applies for approval of a new course of study. Essentially, educational institutions develop new courses of study for which they seek approval with enough frequency so that the SAAs collect each new catalog the educational institutions may issue. This generally means a collection annually or less frequently, depending on the nature of the educational institution applying for course approval.

Estimated total annual reporting and recordkeeping burden: 1,497.5 hours. VA estimates that there would be no additional recordkeeping burden imposed. Educational institutions would develop catalogs or bulletins and would develop written policies and requirements concerning the matters required to be included in the catalogs and bulletins even if the statutory requirements restated in the proposed rule did not exist.

Estimated annual burden per collection: ¼ hour.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are 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 collections 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 collections 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 proposed rule 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 on the proposed regulations.

Regulatory Flexibility Act

The Secretary of Veterans Affairs certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Although it is possible that a small entity could be subject to this rulemaking, all schools prepare a catalog or bulletin that would meet the requirements of this rulemaking. Consequently, there would be no significant economic impact on small entities from this rulemaking.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs affected by this proposed rule are 64.117, 64.120, and 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 24, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21, subpart D is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

1. The authority citation for part 21, subpart D continues to read as follows:

Authority: 10 U.S.C. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. In § 21.4253, paragraph (d)(1) is revised to read as follows:

§ 21.4253 Accredited courses.

* * * * *

(d) School qualification. * * *

(1) The institution (other than an elementary or secondary school) has submitted to the State approving agency copies of its catalog or bulletin which are certified as true and correct in content and policy by an authorized representative, and the publication shall:

(i) State with specificity the requirements of the institution with respect to graduation;

(ii) Include institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, a description of the probationary period, if any, allowed by the institution, conditions of reentrance for those students dismissed for unsatisfactory progress, and a statement regarding progress records kept by the institution and furnished the student);

(iii) Include institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct; and

(iv) Include any attendance standards of the institution if the institution has and enforces such standards.

(Authority: 38 U.S.C. 3675(a), 3676(b))

* * * * *

[FR Doc. 97–355 Filed 1–7–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 96–65; Notice 2]

RIN 2127–AG58

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document initiates rulemaking based upon oral presentations at the agency's public meetings and written comments received on the appropriate classification and safety regulations for golf carts and other small, light-weight vehicles that are capable of being driven on the public roads. In response to these comments, NHTSA proposes that a new category of motor vehicle be established, called ''low-speed vehicle.'' A low-speed vehicle (LSV) would be any motor vehicle, other than a motorcycle, whose top speed does not exceed 25 mph. Under a proposed new standard, Federal Motor Vehicle Safety Standard No. 100, LSVs would be equipped with certain basic items of motor vehicle safety equipment, such as seat belts, in lieu of complying with the Federal motor vehicle safety and bumper standards that would apply if the vehicles were categorized according to existing vehicle types. LSVs would also have a label warning against driving them at speeds that exceed 25 mph. A ''golf cart'', a vehicle that is used to carry golfers on golf courses and that has a top speed of 15 mph or less, would not be considered a motor vehicle, consistent with the agency's past interpretations. A ''golf car'', a vehicle that is used to carry golfers on golf courses and that has a top speed that exceeds 15 mph, but does not exceed 25 mph, would be a motor vehicle and required to comply with Standard No. 100. This rulemaking action is intended to supersede the agency's past interpretations excluding from regulation motor vehicles with a distinctive configuration and a top speed of not more than 20 mph, and to bring all such vehicles under the statutory requirements to notify and remedy safety related defects, and when effective, noncompliances with Standard No. 100.

DATES: Comments are due February 24, 1997.

ADDRESSES: Comments should refer to Docket No. 96–65; Notice 2, and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Z. Taylor Vinson, Office of Chief Counsel, NHTSA, Room 5219, 400 7th Street, SW, Washington, DC 20590 (telephone 202–366–5263).

SUPPLEMENTARY INFORMATION:

I. Introduction

In order to afford the reader a full understanding of the agency's tentative decision, this notice will repeat, rather than refer the reader to, much of the discussion that appeared in Notice 1, published at 61 FR 30848 on June 18, 1996.

As discussed below in greater detail, vehicles such as golf carts have not been regulated by NHTSA because they were not considered to be manufactured for use on the public roads. Even when a vehicle is being used on the roads, NHTSA has not regulated if it had an unusual configuration, and if it had a top speed of 20 mph or less. However, the agency has become aware that the design and use of some of these vehicles are evolving in previously unanticipated ways. Although golf carts have traditionally been limited in their operations to golf courses, some states have taken legislative actions that permit the use of golf carts on some public roads at speeds up to 25 mph. In addition, there appears to be a growing interest worldwide in small vehicles of unconventional configurations that are capable of exceeding 20 mph, and that are intended for on-road use as city or commuter cars. While some of these vehicles do not resemble very small passenger cars, neither do they resemble the traditional golf cart.

The agency decided to review its historical position in light of these changing circumstances. To aid it in its review, NHTSA established Docket No. 96–65 and held two public meetings to receive the comments of manufacturers and users of these vehicles, local elected and law enforcement officials, public interest groups, and other interested persons, on safety and regulatory issues affecting golf carts and other light-weight limited-speed vehicles. The first meeting was held in Palm Desert, California, on July 18, 1996. The second meeting took place on July 25, 1996, at NHTSA headquarters in Washington, D.C. Written comments were requested to be submitted by August 8, 1996.

II. Legal Considerations

A. Federal Law

Title 49 U.S.C. Chapter 301 grants NHTSA regulatory authority over ''motor vehicles.'' All ''motor vehicles'' are subject to the Federal motor vehicle safety standards promulgated by NHTSA pursuant to 49 U.S.C. 30111, and to the notification and remedy provisions of 49 U.S.C. 30118–30121. Those provisions must be followed in the event a motor vehicle is determined to fail to comply with a safety standard, or incorporates a safety related defect. A ''motor vehicle'' is defined as a vehicle ''manufactured primarily for use on the public streets, roads, and highways'' (Sec. 30102(a)(6)). The agency's interpretations of the definition have centered on the meaning of the word ''primarily.'' The agency has generally interpreted ''primarily'' to mean that a significant portion of a vehicle's use must be on the public roads in order for the vehicle to be considered to be a motor vehicle.

NHTSA's principal interpretation of the definition of ''motor vehicle'' dates

from 1969, and addressed the status of mini-bikes. NHTSA said that the capability of a vehicle to be operated on the public roads would be an important criterion in determining whether it was a ''motor vehicle'', but that test would not be reached if there were clear evidence as a practical matter that the vehicle was not being used on the public roads. In NHTSA's view, ''in the case of self-propelled riding mowers, golf carts, and many other similar self-propelled vehicles, such clear evidence exists.'' Thus, since 1969, the agency has declined to regulate golf carts since they were not being operated on the public roads.

The agency's interpretations have also excluded from regulation motor vehicles that had ''abnormal'' configurations and a top speed of 20 miles per hour or less. As an example, NHTSA informed Trans2 Corporation in 1994 that its ''low-speed electric vehicle'' intended for use in residential communities, university campuses, and industrial complexes was not a ''motor vehicle'' because it had a top speed of 20 mph and unusual body features that made it readily distinguishable from other ''motor vehicles.'' These features included an oval-shaped passenger compartment, taillamps built into headrests, and a configuration the approximate size and height of a golf cart. On the other hand, in 1995, NHTSA informed Goodlife Motors Corporation that its ''super golf car'' was a motor vehicle because it had a top speed of 29 mph and its configuration resembled that of a prototype Volkswagen passenger car.

NHTSA is aware that several companies want to manufacture small battery-powered vehicles for use on the public roads which they call ''Neighborhood Electric Vehicles'' (''NEV''). The configuration of a NEV may or may not be ''abnormal'', and its top speed may be as high as 35 mph. Any vehicle with a top speed over 20 mph is a ''motor vehicle'' under NHTSA's existing interpretations, regardless of its configuration. As such, a NEV would have to comply with all Federal vehicle safety standards that apply to heavier and faster passenger cars. Whether conformance of NEVs with these standards is reasonable, practicable and appropriate is an issue that NHTSA must consider.

B. State Laws

1. California

a. Definitions of ''Motor Vehicle'' and ''Golf Cart''

Since 1959, the California Vehicle Code (''CVC'') has defined a motor vehicle as any ''vehicle which is self-propelled'' (CVC Sec. 415). California defines a golf cart as ''a motor vehicle having not less than three wheels in contact with the ground, having an unladen weight less than 1,300 pounds which is designed to be and is operated at not more than 25 miles per hour and designed to carry golf equipment and not more than two persons, including the driver'' (CVC Sec. 345).

b. 1994 Cal SB 2610 and 1995 Cal AB 110

In 1992, California amended its Streets and Highway Code (''CSHC'') to establish a Golf Cart Transportation Pilot Program for the City of Palm Desert (CSHC Secs. 1930–37). The 1992 law was replaced in 1994 by SB 2610 which added Chapter 6, CSHC, to establish a ''Golf Cart Transportation Plan'' applicable to the City of Palm Desert and the City of Roseville.

Chapter 6 was amended in 1995 by AB 110 to apply to any city or county in California. Chapter 6, as amended by AB 110, allows local jurisdictions to establish a Golf Cart Transportation Plan area in which golf carts are permitted to operate on ''golf cart lanes'', defined as ''roadways * * * shared with pedestrians, bicyclists, and other motorists in the plan area'' (CSHC 1951). Each plan must include minimum design criteria for safety features on golf carts. Only seat belts and covered passenger compartments are specifically required. However, the law states that a plan ''may include'' other safety features such as headlamps, turn signals, mirrors, stop lamps, and windshields.

A plan under the California law must also include a permit process for golf carts to ensure that they meet the minimum design criteria, and golf cart operators meet minimum safety criteria. At a minimum, an operator must have a valid California driver's license and carry a minimum amount of insurance.

In addition, the law requires a plan to allow only carts equipped with the requisite safety equipment to be operated on ''separated golf cart lanes'' identified in the plan. Lane striping on the pavement surface is sufficient for a lane to qualify as a ''separated golf cart lane.'' Under the Palm Desert plan, there are two types of on-road lanes, a ''Class II Golf Cart Lane'' for use only by golf carts and bicycles, and a ''Class III Golf Cart Route'' for shared use with automobile traffic at speeds up to 25 mph (the Route is identified by placing Golf Cart Route signs along roadways).

In summary, through its Vehicle Code and Streets and Highway Code, California now has in place a regulatory scheme under which golf carts may use ''separated'', limited-speed portions of the public roads at speeds up to 25 mph when equipped with the safety features required by local authorities. Under NHTSA's existing interpretation, golf carts and other vehicles designed for use in such jurisdictions that are capable of operating at speeds above 20 mph in golf cart lanes would be ''motor vehicles'', subject to the Federal motor vehicle safety standards that apply to heavier and faster motor vehicles. Moreover, under 49 U.S.C. 30103(b), Federal standards would preempt the local requirements referred to in the California statutes.

The evolution in the use of golf carts presents a number of policy issues that need to be addressed. This notice proposes to resolve those issues.

2. Legislation in Other States

In Arizona, Senate Bill 1298 was enacted in 1996. It permits NEVs to be operated at speeds up to 25 mph on public roads with posted speeds of not more than 35 mph. The law does not require either that separated lanes be created or that the NEVs be operated in those lanes only. Florida House Bill 1329, which has passed both Houses of the Florida Legislature, would also permit increased use of golf carts on public roads.

III. Expression of Support by State Officials and Others

During the spring of 1996, NHTSA received letters from several elected officials in California asking the agency to support the concept of golf cart transportation plans and the use of golf carts and NEVs at speeds up to 25 mph on public roads. The agency held a public meeting in Palm Desert, California, on July 18, 1996, to hear first hand the comments of interested persons. NHTSA's public meeting in Palm Desert provided a forum for the expression of views by local officials responsible for the implementation of golf cart transportation plans and enforcement of traffic and safety laws, as well as by residents who use golf carts pursuant to such plans. Earlier in the day, with the assistance of the City of Palm Desert, NHTSA representatives were able to make an on-site examination of the practical details of an actual golf cart transportation plan in action. Activities included operating golf carts on designated lanes in the plan area, crossing intersections, and mixing with the local traffic.

After the second public meeting, held at NHTSA headquarters in Washington on July 25, 1996, transcripts of both meetings were placed in Docket No. 96–65.

IV. Market Forces

Another purpose for the public meetings was for NHTSA to achieve a better understanding of the market and the vehicles that may emerge to serve the consumer preferences reflected in the legislative developments in California, Arizona, and Florida.

At least one specialty manufacturer, Bombardier, Inc. (Bombardier) informed NHTSA that it would like to enter the market for a ''new and growing segment of the transportation fleet: low-powered electric vehicles.'' It has developed a NEV with a top speed of 25 mph for this market, and believes that its vehicle will provide a low cost, low speed, zero emissions mode of localized transportation to meet the special needs of retirees, older Americans and others living in gated communities for travel within their community or for limited activities such as local golfing and other recreation-related, shopping, or short distance trips.

According to Bombardier, municipal governments endorse the concept as a way of helping them meet Clean Air Act mandates for National Ambient Air Quality Standards by eliminating the polluting effects of short distance automobile trips.

Bombardier has asked NHTSA for an interpretation that the NEV it wishes to manufacture and market in these communities is not a ''motor vehicle'' for purposes of the Federal motor vehicle safety standards. Bombardier's request was premised on the agency's concluding that the NEV has an abnormal configuration and deciding to raise the maximum speed criterion from 20 mph to 25 mph.

V. Comments Requested by NHTSA

It is in the context discussed above that NHTSA has reexamined its current interpretation of ''motor vehicle'' to determine the reasonable and appropriate treatment of golf carts, NEVs, and other low-speed vehicles under Federal law. In Notice No. 1, NHTSA invited comments on the following issues to be discussed at the public meetings and to be submitted to the docket:

1. Current and anticipated state and municipal regulations, including infrastructure requirements, relating to the use of public roads by golf carts or NEVs at speeds between 20 and 35 mph.

2. The text of any existing or proposed state or local safety standards applicable to golf carts, NEVs, and other low-speed vehicles.

3. The views of owners and users of golf carts, NEVs, and other low-speed vehicles.

4. Any data relating to on-road safety of golf carts, NEVs, and other low-speed vehicles.

5. The views of law enforcement, safety, and health officials concerning the on-road use of golf carts, NEVs, or other low-speed at various speeds.

6. The views of manufacturers of golf carts, NEVs, and other low-speed vehicles as to the burdens of compliance with Federal motor vehicle safety standards and other regulations.

7. The views of commenters as to safety and bumper standards that would be reasonable, practicable, and appropriate for golf carts, NEVs, and other low-speed vehicles.

8. The views of state and local officials as to Federal regulation of golf carts, NEVs, and other low-speed vehicles.

9. The views of other affected associations, advocacy groups, business entities and individuals.

VI. Analysis and Discussion of Comments

Oral presentations were made in Palm Desert, in the following order by the persons indicated: Roy Wilson (Riverside County Board of Supervisors), Ramon Diaz (Palm Desert city manager), Commander Steven Bloomquist (Palm Desert Section, Riverside County Sheriff's Office), Kim Estock (district manager for Assemblyman Jim Battin), Bob Stranger (regional manager, California Edison), David Bentler (electric transportation project manager, Arizona Public Service Economic and Community Development), Steve Pohle (president, Golf Cars Ltd.), Mark Boutin (vice president of market development, Bombardier), Gus Gonzalez (golf cart owner), Lisa Constande (environmental conservation manager, City of Palm Desert), Betty Carapellese (resident of Palm Desert), and James Thomas (vice-president of sales and marketing, Trans2 Corporation), who also spoke in Washington.

In addition to Mr. Thomas, presentations were made at the Washington meeting by Fred L. Somers, Jr. (general counsel, National Golf Cars Manufacturers Association (NGCMA)), Karen Strickland (Department of Motor Vehicles, State of Arizona), Bonnie Singer (consultant), Lou Finch (president of Electric Vehicle Systems Corporation, a prospective manufacturer of vehicles for the mobility impaired), and David Snyder (American Insurance Association).

Written comments were received from Rep. Sonny Bono, and, in the order received, from Lois Wolk (mayor, City of Davis), J. Douglass Lynn (Lynn & Associates with a subsequent submission as well, Bombardier, Dr. Tim Lynch (Director, Center for Economic Forecasting and Analysis, Institute for Science and Public Affairs, Florida State University), the City of Palm Desert, Richard S. Kelley (president, Southern California Association of Governments, two comments by Mr. Thomas of Trans2 Corporation, Jim Douglas (assistant director, Motor Vehicle Division, Arizona Department of Transportation, the written remarks of Mr. Somers, several video tapes, Dr. James M. Lents (executive officer, South Coast Air Quality Management District), George Boal (resident of Palm Desert), Marilyn D. McLaughlin (resident of Palm Desert), David Guthrie (deputy director, Arizona Department of Commerce, Harry C. Gough (automotive engineering professional specialist, Connecticut Department of Motor Vehicles), Paul and Jacklyn Schlagheck (residents of Lady Lake, Florida), Dr. Gerald Donaldson (senior research director, Advocates for Highway and Auto Safety (''Advocates'')), Jim Prentice (resident of Port St. Lucie, Florida), Paul Jackson Rice, Esq. (Arent Fox Kintner Plotkin & Kahn), Sheriff Ralph E. Ogden of Yuma, Arizona, Lawrence Lingbloom (Sierra Club California), Cynthia Kelly, Esq., (government relations counsel, Golf Course Superintendents Association of America), the Board of Directors of the Palm Desert Country Club Association, Gerald W. (''Wally'') Powell (reliability engineer, EZGO Textron (''EZGO'')), Bob Doyle (assistant sheriff, patrol and investigations division, Riverside County Sheriff's Office), Wayne Balmer (community development director, Mesa, Arizona), and Marvin B. Jaques (vice president special projects, Ransomes American Corporation (''Cushman''), the manufacturer of Cushman utility vehicles.

The commenters thus included representatives of state and local governments including law enforcement officials, manufacturers and users of NEVs and golf carts, representatives of utilities, a public interest group, and other interested persons. NHTSA therefore considers that the public and private interests that would be affected by its decision were fairly and fully represented, and that its tentative decision in this matter is consistent with the comments received and with motor vehicle safety.

NHTSA's Docket Room has assigned a number to each comment. For example, the first comment is denoted ''96–65–NO1–001.'' For simplicity, in discussing specific submissions, this notice uses

only the last three digits to identify the comment, i.e., ''001.''

In brief, the political authorities and the public supported electric golf carts and NEVs as addressing the public interest in a cleaner environment (see, for example, comments by the City of Palm Desert, 005). Users noted approvingly the mobility that is afforded by the ability to use golf carts and NEVs on the public roads as an alternative to the passenger car for short in-town trips (see, for example, comments by Paul and Jacklyn Schlagheck, 020). These groups testified to the absence of any on-road safety problems to date involving golf carts and opposed any regulation by NHTSA that would curtail driving them on the public roads, or that would increase their costs. Golf cart manufacturers objected to the possible classification their products as ''motor vehicles'' and wished to remain free of Federal regulation.

After having reviewed these comments, the agency has reached the tentative decisions discussed below.

A. Exclusions of Motor Vehicles From Regulation Based on Existing Configuration and Speed Tests Are no Longer Viable

Dr. Lents asked NHTSA to ''recognize that a major revolution in transportation is occurring with the increasing commercialization of zero emission vehicles.'' (015). Realizing that resolution of the issues would have ramifications beyond Bombardier and California, NHTSA decided to begin its deliberative process by reviewing its current interpretative posture.

Under these interpretations, vehicles that clearly were ''motor vehicles'' manufactured for on-road use were nonetheless excused from compliance with the agency's regulations if they had an abnormal configuration and if their top speed did not exceed 20 mph. Because of the increase in severity of motor vehicle crashes that occur at 25 mph compared with those that occur at 20 mph, NHTSA never considered it a viable option to raise the definitional criterion to the higher speed as Bombardier requested. Advocates, in fact, asked that the speed be lowered to 15 mph (021).

In the agency's opinion, the test of whether a particular configuration is ''abnormal'' has evolved to the point at which its results are arbitrary and subjective. It was initially applied to vehicles such as street sweepers whose unusual configuration, in conjunction with their large size, enabled drivers of other vehicles to spot them at a distance in traffic. Over the years, the agency's interpretations have come simply to inquire whether a vehicle has an unusual configuration without regard to the bottomline significance of that configuration, i.e., whether the vehicle could be readily spotted at a distance in traffic. The extent of the evolution is illustrated by conclusions in some recent interpretations that various small vehicles met the configuration/speed criteria, notwithstanding that the vehicles were so small that they could not in fact be readily seen in approaching or preceding traffic. Further, perceptions of ''abnormality'' are subject to change in time as the shapes of motor vehicles evolve to more aerodynamic forms. In addition, upon reexamination, the basis for the criterion of a top speed of 20 mph was unclear. As Lynn asked, why not 19 or 21? (002). For these reasons, the agency has tentatively decided that the existing tests should no longer be followed.

Instead, the agency believes it should follow and apply the statutory definition of ''motor vehicle'' with no embellishments. Thus, the only question to answer would be whether a vehicle is manufactured primarily for use on the public streets, roads, and highways. If the answer is ''yes,'' then the vehicle in question is a motor vehicle subject to NHTSA's jurisdiction, regardless of speed and configuration. NHTSA intends this policy to apply to vehicle types previously excluded on the basis of their configuration and speed. However, with respect to individual motor vehicles, it would apply to only those manufactured on or after the effective date of a final rule in this rulemaking proceeding.

NHTSA wishes to assure manufacturers of off-road vehicles that the basic legal test of whether a motorized vehicle is a ''motor vehicle'' has never been at issue in these proceedings. If a vehicle is not manufactured primarily for use on the public streets, roads, and highways, it is not a ''motor vehicle''. Under this test, the agency has given opinions, for example, that a vehicle whose use of the public roads is occasioned only by the infrequent need to travel from one off-road site to another is not a ''motor vehicle.'' Other examples of vehicles that are not regarded ''motor vehicles'' because of the lack of public road use are airport crash and rescue vehicles, buses used to transport passengers from parking lots to air terminals, and small utility vehicles used in plants and for grounds maintenance on private property regardless of their top speed. This line of interpretations remains in effect and is not affected by the agency's contemplated abandonment of its exclusionary interpretations based on speed and configuration.

After reaching this decision, the agency proceeded to the issues of classification and regulations that might be appropriate for NEVs, on-road golf carts, and other small vehicles.

B. Motor Vehicles With a Top Speed of 25 mph or Less Should be Classified as ''Low-Speed Vehicles'' (LSVs)

If the agency ceases to exclude vehicles based on their configuration and speed, vehicles previously excluded on those bases would, without further regulatory action, be treated as motor vehicles and classified according to the agency's existing definitions for vehicle types, such as ''passenger car'' and ''truck.'' This raises the question of whether the Federal motor vehicle safety standards applicable to these categories of vehicles would also be suitable for vehicles previously excluded from them on the basis of their configuration and speed. Sheriff Ogden commented that it would be in the best interests of law enforcement to classify NEVs as automobiles (i.e., passenger cars) and that they be made to comply with the same criteria as automobiles (026). But it is apparent to NHTSA that requests for an expansion of the exclusionary interpretation would not have been made in the first instance if golf carts and NEVs as currently designed for production were able to be readily conformed in a practicable manner to the full range of Federal safety standards.

NHTSA gathered some data on small motor vehicles manufactured in other countries, specifically Japan and France, in order to determine how other countries classify and regulate small vehicles. In Japan, ''kei'' class cars must be no wider than 1400 mm (approximately 4.6 feet), and no longer than 3300 mm (approximately 11 feet). These dimensions are similar to those of the Trans2, which is 4.5 feet wide and 11.75 feet long. To qualify for the ''kei'' class, gasoline-powered engines must not have a displacement greater than 660 cc. In the limited time available, NHTSA has been unable to determine whether there was a speed limitation on ''kei'' class cars, or how or even if these vehicles are regulated by the Japanese government.

According to the January 1997 issue of the American magazine ''Automobile'', there are two similar vehicle classes in France. The first is ''Voitures sans Permis'' (VSP), allowed to be operated without a driver's license, and the second, ''Tricycles et Quadricycles a Moteur'' (TOM), slightly larger and faster cars that may be driven

by persons with a partial permit. NHTSA understands that approximately 9,000 VSPs and 1,000 TOMs are sold each year in Europe, and that there are more than 100,000 of them in operation. Data gathered on seven current vehicles indicates that they are similar in size to the ''kei'' class, with displacement of their one or two-cylinder engines ranging from 315 cc to 505 cc. Five VSP vehicles had an apparent top speed of 45 kph (approximately 27 mph, reflecting a legal limit of 28 mph) and two TOMs, 75 kph (45 mph, reflecting a legal limit of 47 mph). VSPs are two-seater cars whose drivers must not be younger than 14 years; TOMs are designed to carry four, and must not be driven by a person younger than 16. It was not possible to determine in the time available whether France requires compliance with any safety requirements, though basic safety equipment such as lights, mirrors, and wipers were visible in photographs of these cars. NHTSA notes that all the Japanese and French cars considered resemble conventional passenger cars, albeit much smaller, while NEVs and golf carts do not. Thus, if they are subject to some foreign regulations, those regulations might not be appropriate and practicable for small vehicles of the less conventional types anticipated to be on the American market in the near future.

Seeking to draw a distinction between golf carts and NEVs, that is to say, between off-road and on-road small vehicles, Somers of NGCMA asked that NHTSA create a separate categories for golf carts and NEVs (010), as did Powell of EZGo (032). Douglas of Arizona DOT suggested that NHTSA adopt his State's definitions of ''golf cart'' and ''NEV'' (008). Lynn, on the other hand, recommended that NHTSA create a new category of motor vehicle ''designed for local transportation applications'' (002).

NHTSA concurs with Lynn's suggestion that it would be the preferable regulatory solution to have a single definition, one that is able to encompass the entire population of golf carts, NEVs, and small vehicles that might not fit a definition for either. Thus, NHTSA began to look for a common characteristic of all these vehicles in order to develop a definition for them. A classification based on vehicle dimensions such as the ''kei'' class appeared design restrictive, as did one based on weight, a feature of state definitions.

Ultimately NHTSA realized that the comments pointed to a common factor upon which a classification could be based, a maximum vehicle speed of 25 mph. This speed value appears in the definitions of golf carts by Arizona and California, as well as in Arizona's definition of NEV. Twenty-five miles per hour is the maximum speed in the lanes on the public streets on which the City of Palm Desert allows a mixture of golf carts and larger vehicles to operate (005). The City was resolute that it would never allow golf carts to operate on its streets at a speed greater than 25 mph. In justification of its support of a threshold of 25 mph, one NEV manufacturer commented that a vehicle with a top speed of 25 mph flows ''with local traffic in speed limited areas rather than inhibiting traffic at a lower speed. A maximum speed of 25 mph also provide increased maneuverability and consistent power, even on hills'' (Thomas of Trans2 (007)). This speed was also supported by Commander Bloomquist of the Sheriff's Office: ''[i]f the golf carts have a greater speed, it is a detriment on the one hand, but it also allows it to get out of its own way from time to time. It's also important in avoiding accidents and the such.'' (011, Palm Desert Meeting Transcript, p. 17). Since there is a ready consensus that NEVs and on-road golf carts should have a top speed of not more than 25 mph, NHTSA believes that a maximum speed of 25 mph should be the keystone of any common definition encompassing NEVs and on-road golf carts (to the contrary were comments by Somers and Donaldson of Advocates who asked for a speed limit of 15 mph for golf carts used on the public roads (005, 021)), and Lynch who surmised that a poll of states, municipalities, and townships would show support for a 35 mph top speed for NEVs (004)).

To encompass the wide variety of NEVs, golf carts, and other small vehicles which may be manufactured in the future, NHTSA is proposing creation of a new class of vehicle called ''low-speed vehicle'' (LSV) with a definitional criterion of speed alone. LSVs would include all motor vehicles, other than motorcycles (''motor driven cycles'', those of low power, have always been regulated), whose speed attainable in 1 mile does not exceed 25 mph, regardless of the vehicle's size or weight. This would mean that any motor vehicle, whether an NEV, an on-road golf cart or other vehicle, would be likely be treated as a passenger car and thus subject to all Federal motor vehicle safety standards applicable to that class of vehicles if its top speed is more than 25 mph.

C. Safety of Small Vehicles in Low-Speed Environments

The agency considered what Federal safety requirements might be appropriate for LSVs, vehicles with a top speed of 25 mph or less. This required an examination of the safety problems that may presently exist for small, slow-moving vehicles. Intuitively, it appears that passengers in LSVs might be at significant risk because of the small size and relative fragility of LSVs (none of the NEVs or golf carts are, for example, equipped with metal doors). The possibility of such a risk was the express concern of Advocates which observed that ''small light weight vehicles are vulnerable to serious crashes even at low operating speeds.'' (021). However, because of the scarcity of four-wheeled low-speed motor vehicles in operation in the United States, there are virtually no accident data concerning them. Further, data for more numerous types of small vehicles, such as motor scooters and motor bikes, are not really indicative of the possible risk associated with NEVs, given the greater vulnerability of all two-wheeled vehicles in traffic.

Comments indicated that safety is not a problem for those persons who presently regulate and use on-road golf carts. According to Assistant Sheriff Doyle, ''[t]o date [August 5, 1996] there has not been one traffic collision relating to the Palm Desert Golf Cart Transportation Program [which has been in effect for three years]. One citation has been issued a golf cart operator * * * for a city ordinance violation prohibiting operation on a non-designated roadway. The Department has received no reports or complaints about hazardous or unsafe operation of these vehicles in the program. From a police management perspective, the program to date has been a complete success.'' (033). A similar statement was made by Commander Bloomquist who admitted to having had initial concerns ''about the mixing of slow moving vehicles with faster moving vehicles and also the size difference, mentioning the physics of the speed difference between golf carts and passenger vehicles and trucks and the like,'' but concluded by saying he was pleased and relieved ''that we have not had any accidents involving the larger vehicles which move at a greater speed with the slower moving golf carts.'' (011, Transcript, pp. 16–17). Indeed, there has only been one incident that might be termed an accident—an overturn created by a joy-riding teenager using a golf cart without the owner's authorization. Given the fact that only 183 golf carts had been registered by the City as of the date of the public meeting, July 18, 1996, the lack of accidents may not be statistically significant. However, they are the only

relevant ''data'' that NHTSA has found concerning the on-road safety of golf carts.

Nevertheless, the Palm Desert experience is supported by anecdotal evidence from other commenters covering a time span longer than three years (the reader will recall that California has authorized a more limited use of the public roads since 1959). Palm Desert resident Marilyn D. McLaughlin said that ''[f]or more than 34 years, golf cart owners here in Palm Desert Country Club have shared the streets with automobiles, trucks, etc. and I have not heard of any reports of accidents during that entire period''. In her opinion, ''safety does not appear to be an issue.'' (017). Her view was supported by another Palm Desert resident, George Boal: ''[i]n over 30 years I cannot recall one accident involving moving vehicles and golf carts.'' (016). A somewhat similar comment was made by Paul and Jacklyn Schlagheck of Lady Lake, Florida, indicating that the Palm Desert experience may not be unique: ''[t]he use of golf carts has been safe, with residents very responsible about where and when they use them * * * It goes without saying that people don't take their golf carts out * * * on busy roads with speeds posted at 50 mph.'' (020).

These comments are consistent with a conclusion reached in the City of Palm Desert's ''Golf Cart Transportation Program Monitoring Report'' (January 1994) (Attachment 3, 005) about the safety of NEVs. In a discussion of safety issues (The U.C. Davis Neighborhood Electric Vehicle Research Project, p. 22), the Report observes that ''[w]hen the vehicle is well matched with the driving environment the vehicle will be very safe.'' Specifically, ''[f]or the NEV, a driving environment which consists of lower speed streets is well matched to the vehicle's safety capabilities.'' Conceding that NEVs are less visible than other vehicles, are less able to maintain safe operating speeds, and that occupants are at greater risk of injury in higher speed collisions, the Report concluded that ''[a]t lower speeds, these issues are negligible.''

Part of the reason for the lack of accidents involving on-road golf carts may be certain ordinances of Palm Desert intended to minimize the possibility of accidents involving golf carts and other motor vehicles. One of these prohibits operation of golf carts on the public streets during the hours between one hour after dusk and one hour before dawn. Another restricts their operation on the public streets to designated lanes where the speed limit for all vehicles using the lane is 25 mph. Golf carts may not otherwise be operated on public roads. In short, the City has taken steps under State law to create a structured environment for the operation of golf carts on the public roads consistent with its views of traffic safety. There is no assurance, of course, that other states or municipalities will take these steps or otherwise address operational safety in allowing golf carts on the public roads, but NHTSA commends the Palm Desert regulatory scheme to their attention.

On the basis of comments discussed above, the agency has tentatively concluded that motor vehicle safety does not demand, for the present, a comprehensive and detailed regulatory scheme under which LSVs must comply with the full range of Federal motor vehicle safety standards that apply to faster vehicles. However, the risk of exposure to accidents may increase as the numbers of LSVs increase. Thus, at a future time, more stringent regulation might become appropriate. NHTSA intends to monitor LSV accident data carefully. Accordingly, the agency asks the public to assist it in filing relevant information in Docket No. 96–65 which will remain open for this purpose.

D. A Federal Motor Vehicle Safety Standard for LSVs

If the agency were to cease relying upon the interpretative criteria of abnormal configuration and 20 mph maximum speed, and to adopt the proposed definition of LSVs, certain unique vehicles found on the public roads would be treated as LSVs. Examples of these vehicles are street sweepers, steamrollers and road graders. The common characteristics of these vehicles is that they are work-performing and transport only their operator. Consistent with its past interpretative treatment of such vehicles, the agency proposes to exclude work-performing LSVs from compliance with any Federal motor vehicle safety standard including the new Standard No. 100 proposed in this document. However, as motor vehicles, they would become subject to the statutory provisions regarding notification and remedy of safety related defects.

NHTSA is also faced with the regulatory dilemma of appropriate treatment for golf carts, a type of vehicle historically exempt from NHTSA regulation. The agency has no wish to regulate golf carts. However, it is faced with an increasing number of state and local laws specifically permitting their use on the public streets, roads, and highways.

As in the case of LSVs, maximum vehicle speed appears to be a rational basis on which to base a distinction between those golf carts that should not be considered motor vehicles and those that should. Until recently, California and Arizona defined a golf cart, in part, as a vehicle with a top speed of 15 mph. Golf cart manufacturers seem to have adhered to this limit over the years. ANSI/NGCMA Standard Z130.1–1993 prescribing voluntary safety and performance requirements for golf carts contains a maximum vehicle speed test under which ''[t]he average speed shall not exceed 15 mi/h (24 km/h)'' (9.6.1.3) Average speed is determined through runs in opposite directions and by averaging the results. Thus, historically, the industry appears to have designed golf carts for a maximum speed of not more than 15 mph. Historically, this is the type of golf cart that NHTSA has not regulated. The agency has therefore tentatively concluded that a golf cart with a maximum speed that does not exceed 15 mph is a vehicle that is not primarily manufactured for use on the public roads, and therefore is not a ''motor vehicle''.

If a golf cart manufacturer decides to increase the maximum speed capability of its golf carts to above 15 mph in response to the decision in some states to increase the speed thresholds in their definitions of ''golf carts'' and to allow such vehicles to operate on certain public roads, it seems evident to NHTSA that such a manufacturer intends its vehicles to be used on the public roads as well as on golf courses. Mr. Rice brought the agency's attention to an engine of 3.75 HP offered by one golf cart manufacturer as an alternative to the standard 3.1 HP engine. The manufacturer's product literature states specifically that the motor does not meet Z130.1's standard for ''speed requirements.'' (025). NHTSA interprets this statement to mean that golf carts equipped with the optional engine have a maximum speed in excess of 15 mph. In recognition of the apparent intent that these higher speed vehicles be used on public roads, NHTSA is proposing a definition of ''golf car'' (the term preferred by the NGCMA), as a vehicle designed to convey golfers on a golf course and whose maximum speed is between 15 mph and 25 mph. Golf cars would be considered to be LSVs and thus required to meet LSV requirements. NHTSA would use the term ''golf cart'' to refer to only those vehicles designed to convey golfers on a golf course and whose maximum speed is 15 mph.

As indicated, there was some sentiment to applying a rigorous set of safety standards to LSVs (Sheriff Ogden, 026; Advocates, 021). Lynn believed that NHTSA should ''create a new body

of safety standards that will challenge the nation's engineering community.'' (002). Cushman took the gradualist approach, commenting that ''[s]tatistics regarding frequency and severity of accidents in these communities will help determine appropriate safety regulations and features. The bumper standard may be appropriate for occupant protection rather than limiting body damage.'' (037).

Two sources emerged from the meeting and comments upon which a safety standard for LSVs might be based. These sources are NEV manufacturers and the equipment regulations of the City of Palm Desert for golf carts.

NHTSA received comments from two NEV manufacturers, Bombardier and Thomas. The Bombardier NEV will be equipped with a safety glass windshield, a lighting system designed around automotive safety standards, a 3-point belt system, horn, and mirror. (003). According to Thomas, the Trans2 NEV is equipped with front and rear turn signals, anchored 3-point belts, full exterior lighting, a laminated safety glass windshield, and windshield wipers. (007). Thomas added that NHTSA could add these features to a 25-mph requirement for classification purposes.

The City of Palm Desert requires that golf carts registered for use on the public roads in its plan area be equipped with head lamps, stop lamps, taillamps, front and rear turn signal lamps, mirrors (left and right side, or left side and rearview, or a ''multi-directional cross bar,'' which is an elongated interior mirror that reflects the driving environment on both sides of the vehicle), red reflex reflectors on each side at the rear of the cart between 15 and 60 inches above the ground, parking brake, horn, windshield, seat belts, a golf cart locking device, and ''safely equipped or properly loaded to conform with CVC Section 24002.'' (Attachment 4, 005, p. 5).

There appears, then, to be a consensus among manufacturers of NEVs and the City of Palm Desert, the leading local regulator of golf carts, as to requirements meeting the local need for safety of small, slow-moving vehicles. Given that there does not appear to be any present need to apply the full range of Federal motor vehicle safety standards to LSVs at this time, and that an equipment standard is already in place which LSVs must meet if they are to be operated on the public roads of at least one jurisdiction, NHTSA has tentatively concluded that the Palm Desert standard affords a basis upon which a reasonable, practicable, and appropriate standard may be promulgated on the Federal level as an initial effort to address LSV safety.

The agency proposal differs from the requirements of Palm Desert in the following manner. The agency does not require a horn on other motor vehicles, so none is proposed for LSVs. NHTSA understands that a ''locking device'' simply means that a golf cart cannot be operated without a key to turn on the power, and assumes that this will be the way that LSVs will be manufactured.

NHTSA is not proposing to require the use of a ''multi-directional cross bar mirror.'' However, its proposed term, ''interior mirror,'' is broad enough to accommodate its use. The ''seat belts'' would be specified to be either Type 1 or Type 2 conforming to Motor Vehicle Safety Standard No. 209 ''Seat Belt Assemblies.'' The agency requests comments on the practicability of requiring all LSVs including golf cars to have Type 2 lap and shoulder belt assemblies. The windshield would have to be glazing marked ''AS 1'' by its prime manufacturer.

NHTSA is proposing that these requirements be placed in a new Federal motor vehicle safety standard called Standard No. 100 *Low-speed vehicles.* A ''low-speed vehicle,'' or LSV, would be a motor vehicle, other than a motorcycle, whose speed attainable in 1 mile does not exceed 25 mph (''speed attainable in 1 mile'' is the expression used in other Federal standards to denote maximum speed). LSVs would include, but not be limited to ''golf cars'' (defined as vehicles that are used to convey golfers on golf courses and whose speed attainable in 1 mile exceeds 15 mph but does not exceed 25 mph.) LSVs would not include ''golf carts'' (defined as vehicles that are used to convey golfers on golf courses and whose speed attainable in 1 mile is not greater than 15 miles per hour.) This is essentially the same definition the industry uses in ANSI/NGCMA Z130.1–1993 for golf car.

LSVs would not be required to meet Federal Motor Vehicle Safety Standards Nos. 101 through 304 and the bumper standard. LSVs, other than LSVs with work-performing equipment, would have to be equipped with headlamps, front and rear turn signal lamps, taillamps, stop lamps, rear reflex reflectors mounted on each side not less than 15 inches and not more than 60 inches above the road surface, a driver's side exterior rear view mirror plus either an interior rear view mirror or an exterior mirror on the passenger side, a windshield marked ''AS 1'', and Type 1 or Type 2 seat belt assemblies that conform to Standard No. 209. Lighting equipment would not need to meet either the lighting standard, Standard No. 108 or the rear view mirror standard, Standard No. 111. Thus, the performance characteristics of lamps, reflectors, and mirrors would be left to the manufacturer. The manufacturers' certifications of compliance of LSVs as required by 49 CFR Part 567 would simply be an affirmation that the LSV had been manufactured with the equipment specified by Standard No. 100. Finally, NHTSA deems it advisable that such LSVs also be equipped with a label warning that it must not be operated on the public roads at a speed more than 25 mph. This is to ensure that the operator of an LSV that may have been modified so that its top speed exceeds 25 mph would have a permanent reminder that the vehicle was not designed to be operated at speeds greater than 25 mph.

LSVs with work-performing equipment would not be subject to Standard No. 100. Their work-performing nature makes it unlikely that they would be used for on-road transportation purposes in jurisdictions like Palm Desert.

E. Modifying the Speed Capabilities of LSVs

Since the advent of the Palm Desert plan, NHTSA is aware that the speed capability of some golf carts may have been modified to exceed 15 mph, to take advantage of the mobility offered by the plan. Similarly, it may be possible to modify LSVs, through removal of a governor or otherwise, so that their maximum speed exceeds 25 mph. If an LSV in use were modified so that its maximum speed exceeds 25 mph, it would no longer be an LSV under the definition. Further, operation at a speed exceeding 25 mph would be in violation of local traffic laws. Increasing the speed of most LSVs would convert them into passenger cars. However, they would not conform to passenger car standards and would not afford the protection that NHTSA deems needed for the public at speeds higher than 25 mph. As a result of the speed modification, the equipment required by Standard No. 100 would no longer afford the anticipated level of protection. Thus, speed modification would, in a sense, make the vehicle's compliance with Standard No. 100 ''inoperative'' within the meaning of 49 U.S.C. 30122 when an LSV is modified to exceed 25 mph without being conformed to Federal motor vehicle safety standards applicable to its vehicle type. This section prohibits a manufacturer, dealer, distributor, or motor vehicle repair business from making inoperative any element of

design or device installed in accordance with a Federal motor vehicle safety standard.

If a golf cart in use were modified so that its maximum speed exceeds 15 mph, it would become a ''golf car'' and an LSV, if its speed did not exceed 25 mph, and it would become a ''passenger car,'' if its speed exceeded 25 mph. However, there would not be any violation of section 30122 since the making inoperative prohibition does not apply either to a vehicle that was not a motor vehicle as originally manufactured or to a vehicle or motor vehicle that was not subject to any Federal safety standards as originally manufactured. When operated on the public roads, the modified golf cart would have to comply with local regulations which, in Palm Desert, requires licensing and retrofitting with the safety equipment required by the City, essentially the same that is required by Standard No. 100.

F. Effect on State and Local Registration and Use Laws

Some commenters misunderstood the limits of NHTSA's regulatory authority and NHTSA wishes to correct these misimpressions.

Supervisor Wilson asked the agency for its ''approval in allowing Neighborhood Electric Vehicles and other slow-moving vehicles to operate on public roadways * * *.'' (011, Transcript, Palm Desert meeting, p. 9). NHTSA understands this to be a broad request not to take any regulatory action that would restrict or prohibit the public from using LSVs. The agency has no authority to ''approve'' or ''allow'' any type of vehicle to operate on the public roads. That is solely a function of local government. However, imposition of costly-to-meet regulations would have the probable effect of curtailing future production of LSVs and hence their availability for the ends deemed desirable by local regulatory authorities. NHTSA's initial regulatory effort for LSVs would not affect the availability of low-speed vehicles, and would not affect the way they will be used in the plan area.

Powell of EZGo asked NHTSA to initiate steps to preempt all state and local regulation of golf carts on the public roads until a safety analysis can be made of the safety issues and an optimum response fashioned to them (032). He also asked that NHTSA mandate speed limits not to exceed 15 mph for golf carts used on public roads. NHTSA has no legal authority to set local speed limits or to prescribe regulations governing the operation of low-speed vehicles. NHTSA has authority to set standards that apply to vehicles from the time of manufacture to the time of initial sale, but not regulations that directly control how they are operated on the public roads.

Gough of DMV Connecticut commented that his state does not allow registration of low-performance vehicles of golf cart-like performance, and feared that it would be forced to ''allow general use if the vehicles are sanctioned by NHTSA.'' (019). He urged the agency ''to require some form of state approval of areas where such vehicles would be allowed before any consideration of approval or sanctioning is to be made.'' As noted above, NHTSA does not have authority to ''approve'' or ''disapprove'' the use of on-road vehicles in designated areas. The question raised by Gough in actuality is whether a state is preempted from refusing to register a motor vehicle for use on the public roads if that vehicle has been certified to comply with all applicable Federal motor vehicle safety standards.

Gough has raised an important issue concerning the extent of preemption under the NHTSA's statute. Under 49 U.S.C. 30103(b)(1), ''When a motor vehicle safety standard is in effect * * * a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.'' The agency has interpreted the preemption clause as meaning that a State cannot impose a heavier burden upon a vehicle for purposes of registration where the vehicle has been manufactured to meet a Federal standard covering the same aspect of performance. Thus, a State could not require LSVs to be equipped with mirrors conforming to Standard No. 111 because that would not be required by proposed Standard No. 100. But a State could specify requirements for braking system performance since there is no similar requirement proposed in Standard No. 100.

The legislative history of the preemption clause is clear that it was the purpose of the drafters that ''[t]he centralized, mass production, high volume character of the motor vehicle manufacturing industry * * * requires that motor vehicle safety standards * * * be uniform throughout the country.'' (S. Rpt. No. 1301, 89th Cong. 2d Sess. (1966), p. 12). The preemption section ''is intended to result in uniformity of standards so that the public as well as industry will be guided by one set of criteria rather than by a multiplicity of diverse standards.'' (H. Rpt. No. 1776, 89th Cong. 2d Sess. (1966), p. 17). With respect to Gough's concern, Connecticut simply does ''not allow registration of low performance vehicles of golf-cart like performance.'' The State is not seeking to establish or maintain a standard different from Standard No. 100. Connecticut has issued no standard at all, and the question of preemption does not arise. By its action (or lack thereof), Connecticut has imposed no additional manufacturing burden upon manufacturers of LSVs. NHTSA does not attribute to the drafters of 49 U.S.C. 30103(b)(1) a Congressional intent to force a State to accept and register a class of vehicles where a State has chosen not to do so, even if that class of vehicles is certified as meeting all applicable Federal motor vehicle safety standards. It should be noted that NHTSA has no authority to impose use restrictions upon registered, certified vehicles, so that even if Connecticut were preempted and required to register LSVs, the State could impose operating restrictions that would significantly limit their use on the public roads.

G. Costs to Conform to Standard No. 100

In its program monitoring report of January 1994, Palm Desert included the questionnaire that it had sent in November 1993 to the 80 persons who at that time had registered their golf carts with the city. One of the questions asked was the cost to modify golf carts to meet City requirements. Sixty-one responded to the questionnaire, and the average cost was reported to be $150. (Attachment 3, 005, p. 10).

However, two and one half years later, at the Palm Desert hearing on July 18, 1996, Steve Pohle, a dealer in golf carts, estimated that the cost to a golf cart owner to retrofit the vehicle with the equipment required by the City is approximately $400, including ''about $115'' for the windshield (011, Transcript, p. 54). NHTSA anticipates that manufacturers of LSVs (NEVs and on-road golf carts) would be able to achieve economies of scale so that their direct costs would be substantially less than $400 per vehicle. NHTSA requests that commenters address the costs associated with conforming to Standard No. 100, and to explain the basis for their estimates.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be

appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting for the information specified in the agency's confidential business information regulation, 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too later for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available to inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Effective Date

Because there is a standard already in effect which manufacturers of LSVs must meet if they wish to sell their product in at least one regional market, and because such manufacturers wish to introduce LSVs at the earliest possible time, it is hereby tentatively found that an effective date earlier than 180 days after issuance of a final rule would be practicable and in the public interest. Accordingly, proposed Standard No. 100 would be effective 45 days after publication of the final rule in the Federal Register.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This action has not been reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. Because LSVs are a new type of motor vehicle for which a national market does not yet exist, it is not possible to determine a yearly cost impact. There are at present two types of vehicles that meet the definition of LSV: NEVs and golf cars. Because they are distinctly different—NEVs are purpose built for on road use and can be operated on golf courses, while golf cars are simply golf carts with equipment added for on road use—no manufacturer known to NHTSA produces both NEVs and golf cars. As discussed previously in this document, both the Bombardier NEV and Trans2 NEV will be manufactured with essentially all items of equipment required by the City of Palm Desert for on-road operation (see comments 003 and 007), so that the only additional cost likely to be incurred in complying with proposed Standard No. 100 are the minor ones of the warning label, and the manufacturer's label certifying compliance. Given the golf cart industry's position that it does not intend its vehicles to be operated off golf courses, the industry may choose to limit the speed of all its production of golf carts to a maximum of 15 mph rather than incur the costs of complying golf cars with Standard No. 100 through add-ons to existing designs for a limited percentage of its production. Until new designs are developed, add-ons to golf cars during manufacture will be in the nature of retrofits. Information presented at the California public meeting indicated that the average cost of 61 respondent owners to retrofit a golf cart with the prescribed equipment was an average of $150 in January 1994, and could be as high as $400 in July 1996. However, the cost to a manufacturer who buys this equipment in quantity and adds it to a NEV or golf car during the original manufacturing process is likely to be much lower. So that NHTSA might better assess the cost impact of this rulemaking action, the agency invites manufacturers to submit data and market estimates, if need be on a confidential basis, so that it may have a more accurate idea of costs when the final rule is issued.

NHTSA is preparing a regulatory evaluation for placement in the docket concurrent with, or shortly after publication of, this document.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. It is not anticipated that a final rule based on this proposal would have a significant effect upon the environment. Information presented to NHTSA indicated that any increase in the production of LSVs is likely to be largely in those powered by electricity.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq*). I certify that this rulemaking action would not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The proposed amendment would primarily affect manufacturers of non-conventional motor vehicles not heretofore regulated by NHTSA. Under 15 U.S.C. Chapter 14A ''Aid to Small Businesses'', a small business concern is ''one which is independently owned and operated and which is not dominant in its field of operation'' (15 U.S.C. Sec. 632). The Small Business Administration's (SBA) regulations at 13 CFR Part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' NHTSA believes that there is at present only one entity that has been manufacturing LSVs as defined by the proposed rule, and that therefore it is ''dominant in its field of operation.'' A second entity that intends to manufacture LSVs in the near future operates primarily outside the United States. Golf cart manufacturers can avoid being classified as manufacturers of LSVs by ensuring that the maximum speed of their vehicles does not exceed 15 m.p.h.

Further, small organizations and governmental jurisdictions would not be significantly affected as the purchasers of LSVs are anticipated to be private individuals who want a small, alternative mode of transportation instead of a conventional motor vehicle, as a second vehicle for use in their immediate residential area.

Executive Order 12612 (Federalism)

This rulemaking action has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice

A final rule based on this proposal would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30163 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 would be amended as follows:

The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30166; delegation of authority at 49 CFR 1.50.

2. A new § 571.100 would be added to subpart B to read as set forth below:

§ 571.100 Motor Vehicle Safety Standard No. 100 Low-speed vehicles.

S1. Scope. This standard specifies requirements for low-speed vehicles.

S2. Purpose. The purpose of this standard is to ensure that low-speed vehicles operated on the public streets, roads, and highways are furnished with the minimum motor vehicle equipment necessary for motor vehicle safety.

S3. Applicability. This standard applies to low-speed vehicles. This standard does not apply to golf carts.

S4. Definitions.

Golf car means a motor vehicle, whose speed attainable in 1 mile exceeds 15 mph but does not exceed 25 mph, used to convey one or more persons and equipment to play the game of golf in an area designated as a golf course.

Golf cart means a vehicle, whose speed attainable in 1 mile does not exceed 15 mph, used to convey one or more persons and equipment to play the game of golf in an area designated as a golf course.

Low-speed vehicle means a motor vehicle, other than a motorcycle, whose speed attainable in 1 mile does not exceed 25 mph. With respect to vehicles used to convey golfers on golf courses, it excludes golf carts, but includes golf cars. Any motor vehicle that meets this definition is excluded from the classes of vehicles defined in § 571.3 of this subpart, and is not a ''passenger motor vehicle'' for the purposes of Part 581 of this Chapter.

S5. Requirements.

(a) A low-speed vehicle, other than a low-speed vehicle with work performing features, shall be equipped with:

(1) Headlamps,

(2) Front and rear turn signal lamps,

(3) Taillamps,

(4) Stop lamps,

(5) One red reflex reflector on each side as far to the rear as practicable and located not less than 15 inches nor more than 60 inches above the road surface,

(6) An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror,

(7) A parking brake,

(8) A windshield marked ''AS 1'' by its prime glazing material manufacturer, and

(9) A Type 1 or Type 2 seat belt assembly conforming to Sec. 571.209 Motor Vehicle Safety Standard No. 209, *Seat belt assemblies,* installed at each designated seating position.

(b) Each vehicle to which paragraph (a) of this S.5 applies shall bear a label permanently affixed, visible to the operator when seated, which reads ''WARNING: This vehicle must not be operated on the public roads at a speed more than 25 mph.''

Issued: January 3, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–386 Filed 1–3–97; 2:19 pm]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 62, No. 5
Wednesday, January 8, 1997

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

DEPARTMENT OF AGRICULTURE

Forest Service

Coconino National Forest, Arizona; Draft Environmental Impact Statement, Windmill Range Allotment

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Coconino National Forest of the Forest Service is planning to prepare an environmental impact statement on proposals to change cattle management on the 248,792 acre Windmill Allotment planning area.

DATES: This analysis has been ongoing and public participation has occurred at various stages. The Draft Environmental Impact Statement will be published in February of 1997. Preliminary comments can be made on this Notice of Intent before January 31, 1997.

ADDRESSES: Send comments to Peaks Ranger District, 5075 N. Hwy 89, Flagstaff, Arizona 86004, Reference: Windmill EIS.

RESPONSIBLE OFFICIAL: Fred Trevey, Coconino Forest Supervisor.

FOR FURTHER INFORMATION CONTACT: Peaks District Range Staff, Mike Hannemann, (520) 526–0866.

SUPPLEMENTARY INFORMATION: The Windmill Allotment Management Plan was updated in 1982 to improve the distribution of areas scheduled for cattle use. In 1988 the Allotment plan for the Winter Division was updated to change the grazing system to improve the growth of cool-season *Stipa* grasses and overall range conditions.

In 1994, the Peaks, Mormon Lake and Sedona Ranger Districts in partnership with the Arizona Game and Fish Department initiated the comprehensive analysis for the Windmill Allotment to update the Allotment Management Plan. The Allotment was selected for this update for the following reasons: Large, open meadows are in poor condition indicating an imbalance between plant growth and use of plants throughout the meadows; riparian conditions could be improved on the Allotment; a need exists to address threatened, endangered and sensitive species; an opportunity exists to increase administrative efficiency by consolidating the three portions of the Allotment under one Allotment Management Plan; an opportunity exists to examine the forest floor on a broad landscape scale; the Arizona Game and Fish Department can help describe existing conditions on the Allotment by combining the Department's information on elk with that obtained from joint-agency utilization monitoring.

Under the 1995 Range Permit Issuance effort, a Burns amendment permit was issued for 10 years for the Windmill Allotment. As required by the Burns amendment the Allotment was than scheduled for comprehensive analysis within the 10 year period. The Burns decision for Windmill included some mitigating measures which included fencing riparian and sensitive plant habitats, sweeping cattle from driveways and shipping culled cows. Public participation occurred prior to issuance of the Burns Amendment decision in the form of public response to a proposed action.

In 1996, the comprehensive analysis was re-initiated and will result in publication of an Environmental Impact Statement. This analysis attempts to gain more understanding about the relationship of the lands forage production which is affected by soils, tree densities, climatic conditions and past grazing and the dietary needs of cattle and elk. We had the opportunity to judge where forage dietary needs and grazing use were out of balance with the lands ability to produce forage in upward trends. We then had the opportunity to determine management actions which responded to what we found. A 10-year adaptive management plan will be developed which strives to take advantage of future opportunities, adapt to changing landscape conditions and progress toward a better balance between the landscape and forage grazers.

A new Allotment management plan will be developed to guide grazing practices and a new permit may be issued. The option of eliminating cattle grazing from this Allotment will also be cosnidered.

Tentative alternatives are,

1. Alternative A is designed to meet all the current grazing management issues while maintaining a viable ranching operation. This alternative uses permittee and range conservationist knowledge to determine proper livestock numbers, graze periods, graze rotations, and pasture splits. Total livestock numbers are 1,252 to 1,257.

2. Alternative B is the no action alternative as required by the National Environmental Policy Act regulations. Selection of this alternative would mean that no cattle grazing would occur on this allotment for the next 10 years.

3. Alternative C is the management system currently in place. This alternative permits a total of 1,252 to 1,257 cattle to graze year-round on the Windmill Range Allotment.

4. Alternative D is designed to respond to grazing capacity and proper use guideline issues. This alternative uses timber stand data base and Terrestrial Ecosystem Survey data to project total yearly forage production for each pasture. Total livestock numbers are 635.

5. Alternative F is the same as Alternative A except for adjusting the Luke Mountain pasture of the Foxboro Herd from a two-way pasture split to a three-way pasture split. This third pasture reduces graze periods in Little T-Six from 20 to 10 days and Highway Camp from 14–20 days to 10 days. This responds to concerns over poor and declining range conditions in the Foxboro summer range area. Total livestock numbers are 1,252 to 1,257.

6. Alternative G is designed to better meet resource concerns of poor and declining range conditions in parts of Munds-Pocket and Foxboro Herd areas. This alternative improves on Alternative A in these areas by reducing livestock numbers, adjusting graze periods and providing additional pasture splits. Total livestock numbers are 1,090 to 1,125.

Items common to alternatives include fencing some riparian areas to exclude livestock. The areas chosen for fencing are easily accessed by cattle, are fairly large and have adjacent wet meadows and are estimated to have high potential for improvement. Not all riparian springs located on the Allotment are fenced. Those not chosen for fencing are

less accessible to cattle, are not associated with wet meadows and are very small. Major creeks and rivers will not have direct cattle access under any of the alternatives. Other items common to all alternatives include tank re-location and/or waterlot construction where tanks occur in dry meadows. Pastures that will not be used in the 10 year management plan period are also identified.

Environmental analysis has been ongoing. It is anticipated that a draft environmental impact statement will be published in February of 1997. A ninety day comment period pursuant to 36 CFR 219.10(b) will be provided for the public to make comments on the draft environmental impact statement. A record of decision will be prepared and filed with the final environmental impact statement. A ninety day appeal period pursuant to 36 CFR 217.8(a) will be applicable. The ninety day comment period on the draft environmental impact statement will begin when the Environmental Protection Agency's Notice of Availability appears in the Federal Register.

To be most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

Fred Trevey,

Coconino Forest Supervisor.

[FR Doc. 97–353 Filed 1–7–97; 8:45 am]

BILLING CODE 0521–00–M

Rural Utilities Service

Central Virginia Electric Cooperative; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request by Central Virginia Electric Cooperative for financing assistance to construct a headquarters office facility in Nelson County, Virginia. The FONSI is based on a borrower's environmental report (BER) submitted to RUS by Central Virginia Electric Cooperative. RUS conducted an independent evaluation of the report and concurs with its scope and content. In accordance with RUS Environmental Policies and Procedures, 7 CFR part 1794.61, RUS has adopted the BER as its environmental assessment for the project.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, D.C. 20250–1571, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: The headquarters office facility is proposed to be located west of the unincorporated community of Colleen, Virginia, south of the intersection of State Routes 56/158 and 665. The size of the proposed site for the headquarters office facility is approximately 170 acres of which approximately 40 acres would be developed.

The headquarters office facility would consist of a 23,000 square foot headquarters office building, a 15,000 square foot combination warehouse/division office building, a 6,500 foot mechanics garage and electrical equipment maintenance shop, a 4,000 square foot open sided covered truck shed, a 1-acre pole storage yard, a 2-acre electrical equipment storage area, a 50 foot, self-supporting steel pole to support microwave and radio communications equipment, a 100 kilowatt diesel electric generator, a 200 gallon fuel storage tank, and parking for 100 employee vehicles, 10 visitor vehicles, and 50 service vehicles.

RUS considered the alternatives of no action, expansion of Central Virginia Electric Cooperative's existing facilities, renovation of an existing commercial building, and four alternative site locations. Under the no action alternative, RUS would not approve financing assistance for construction of the headquarters office facility. Since RUS believes that Central Virginia Electric Cooperative has a need to expand its headquarters facility to adequately accommodate employees, vehicles, and equipment, RUS considered the no action alternative unacceptable.

Copies of the BER and FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. Darryl Mawyer, Central Virginia Electric Cooperative, Front Street, P.O. Box 247, Lovingston, Virginia, 22949, telephone (804) 263–8336.

Dated: January 3, 1997.

Blain D. Stockton,

Assistant Administrator, Electric Program.

[FR Doc. 97–00389 Filed 1–7–97; 8:45 am]

BILLING CODE 3410–15–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Telecommunications Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) gives notice of the dates and location of the meetings of the Telecommunications Access Advisory Committee.

DATES: The Telecommunications Access Advisory Committee will meet on January 13 and 14, 1997 beginning at 9:00 a.m. each day.

ADDRESSES: The meetings will be held at 1331 F Street, NW., Washington, DC in the 8th floor conference room.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Dennis Cannon, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 35 (voice); (202) 272–5449 (TTY). Electronic mail address: cannon@access-board.gov. This document is available in alternate formats (cassette tape, braille, large print, or computer disk) upon request. It is also available on the Internet at http://www.access-board.gov/notices/taacmtg.htm.

SUPPLEMENTARY INFORMATION: On May 24, 1996, the Access Board published a notice appointing members to its Telecommunications Access Advisory Committee (Committee). 61 FR 26155 (May 24, 1996). The Committee will make recommendations to the Access Board on accessibility guidelines for telecommunications equipment and customer premises equipment. These recommendations will be used by the Access Board to develop accessibility guidelines in conjunction with the Federal Communications Commission (FCC) under section 255(e) of the Telecommunications Act of 1996. The Committee is composed of representatives of manufacturers of telecommunications equipment and customer premises equipment; organizations representing the access needs of individuals with disabilities; telecommunications providers and carriers; and other persons affected by the guidelines.

The Committee has met five times since June 1996. This will be the Committee's last meeting. During the meeting in January, the Committee will finalize its recommendations. The Committee will make a presentation to the Access Board at the Board's regular business meeting on January 15th. The Board will meet on January 15th from 1:30–3:30 p.m. at the Marriott at Metro Center hotel, 775 12th Street, NW., Washington, DC.

The Committee will meet on the dates and at the location announced in this notice. The meetings are open to the public. The facility is accessible to individuals with disabilities. Sign language interpreters, assistive listening systems and real time transcription will be available.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 97–336 Filed 1–7–97; 8:45 am]

BILLING CODE 8150–01–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: January 14, 1997; 9:00 a.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., S.W., Washington, D.C. 20547.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Brenda Thomas at (202) 401–3736.

Dated: January 6, 1997.

David W. Burke,

Chairman.

[FR Doc. 97–521 Filed 1–6–97; 1:40 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 950329080–5080–01]

Special American Business Internship Training Program (SABIT)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This Notice announces availability of funds for the Special American Business Internship Training Program (SABIT), for training business executives and scientists (also referred to as ''interns'') from the New Independent States (NIS) of the former Soviet Union. The Department of Commerce, International Trade Administration (ITA) established the SABIT program in September 1990 to assist the former Soviet Union's transition to a market economy. Since that time, SABIT has been matching business executives and scientists from the NIS with U.S. firms which provide them with three to six months of hands-on training in a U.S. market economy.

Under the SABIT program, qualified U.S. firms will receive funds through a cooperative agreement with ITA to help defray the cost of hosting interns. ITA will interview and recommend eligible interns to participating companies. Interns may be from any of the following Independent States: Armenia, Azerbaijan, Belarus, Georgia, Kazakstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The U.S. firms will be expected to provide the interns with a hands-on, non-academic, executive training program designed to maximize their exposure to management or commercially-oriented scientific operations. At the end of the training program, interns must return to the NIS.

DATES: The closing date for applications is March 31, 1997. An original and two copies of the application (Standard Form 424 (Rev. 4–92) and supplemental material) are to be sent to the address designated in the Application Kit and postmarked by the closing date. Applications will be considered on a ''rolling'' basis as they are received, subject to the availability of funds. If available funds are depleted prior to the closing date, a notice to that effect will be published in the Federal Register. Processing of complete applications takes approximately two to three months.

ADDRESSES: Request for Applications: Competitive Application kits will be available from ITA starting on the day this notice is published. To obtain a copy of the Application Kit please E-mail: sabitapply@usita.gov (please signify which format, e.g. WordPerfect© 6.1), telephone (202) 482–0073, facsimile (202) 482–2443 (these are not toll free numbers), or send a written request with two self-addressed mailing labels to: Application Request, The SABIT Program, HCHB Room 3319, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230.

FOR FURTHER INFORMATION CONTACT: The SABIT Program, U.S. Department of Commerce, phone—(202) 482–0073, facsimile—(202) 482–2443. These are not toll free numbers. Only one copy of the Application Kit will be provided to each organization requesting it, but it may be reproduced by the requester.

SUPPLEMENTARY INFORMATION: SABIT exposes NIS business managers and scientists to a completely new way of thinking in which demand, consumer satisfaction, and profits drive production. Senior-level interns visiting the U.S. for internship programs with public or private sector companies will be exposed to an environment which will provide them with practical knowledge for transforming their countries' enterprises and economies to the free market. The program provides first-hand, eye-opening experience to managers and scientists which cannot be duplicated by American managers traveling to their territories.

Business Executives

SABIT assists economic restructuring in the NIS by providing top-level business managers with practical training in American methods of innovation and management in such areas as strategic planning, financing, production, distribution, marketing, accounting, wholesaling, and labor relations. This first-hand experience in the U.S. economy enables interns to become leaders in establishing and operating a market economy in the NIS, and creates a unique opportunity for U.S. firms to familiarize key executives from the NIS with their products and services.

Scientists

SABIT provides opportunities for gifted scientists to apply their skills to peaceful research and development in the civilian sector, in areas such as defense conversion, medical research, and the environment, and exposes them to the role of scientific research in a market economy where applicability of research relates to business success. Sponsoring firms in the U.S. scientific

community also benefit from exchanging information and ideas, and different approaches to new technologies.

All internships are for three to six months; however, ITA reserves the right to allow an intern to stay for a shorter period if the U.S. company agrees and the intern demonstrates a need for a shorter internship based on his or her management responsibilities.

Funding Availability

Pursuant to section 632(a) of the Foreign Assistance Act of 1961, as amended (the ''Act'') funding for the program will be provided by the United States Agency for International Development (A.I.D). ITA will award financial assistance and administer the program pursuant to the authority contained in section 635(b) of the Act. The estimated amount of financial assistance available for the program is $1 million. Additional funding may become available at a future date.

Funding Instrument and Project Duration

Federal assistance will be awarded pursuant to a cooperative agreement between ITA and the recipient firm. ITA will reimburse companies for the round trip international travel of each intern from the intern's home city in the NIS to the U.S. internship site, upon submission to ITA of the paid travel invoice, payment receipt, or other evidence of payment and the form SF–270, ''Request for Advance or Reimbursement.'' Travel under the program is subject to the Fly America Act. Recipient firms provide $30 per day directly to interns; ITA will reimburse recipient firms for this stipend of $30 per day per intern for up to six months, upon submission by company of an end-of-internship report and form SF–270. In general, each award will have a cap of $7,500 per intern for total cost of airline travel and stipend. ITA reserves the right to allow an award to exceed this amount in cases of unusually high costs, such as airfare from remote regions of the NIS. However, the total payment cannot exceed the award amount. There are no specific matching requirements for the awards. Host firms, however, are expected to bear the costs beyond those covered by the award, including: visa fees, housing, insurance, any food and incidentals costs beyond $30 per day, any training-related travel within the U.S., and provision of the hands-on training for the interns.

U.S. firms wishing to utilize SABIT in order to be matched with an intern without applying for financial assistance may do so. Such firms will be responsible for all costs, including travel expenses, related to sponsoring the intern. However, prior to acceptance as a SABIT intern, work plans and candidates must be approved by the SABIT Program. Furthermore, program training will be monitored by SABIT staff and evaluated upon completion of training.

Eligibility

Eligible applicants for the SABIT program will be any for profit or non-profit U.S. corporation, association, organization or other public or private entity. Agencies or divisions of the federal government are not eligible.

Evaluation Criteria

Consideration for financial assistance will be given to those SABIT proposals which:

(1). Demonstrate a commitment to the intent and goals of the program to provide practical, on-the-job, non-academic, non-classroom training: in the case of manager interns, an appropriate management training experience, or, in the case of scientist interns, a practical, commercially-oriented scientific training experience.

(2). Respond to the priority needs of senior business managers and scientists in the NIS, as determined by ITA.

(3). Host firms must be solidly committed to interns' return to their own countries upon completion of the internships.

(4). Present a realistic work plan describing in detail the training program to be provided to the SABIT intern(s). Work plans must include the following:

(a). whether Applicant is applying to host managers or scientists, or both (and the number of each); (b). the duration of the internship (at least three but not more than six months.) As noted above, ITA reserves the right to allow an intern with very senior management responsibilities to stay for a shorter period (minimum of one month) if the U.S. company agrees and the intern demonstrates a compelling need for a shorter internship based on his or her management responsibilities; (c). the location(s) of the internship; (d). the name, address, and telephone number of the designated internship coordinator; (e). name(s) of division(s) in which the intern(s) will be placed; (f). the individual(s) in the U.S. company under whose supervision the intern will train; (g). the proposed internship training activities. The components of the training activities must be described in as much detail as possible, preferably on a week-by-week basis. The description of the training activities should include an accounting of what the intern's(s') duties and responsibilities will be during the training; (h). the anticipated housing arrangements to be provided for the intern(s). Note that housing arrangements should be suitable for mid- and senior-level professionals, and that each intern must be provided with a private room.

(5). Include a brief objectives section indicating why the Applicant wishes to provide an internship to a manager(s) or scientist(s) from the NIS, and how the proposed internship would further the purpose of the SABIT program as described above. If Applicant is nominating a specific individual for training, this objectives section must describe any existing relationship between the Applicant and the individual.

(6). Provide a general description of the profile of the intern(s) the Applicant would like to host, including: educational background; occupational/professional background (including number of years and areas of experience); size and nature of organization at which the intern(s) is/are presently employed; preference for the region of the NIS where the intern(s) is/are employed; and whether Applicant is open to sponsoring interns from a variety of NIS countries.

(7). Indicate whether Applicant organization operates in one or more of the following business sectors: (a). Agribusiness (including food processing and distribution, and agricultural equipment), (b). Defense conversion, (c). Energy, (d). Environment (including environmental clean-up), (e). Financial services (including banking and accounting), (f). Housing, construction and infrastructure, (g). Medical equipment, supplies, pharmaceuticals, and health care management, (h). Product standards and quality control, (i). Telecommunications, and (j). Transportation. Applicant proposal must provide an explanation including description and extent of involvement in the sector(s). While Applicants involved in any industry sector may apply to the program, priority consideration is given to those operating in the above sectors.

Evaluation criteria 1–6 will be weighted equally. ITA does not guarantee that it will match Applicant with the profile provided to SABIT.

Selection Procedures

Each application will receive an independent, objective review by one or more three or four-member ITA review panels qualified to evaluate applications submitted under the program. Applications will be evaluated on a

competitive, ''rolling'' basis as they are received in accordance with the selection evaluation set forth above. Awards will be made to those applications which successfully meet the selection criteria. If funds are not available for all those applications which successfully meet the criteria, awards will be made to the first applications received which successfully do so. ITA review panel(s) reserve(s) the right to reject any application; to limit the number of interns per applicant; to waive informalities and minor irregularities in applications received; and to consider other than competitive procedures to distribute assistance under this program and in accordance with the law. ITA review panel(s) reserve(s) the right to make awards based on U.S. geographic and organization size diversity among applicants. Recipients may be eligible, pursuant to approval of an amendment of an active award, to host additional interns under the program.

Additional Information

Applicants must submit: (1). Evidence of adequate financial resources of Applicant organization to cover the costs involved in providing an internship(s). As evidence of such resources, Applicant should submit financial statements audited by an outside organization or an annual report including such statements. If these are not available, a letter should be provided from the Applicant's bank or outside accountant attesting to the financial capability of the firm to undertake the scope of work involved in training an intern under the SABIT program. (2). Evidence of a satisfactory record of performance in grants, contracts and/or cooperative agreements with the Federal Government, if applicable. (Applicants who are or have been deficient in current or recent performance in their grants, contracts, and/or cooperative agreements with the Federal Government shall be presumed to be unable to meet this requirement). (3). A statement that the Applicant will provide medical insurance coverage for interns during their internships. Recipients will be required to submit proof of the interns' medical insurance coverage to the Federal Program Officer, before the interns' arrivals. The insurance coverage must include an accident and comprehensive medical insurance program as well as coverage for accidental death, emergency medical evacuation, and repatriation.

Other Requirements

All applicants are advised of the following:

1. No award of Federal funds shall be made to an Applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce (DOC) are made.

2. A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

3. Recipients and subrecipients are subject to all Federal laws and Federal and Departmental regulations, policies and procedures applicable to financial assistance awards.

4. Participating companies will be required to comply with all relevant U.S. tax and export regulations. Export controls may relate not only to licensing of products for export, but also to technical data transfer.

5. Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

6. If applicants incur any costs prior to an award being made, they do solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover pre-award costs.

7. Past performance: Unsatisfactory performance by an applicant under prior Federal awards may result in an application not being considered for funding.

8. No obligation for future funding: If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC.

9. Primary Applicant Certifications: All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations are hereby provided:

(a) Nonprocurement Debarment and Suspension: Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

(b) Drug Free Workplace: Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Government wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

(c) Anti-Lobbying: Funds provided under the SABIT program may not be used for lobbying activities. Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

(d) Anti-Lobbying Disclosures: Any applicant that has paid or will pay for lobbying in connection with this award using any funds must submit an SF-LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

10. Lower Tier Certifications: Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF-LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

11. Indirect Costs: Indirect costs are not allowed under the SABIT program.

12. Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

13. The following statutes apply to this program: Restriction on Assistance to the Government of Azerbaijan (Section 907 of the FREEDOM Support Act, Public Law 102–511); Chapter 11 of Part I of the Foreign Assistance Act of 1961, as amended, including section 498A (b), regarding ineligibility for assistance; provisions in annual Foreign Operations, Export Financing, and Related Programs Appropriations Act,

including the following provisions contained in Public Law 103–87: Use of American Resources (Section 559 of the Foreign Operation, Export Financing, and Related Programs Appropriations Act, 1995, Public Law 103–87); Impact on Jobs in the United States (Section 545 of the Foreign Operation, Export Financing, and Related Programs Appropriations Act, 1995, Public Law 103–87); Bumpers Amendment (Section 513(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994, Public Law 103–87); Lautenberg Amendment (Section 513(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994, Public Law 103–87); and Section 660(a) of the Foreign Assistance Act of 1961, as amended.

14. *Audit Requirements:* The Grants Officer has the discretion to require by the terms and conditions of SABIT awards that recipients have an audit conducted in accordance with Government Auditing Standards. In addition, the DoC Office of Inspector General has authority under the Inspector General Act of 1978, as amended, to conduct an audit of any DoC award at any time.

15. *Payments.* As required by the Debt Collections Improvement Act of 1996, all Federal payments to award recipients pursuant to this announcement will be made by electronic funds transfer.

FOR FURTHER INFORMATION CONTACT: Special American Business Internship Training, International Trade Administration, at (202)482–0073. This is not a toll free-number.

Dated: January 2, 1997.

Liesel C. Duhon,

Director, SABIT Program.

[FR Doc. 97–398 Filed 1–7–97; 8:45 am]

BILLING CODE 3510–HE–P

National Institute of Standards and Technology

Economic Impact of NIST Thermocouple Program

ACTION: Proposed Data Collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 10, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on the information collection instruments(s) and instructions should be directed to George Burns, Chemical Science and Technology Laboratory, Building 221 (Physics), Room B–230, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301–975–4817) phone; e-mail: george.burns@nist.gov

SUPPLEMENTARY INFORMATION:

I. Abstract

NIST seeks to assess economic impacts of its thermocouple calibration program. The respondents will be U.S. thermocouple manufacturers and their customers as well as the providers of independent thermocouple calibration services. The results will be used by NIST for program evaluation purposes.

II. Method of Collection

Personnel of firms in the U.S. thermocouple industry and their customers, as well as providers of independent thermocouple calibration services, may respond to questionnaires by mail, fax, E-mail, or telephone.

III. Data

OMB Number: None.
Form Number: None.
Type of Review: None.
Affected Public: Personnel of firms in the U.S. thermocouple industry and their customers as well as providers of independent thermocouple calibration services.
Estimated Number of Respondents: 50.
Estimated Time Per Response: 0.5 hours.
Estimated Total Annual Burden Hours: 25 hours.
Estimated Total Annual Cost: $2,500 (25 X $100 per hour fully burdened cost for a senior level technical manager.) There are no equipment or maintenance costs associated with this collection.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques and other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection. They will also become a matter of public record.

Dated: January 2, 1997.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–417 Filed 1–7–97; 8:45 am]

BILLING CODE 3510–13–P

Economic Impact of NIST Alternative Refrigerants Program

ACTION: Proposed data collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 10, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on the information collection instruments(s) and instructions should be directed to Richard Kayser, Chemical Science and Technology Laboratory, Building 221 (Physics), Room B–230, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301–975–4817) phone; e-mail: richard.kayser@nist.gov e-mail.

SUPPLEMENTARY INFORMATION:

I. Abstract

NIST seeks to assess economic impacts of its alternative refrigerants program. The respondents will be U.S.

refrigeration equipment manufacturers and chemical refrigerant manufacturers and their customers. The results will be used by NIST for program evaluation purposes.

II. Method of Collection

Personnel of firms in the U.S. clinical laboratories and clinical instrument producers and their customers may respond to questionnaires by mail, fax, E-mail, or telephone.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: None.

Affected Public: Personnel of firms in the U.S. refrigeration equipment manufacturing industry and the U.S. chemical refrigerant manufacturing industry and their customers.

Estimated Number of Respondents: 50.

Estimated Time Per Response: 0.5 hours.

Estimated Total Annual Burden Hours: 25 hours.

Estimated Total Annual Cost: $2,500 (25 X $100 per hour fully burdened cost for a senior level technical manager.) There are no equipment or maintenance costs associated with this collection.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques and other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection. They will also become a matter of public record.

Dated: January 2, 1997.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–418 Filed 1–7–97; 8:45 am]

BILLING CODE 3510–13–P

Economic Impact of Cholesterol SRMs/ Definitive Methods Program

ACTION: Proposed data collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 10, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on the information collection instruments(s) and instructions should be directed to Michael Welch, Chemical Science and Technology Laboratory, National Institute of Standards and Technology, Building 324 (Chemistry), Room B–156, Gaithersburg, MD 20899, (301–975–3100), e-mail: michael.welch@nist.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

NIST seeks to assess economic impacts of its alternative refrigerants program. The respondents will be U.S. refrigeration equipment manufacturers and chemical refrigerant manufacturers and their customers. The results will be used by NIST for program evaluation purposes.

II. Method of Collection

Personnel of firms in the U.S. clinical laboratories and clinical instrument producers and their customers may respond to questionnaires by mail, fax, E-mail, or telephone.

III. Data

OMB Number: None.
Form Number: None.
Type of Review: None.
Affected Public: Personnel of firms in the U.S. clinical laboratories and clinical instrument industries and their customers.
Estimated Number of Respondents: 50.
Estimated Time Per Response: 0.5 hours.
Estimated Total Annual Burden Hours: 25 hours.
Estimated Total Annual Cost: $2,500 (25 × $100 per hour fully burdened cost for a senior level technical manager.) There are no equipment or maintenance costs associated with this collection.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques and other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection. They will also become a matter of public record.

Dated: January 2, 1997.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–419 Filed 1–7–97; 8:45 am]

BILLING CODE 3510–13–P

COMMODITY FUTURES TRADING COMMISSION

Applications of the New York Cotton Exchange for Designation as a Contract Market in Futures and Options on the Pound Sterling-Swiss Franc and Pound Sterling-Japanese Yen Cross Rates

AGENCY: Commodity Futures Trading Commission

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The New York Cotton Exchange (NYCE or Exchange) has applied for designation as a contract market in futures and futures options on the NYCE pound sterling-Swiss franc and pound sterling-Japanese yen currency cross rates. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication

of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before February 7, 1997.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the NYCE pound sterling-Swiss franc and pound sterling-Japanese yen currency cross rate applications.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, Washington, DC, 20581, telephone 202–418–5277. Facsimile number: (202) 418–5527. Electronic mail: ssherrod@cftc.gov

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the NYCE in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the NYCE, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 2, 1997.

John R. Mielke,

Acting Director.

[FR Doc. 97–317 Filed 1–7–97; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Monday, January 13, 1997; 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the public.

Matter To Be Considered

Petition CP 96–1 on Multi-Purpose Lighters

The Commission will consider options regarding Petition CP 96–1, from Judy L. Carr, requesting the Commission to amend the safety standard for cigarette lighters to include multi-purpose lighters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207; (301) 504–0800.

Dated: January 6, 1997.

Sadye E. Dunn,

Secretary.

[FR Doc. 97–517 Filed 1–6–97; 1:42 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board will meet in closed session on January 29–30, April 30–May 1, and October 22–23, 1997 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition & Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Defense Science Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: January 2, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–391 Filed 1–7–97; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Aviation Safety

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Aviation Safety will meet in closed session on January 9 and January 16, 1997 at Strategic Analysis, Inc., Alexandria, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, these meetings are scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will identify and recommend actions to significantly reduce the rate of military aviation accidents that erode our readiness and resources.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: January 2, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–390 Filed 1–7–97; 8:45 am]

BILLING CODE 5000–04–M

Department of the Navy

Record of Decision for a Dry Storage Container System for the Management of Naval Spent Nuclear Fuel

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act (NEPA) of 1969; the Council on Environmental Quality regulations implementing NEPA procedures, 40 CFR Parts 1500–1508; and Chief of Naval Operations Environmental and Natural Resources Program Manual, OPNAV Instruction 5090.1B; the Department of the Navy announces its decision to implement the preferred alternative (dual-purpose canisters) identified in the final Environmental Impact Statement for a Container System for the Management of Naval Spent Nuclear Fuel (EIS) dated November 1996. The Department of Energy (DOE), which participated as a cooperating agency, formally adopted the final EIS on October 9, 1996 (designated as DOE/EIS–0251) (61 FR 59435) and has concurred in this Record of Decision. The DOE was a cooperating agency because the DOE, under the Nuclear Waste Policy Act, is responsible for the ultimate disposition of all spent nuclear fuel, including civilian and military. The DOE is also responsible for the facilities at the Idaho National Engineering Laboratory (INEL) where naval spent nuclear fuel is currently stored. The Navy will utilize a dual-purpose canister system for the management of naval spent nuclear fuel and the management of naval special case low-level radioactive waste. A dual-purpose canister system will be used for the loading, dry storage, transport, and possible disposal of naval spent nuclear fuel following examination at the INEL. This Record of Decision neither decides nor presumes that naval special case waste will be shipped to a geologic repository or a centralized interim storage site as naval spent nuclear fuel.

ADDRESSES: Copies of the final EIS and other information related to this Record of Decision are available in the public reading rooms and libraries identified in the Federal Register notice that announced the availability of the Final EIS (61 FR 59423). For further information on the Navy's utilization of a dry storage container system for naval spent nuclear fuel, or to receive a copy of the final EIS, contact William Knoll, Department of the Navy, Code NAVSEA 08U, 2531 Jefferson Davis Highway, Arlington, VA 22242–5160, (703) 603–6126. For information on the DOE's NEPA process, please contact Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 586–4600 or leave a message at 1–800–472–2756.

Introduction

More than 40% of the Navy's principal combatants are nuclear powered. Since 1955, U.S. nuclear powered warships have steamed safely more than one hundred million miles and accumulated over 4,700 reactor years of safe operation. Continued operation of the Navy's nuclear powered warships remains a vital element of the Navy's ability to fulfill its national security mission in support of our nation's defense.

The Navy creates spent nuclear fuel through the operation of its nuclear powered warships and training reactors. When a warship is refueled for continued service or is defueled because it is being inactivated, its spent nuclear fuel is removed at a shipyard. Similarly, naval spent nuclear fuel is removed from afloat and land-based training reactors when they are refueled or deactivated. In all cases, the naval spent nuclear fuel is transported to the INEL in southeastern Idaho where it is examined at the Expended Core Facility (ECF) located at the Naval Reactors Facility (NRF). This examination is essential to verify the performance of current naval nuclear fuel and to support the design of naval fuel with longer lifetimes. After examination, the naval spent nuclear fuel is transferred to the Idaho Chemical Processing Plant (ICPP) for storage in water pools pending final disposition. Currently, there are approximately 13 metric tons of heavy metal of naval spent nuclear fuel at the INEL. A total of approximately 65 metric tons of naval spent nuclear fuel will exist by the year 2035.

The Navy is committed to ensuring that post-examination naval spent nuclear fuel is managed in a fashion which (1) facilitates ultimate safe shipment to a permanent geologic repository or centralized interim storage site outside the State of Idaho;

(2) protects the Idaho environment while being temporarily stored at the INEL;

(3) is consistent with the DOE Programmatic Spent Nuclear Fuel Management and INEL Environmental Restoration and Waste Management Programs Final Environmental Impact Statement (April 1995); and

(4) complies with the court ordered agreement among the State of Idaho, the DOE, and the Navy, which is discussed in this Record of Decision under Legal and Regulatory Considerations.

Until a geologic repository or centralized interim storage site outside the State of Idaho (discussed in Section 2.8.2 of the final EIS) is available, the Navy is committed to a number of actions to ensure uninterrupted operation of the Navy's nuclear powered fleet. These include transfer of all naval spent nuclear fuel at the INEL out of wet storage facilities into dry storage, completion of a Dry Cell expansion project at the ECF, completion of Hot Cell facility upgrades at the ECF, construction of an ECF dry storage container loading station, and performance of certain environmental restoration work at the NRF. The high integrity and rugged nature of naval spent nuclear fuel make it exceptionally well suited for safe transport, storage, and ultimate disposal after service. The Navy must make a decision on the type of dry storage container system now in order to support planning required to meet its commitment as discussed in this Record of Decision under Legal and Regulatory Considerations for dry storing naval spent nuclear fuel and ultimately shipping it out of the State of Idaho.

Alternatives Considered

The Navy considered six alternative dry storage container systems for the loading, storage, transport, and possible disposal of post-examination naval spent nuclear fuel and the management of special case waste. The alternatives may use either of the existing dry storage containers or of dry storage containers that could be produced by manufacturers of such equipment. Because of differences in configurations of naval spent nuclear fuel assemblies, all of the alternatives require containers to have internal baskets designed for specific naval spent nuclear fuel types.

Two time frames were used for analyses. For complete system operations, 1996–2035, a time period of 40 years is used. For analyses concerning transportation to a spent nuclear fuel repository and handling of post-examination naval spent nuclear fuel at the INEL, the period 2010 to 2035 (25 years) was used because a repository would be expected to begin accepting spent nuclear fuel before 2010. The actual date that a repository would begin accepting spent nuclear fuel would have minimal impact on the results presented in the final EIS and would not change the number of shipments to be made.

There is also the possibility that a centralized storage site may be designated for interim storage of civilian

spent nuclear fuel until a repository is available. If such a centralized interim storage site were opened and if naval spent nuclear fuel were allowed by law to be stored there, transportation of naval spent nuclear fuel might begin before 2010. A range of transportation routes was analyzed in the EIS. As such, the transportation analyses are suitable for comparison of the impacts associated with transportation to a centralized interim storage site among alternatives.

A brief description of the six alternatives follows:

(1) No-Action Alterative—Use of existing technology to handle, store, and subsequently transport naval spent nuclear fuel to a geologic repository or a centralized interim storage site using the Navy M–140 transportation cask. Prior to shipment to a repository or centralized interim storage site, naval spent nuclear fuel would be managed at the INEL in water pools or commercially available dry storage containers, then loaded into M–140 transportation casks. At a repository, the naval spent nuclear fuel would be unloaded from the M–140 transportation casks and placed in a geologic repository's surface facilities for loading into disposal containers. Following unloading, the M–140 transportation casks would be returned to the INEL for reuse. Because existing M–140 transportation casks are needed to maintain scheduled fleet refuelings and defuelings, approximately 24 additional M–140 transportation casks would have to be manufactured to handle the shipment of about 425 cask loads of naval spent nuclear fuel to a repository between 2010 and 2035. Two hundred and twenty-five dry storage containers would be required for use at the INEL, and 300 disposal containers would be required under this alternative. For the management of special case waste, up to 30 additional dry storage containers, four additional M–140 transportation casks, and 60 additional disposal containers would be needed.

(2) Current Technology/Supplemented by High Capacity Rail Alternative—This alternative uses the same storage methods and M–140 transportation casks described in the no-action alternative, but with redesigned internal structures for the M–140 cask to accommodate a larger amount of naval spent nuclear fuel per cask, thus reducing the total number of shipments required. For the purpose of analysis, the EIS assumes that approximately 24 additional M–140 transportation casks would be needed in order to expedite shipment of approximately 325 containers of naval spent nuclear fuel by rail to a repository or centralized interim storage site. One hundred and fifty dry storage containers would be required for use at the INEL, and 300 disposal containers would be required under this alternative. For the management of special case waste, up to 26 additional dry storage containers, four additional M–140 transportation casks, and 60 additional disposal containers would be needed.

(3) Transportable Storage Cask Alternative—This alternative uses an existing, commercially available transportable storage cask for storage at the INEL as well as for transportation to a repository or centralized interim storage site. At a repository, individual assemblies of naval spent nuclear fuel would be unloaded from the casks and placed in surface facilities for loading into disposal containers. The unloaded transportable storage casks would be returned to the INEL for further storage and transport. Approximately 325 shipments of the reusable transportable storage cask (150 casks required) would be necessary for the shipment of all naval spent nuclear fuel and 300 containers would be required for disposal. For the management of special case waste, up to 21 additional storage casks and 60 additional disposal containers would be needed.

(4) Dual-Purpose Canister Alternative—This alternative uses an existing, commercially available canister and overpack system for storage at the INEL and shipment of naval spent nuclear fuel to a geologic repository or centralized interim storage site. At a repository, the naval spent nuclear fuel would be unloaded from the canisters and placed in surface facilities for loading into disposal containers. Approximately 300 canisters would be required for dry storage and shipment of naval spent nuclear fuel by rail to a repository or centralized interim storage site. In addition, 150 dry storage overpacks for use at the INEL, 15 transportation overpacks, and 300 disposal containers would be required. For the management of special case waste, up to 45 additional canisters, 23 additional storage overpacks, three additional transportation overpacks, and 60 additional disposal containers would be needed.

(5) Multi-Purpose Canister Alternative—This alternative uses about 300 large (125-ton) multi-purpose canisters for storage, transportation, and disposal of naval spent nuclear fuel, without repackaging or further handling of individual spent nuclear fuel assemblies. In addition to the sealed metal canisters, specialized casks or overpacks would be required for different stages of the process, including 150 dry storage overpacks for use at the INEL, 15 transportation overpacks for transporting naval spent nuclear fuel to a geologic repository or centralized interim storage site, and 300 disposal overpacks for disposal in a repository. For the management of special case waste, up to 60 additional canisters, 30 additional storage overpacks, three additional transportation overpacks, and 60 additional disposal overpacks would be needed.

(6) Small Multi-Purpose Canister Alternative—This alternative uses about 500 smaller (75 ton) multi-purpose canisters, rather than large multi-purpose canisters. The small multi-purpose canisters would be similar in design, operations, and function to the large multi-purpose canisters, but would offer a lower weight and size alternative for transportation and handling at a geologic repository or centralized interim storage site. Two hundred and twenty-five dry storage overpacks for use at the INEL, 25 transportation overpacks for transporting naval spent nuclear fuel to a geologic repository or centralized interim storage site, and 500 disposal overpacks for disposal in a repository would be required. For the management of special case waste, up to 85 additional canisters, 39 additional storage overpacks, five additional transportation overpacks, and 85 additional disposal overpacks would be needed.

Decisions

The Navy announces its decision to use a dual-purpose canister system for the management of post-examination naval spent nuclear fuel and special case low-level radioactive waste. The primary benefits of a dual-purpose canister system are efficiencies in container manufacturing and fuel reloading operations and potential further reduction in radiation exposure. A dual-purpose canister system will allow the safe storage and shipment of naval spent nuclear fuel for ultimate disposition. The system might also be found to be acceptable for disposal purposes once the disposal requirements for a geologic repository have been formulated and finalized, making it functionally equivalent to a multi-purpose canister system.

The Navy evaluated each of the alternatives to a set of criteria in order to select a preferred alternative. The results of that evaluation are summarized briefly below.

There was no obvious preference for any dry storage container system based on public comments. Further, all of the alternative dry storage container

systems technically support the storage, shipment, and disposal of naval spent nuclear fuel.

The Department of the Navy's analysis of the environmental and public health impacts from the following would be small and would differ little among alternatives: the manufacture of any of the dry storage container systems; the operations of handling, storage, transportation and unloading at a repository; and the construction of facilities. All alternatives are considered comparable and indistinguishable under this criterion, thus, there is no environmentally preferred alternative.

Cost comparisons were based on procurement costs for equipment, as well as handling, storage, transportation and container disposal costs. Under this criterion, the dual-purpose canister system has a medium comparative cost. The multi-purpose canister has the lowest comparative cost, in part because the fuel assemblies would only be handled one time, but since no multi-purpose canisters currently exist the cost comparison is somewhat conjectural. If the dual-purpose canister alternative meets the repository design criteria for disposal packages when those criteria are established, fuel assemblies would be handled once instead of twice, and the cost would decrease such that it would be comparable with the multi-purpose canister. There is a high probability that a dual-purpose canister system for naval spent nuclear fuel can be produced successfully and economically because it is similar to currently available systems for civilian spent fuel.

To evaluate operational efficiency, the Navy evaluated the processes which must be performed for any of the alternatives, including: loading fuel into dry storage containers, unloading fuel from dry storage containers for shipment, off-site transport, and loading or reloading fuel at a geologic repository surface facility for ultimate disposal. Each of these general operations may be performed once, multiple times, or not at all, depending on the system implemented. Each of the alternatives can be categorized as either a cask or a canister system based on whether the naval spent nuclear fuel would be transferred from storage for shipment as collections of individual fuel assemblies (cask) or as a unit inside a sealed package (canister).

It was concluded from the process evaluation that multi-purpose canister systems would be the most efficient systems when considering the handling of fuel. Individual fuel assemblies would not have to be unloaded from the canisters once they had been loaded for the multi-purpose canister alternatives. The individual fuel assemblies would be handled only one time: during the initial loading of the canister. The most inefficient systems from this standpoint are the No-Action and the Current Technology/Rail Alternatives because individual fuel assemblies must be handled three times, once for each packaging operation.

For the dual-purpose canister system, the individual fuel assemblies would be loaded into a canister prior to storage. The canister would not need to be reopened prior to packaging the canister for transportation. It is possible that at a geologic repository the individual fuel assemblies may need to be handled in the process of packing disposal containers. However, if the canisters meet repository disposal criteria when these criteria are established, the dual-purpose canister system would be functionally equivalent to a multi-purpose canister system in that the individual fuel assemblies would be handled only once. Although handling fuel is routinely accomplished safely without impact on human health or the environment, doing it multiple times is inefficient, and incurs additional occupational radiation exposure and some risk.

With respect to regulatory and disposal criteria impacts, the only anticipated changes that may affect the selected alternative are in the area of repository disposal regulations. The Environmental Protection Agency (EPA) is expected to issue revised draft standards (40 CFR part 197) for a geologic repository in 1997. The Nuclear Regulatory Commission (NRC) plans to issue changes to its repository disposal regulations (10 CFR part 60) to establish design criteria within one year of the issue of the EPA standards.

Based on the uncertainties and far term nature of the disposal regulations, there are no discernible advantages or disadvantages associated with any of the alternatives based on potential impact of disposal regulations. No changes affecting this evaluation in the storage and transportation regulations are anticipated and all of the alternatives would meet the current regulations.

The Navy anticipates that final waste acceptance criteria for a geologic repository will not be established for at least five years. As a result there is some uncertainty in implementing a multi-purpose canister system at this time. The Navy cannot wait five years for the establishment of waste criteria plus any additional time required to develop a multi-purpose canister based on such criteria in order to meet its commitment as discussed in this Record of Decision under Legal and Regulatory Considerations. If a multi-purpose canister is not compatible with geologic repository criteria, the fuel canisters may need to be opened and the individual fuel assemblies handled and placed into acceptable disposal containers. In this event the multi-purpose canister system would essentially become a dual-purpose canister system.

The Navy also considered the direction of industry and standardization in selecting an alternative. In implementing a dry storage container system for the management of naval spent nuclear fuel, there is an advantage in utilizing a system compatible with the systems in use or planned for use by operators of reactors which commercially generate electricity. All spent nuclear fuel, commercial and naval, is destined for the same geologic repository or could be destined for the same centralized interim storage site if such a site were opened and naval spent nuclear fuel were allowed by law to be stored there. Naval spent nuclear fuel containers will represent only about one to four percent of the total number of containers that would be shipped to a repository or centralized interim storage facility. Therefore, to the extent that the most widely used systems for commercial spent nuclear fuel drive any repository design or acceptance criteria, it is considered prudent to utilize a system which is similar to the systems being used or planned for use by commercial electric utilities. Other advantages to using the same system or one similar to that which the commercial utilities have recently licensed through the NRC include prior completion of extensive technical reviews, prior completion of peer and public review, and some proven applications which may be in operation.

The majority of the new spent nuclear fuel storage systems being designed or in review by the NRC are dual-purpose systems with different overpacks for storage and transport. The 125-ton multi-purpose canister, the 75-ton multi-purpose canister, the transportable storage cask and the dual-purpose canister system were all found to reflect current industry direction. The No-Action and the Current Technology/Rail Alternatives do not.

Finally, the Navy looked at technical uncertainties and risks. There are no substantial technical uncertainties associated with the loading of naval nuclear spent fuel into dry storage containers, the storage of the containers at the INEL, or the transportation off-site

to a geologic repository. All of the alternatives assume the use of dry storage containers which will meet the storage requirements of 10 CFR part 72 and the transportation requirements of 10 CFR part 71. Several licensed systems are currently in use and other new systems are in the review cycle for NRC approval for use.

As discussed in this Record of Decision under Legal and Regulatory Considerations, the Navy must select a dry storage container system now to support completion of its commitments for dry storing naval spent nuclear fuel. Thus, the Navy cannot wait a minimum of five years anticipated for the establishment of waste criteria plus any additional time required to develop a multi-purpose canister based on such criteria. Dual-purpose canisters represent the best system given the need to make a decision now and their favorable comparison to the other alternatives considering cost, operational efficiency, industry trends, regulatory acceptance, and the other criteria discussed above.

Mitigation

The strictly controlled conduct of operations associated with the DOE and Naval Nuclear Propulsion Program spent fuel management activities are mitigation measures integral to the selected alternative. The DOE and the Naval Nuclear Propulsion Program have directives and regulations for conduct of spent nuclear fuel management operations. All government spent fuel shipments must comply with the DOE and Department of Transportation regulations. The DOE and the Navy have adopted stringent controls for minimizing occupational and public radiation exposure. The policy of these programs is to reduce radiation exposures to as low as reasonably achievable (ALARA). Singly and collectively, these measures avoid, reduce, or eliminate any potentially adverse environmental impacts from spent nuclear fuel management activities, including those associated with containerization. The Navy and the DOE have not identified a need for additional mitigation measures.

Legal and Regulatory Considerations

The Record of Decision for the DOE Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Final Environmental Impact Statement was issued on June 1, 1995 (60 FR 28680). On October 17, 1995, the federal District Court entered a Consent Order that resolved all issues related to the EIS raised by the State of Idaho and the Governor of Idaho. The Consent Order incorporated as requirements all of the terms and conditions of the parties' Settlement Agreement, including a reduction in the number of spent nuclear fuel shipments coming to the State of Idaho.

All proposed actions by the Navy will be in full compliance with the requirements of the Consent Order/settlement agreement among the State of Idaho, the U.S. Navy, and the DOE. The settlement agreement included an obligation of the Naval Nuclear Propulsion Program to fund a dry storage container loading station at ECF, expending no less than $20 million on that project by October 2000. This Record of Decision is consistent with that obligation. The settlement agreement also obligates the DOE to commence moving spent nuclear fuel currently in water pool storage into dry storage by July 1, 2003.

In addition to the Consent Order, Chapter 8 of the final EIS identifies the major applicable laws and regulations which the Department of the Navy is mandated to comply with in the fabrication and utilization of a dry storage container system for the management of naval spent nuclear fuel.

Public Involvement

On October 24, 1994, the DOE published a Notice of Intent in the Federal Register (59 FR 53442) to prepare an EIS for a multi-purpose canister system for the management of civilian spent nuclear fuel. As part of the public scoping process, the scope of the EIS for the multi-purpose canister system was broadened to include naval spent nuclear fuel. This determination was included in the Implementation Plan whose availability was announced in the Federal Register on August 30, 1995 (60 FR 45147). However, the DOE halted its proposal to fabricate and deploy a multi-purpose canister based system and ceased preparation of that EIS.

On December 7, 1995 the Department of the Navy published a notice in the Federal Register (60 FR 62828) assuming the lead responsibility for an Environmental Impact Statement evaluating dry storage container systems for the management of naval spent nuclear fuel. The Department of the Navy assumed the lead responsibility from the DOE and narrowed the focus of the EIS to include only naval spent nuclear fuel. Despite the narrowing of the focus to only naval spent nuclear fuel and the change in lead agency, the range of dry storage container alternatives being considered did not change. Thus the EIS did not require another scoping process. The DOE became a cooperating agency rather than the lead agency in the preparation of that EIS.

On May 1, 1996, the Navy distributed the Draft EIS. The Notice of Availability of the Draft EIS was announced in the Federal Register on May 14, 1996 along with the locations and dates of public hearings (61 FR 24293). The Draft EIS was widely distributed to public officials, tribal officials, and state agencies in the areas of potential interest, as well as to individuals requesting the document. The public comment period for the EIS was originally scheduled to be 45 days, but a 15-day extension was granted based on a request from the State of Nevada. During the public comment period, six public hearings were held and both written and oral comments were received. Oral and written comments were received from 51 parties, representing: federal, state, and local agencies and officials; special interest groups; and individuals.

Although no substantive changes to the Draft EIS were needed as a result of public comments, several clarifications and editorial changes were made in response to comments. For example, the Final EIS was modified to clearly state that the effect of a terrorist attack or an act of sabotage is expected to be conservatively bounded by the limiting accidents already discussed. The discussion of transportation routes used in the analysis was expanded to explain their application. In addition, the EIS was modified to enhance the reader's ability to use the results of analyses to evaluate the possibility that any of the alternatives might have a disproportionately high and adverse impact on minority or low-income populations.

A new Chapter 11 was added to the Final Environmental Impact Statement in which each comment was reprinted in its entirety, followed immediately by individual responses to each of the major points. The EPA formally announced the availability of the final EIS on November 22, 1996 (61 FR 59435). The Navy also announced the availability of the final EIS on November 22, 1996 (61 FR 59423).

Approval

This Record of Decision constitutes the Department of the Navy's final action with regard to selection of a dry storage container system for the management of post-examination naval spent nuclear fuel and naval special case low-level radioactive waste. This Record of Decision does not constitute

final action for location(s) for dry loading naval spent nuclear fuel which is currently stored at the ICPP or which will be stored at ICPP prior to establishment of a dry storage facility, or for location(s) for temporary dry storage of naval spent nuclear fuel at the INEL. Those actions will be the subject of an upcoming Record of Decision.

Issued in Washington, D.C., this 26th day of December 1996.

Richard Danzig,

Acting Secretary of the Navy.

Alvin L. Alm,

Assistant Secretary for Environmental Management U.S. Department of Energy.

[FR Doc. 97–411 Filed 1–7–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Notice of Wetlands Involvement for Environmental Remediation at Argonne National Laboratory-East

AGENCY: Chicago Operations Office, DOE.

ACTION: Notice of Wetlands Involvement.

SUMMARY: DOE proposes to conduct a Resource Conservation and Recovery Act (RCRA) corrective-action program and other environmental remediation activities at contaminated sites at Argonne National Laboratory-East (ANL–E). Two of the contaminated sites include small wetlands. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR 1022), DOE will prepare a wetlands assessment for this proposed action. The wetlands assessment will be included in the environmental assessment being prepared for the proposed project in accordance with the National Environmental Policy Act.

DATES: Comments are due to the address below no later than January 22, 1997.

ADDRESSES: Comments should be addressed to: Dr. W. S. White, NEPA Compliance Officer, U.S. Department of Energy, Chicago Operations Office, 9800 S. Cass Avenue, Argonne, IL 60439. (630) 252–2101.

FOR FURTHER INFORMATION CONTACT: Further information on this proposed action and wetlands assessment can be obtained from Donna Green, Document Manager, U.S. Department of Energy, Argonne Group, 9800 S. Cass Avenue, Argonne, IL 60439. (630) 252–2264.

SUPPLEMENTARY INFORMATION: The proposed action would involve two small palustrine emergent wetlands. One of the wetlands is 0.004 hectares (0.0016 acres); the other is 0.036 hectares (0.015 acres). Contaminant hazards at these wetlands would be reduced by excavation, containment, or phytoremediation.

Issued in Chicago, IL on December 18, 1996.

Dr. W. S. White,

NEPA Compliance Officer, Chicago Operations Office, Department of Energy.

[FR Doc. 97–392 Filed 1–7–97; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[FERC–423]

Agency Information Collection Under Review by the Office of Management and Budget

January 3, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of request submitted for review to the Office of Management and Budget.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission, as explained below. The Commission received public comments from two entities in response to an earlier Federal Register notice of August 12, 1996 (61 FR 41779) and has replied to these comments in its submission to OMB.

DATES: Comments must be filed on or before February 7, 1997.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Commission Desk Officer, 726 Jackson Place N.W., Washington, D.C. 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Division of Information Services, Attention: Mr. Michael Miller, 888 First Street N.E., Washington D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415 and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information*: FERC Form No. 423, ''Monthly Report of Cost and Quality of Fuels for Electric Plants''.

2. *Sponsor*: Federal Energy Regulatory Commission.

3. *Control No.*: 1902–0024. The Commission is now requesting that OMB approve a three year extension of these mandatory collection requirements.

4. *Necessity of Collection of Information*: Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing provisions of the Federal Power Act (FPA) as amended by the Public Utility Regulatory Policies Act (PURPA). The Commission uses the information reported on FERC Form No. 423 to conduct fuel reviews under Section 205 (a) and (e) of the FPA, and to prepare expert testimony in electric utility rate cases filed with the Commission. The Form 423 data provides the only effective means for assessing the potential impact of new developments on the future utility fuel supply patterns. The Commission's staff compare delivered fuel costs for utilities receiving like fuels of similar quality; detect consistently high cost patterns or irregularities indicative of possible uneconomic fuel purchase practices; evaluate the economic effect of unusual fuel purchases practices, such as buying fuel from affiliate fuel sources, as opposed to selecting buyers by competitive bids, and investigate a broad range of fuel costs and fuel purchase practice issues raised in contested rate proceedings.

5. *Respondent Description*: The respondent universe currently comprises approximately 230 public utilities.

6. *Estimated Burden:* 17,112 total burden hours, 228 respondents, 713 responses annually, 2.0 hours per response (average).

Statutory Authority: Section 205, of the Federal Power Act, as amended by Section 208 of the Public Utility Regulatory Policies Act. (49 Stat. 851; 16 U.S.C. 824d).

Lois D. Cashell,

Secretary.

[FR Doc. 97–376 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[FERC–714]

Agency Information Collection Under Review by the Office of Management and Budget

January 3, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of request submitted for review to the Office of Management and Budget.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission, as explained below. The Commission received public comments from three entities in response to an earlier Federal Register notice of September 9, 1996 (61 FR 47507) and has replied to these comments in its submission to OMB.

DATES: Comments must be filed on or before February 7, 1997.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Commission Desk Officer, 726 Jackson Place N.W., Washington, D.C. 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Division of Information Services, Attention: Mr. Michael Miller, 888 First Street N.E., Washington D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415 and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC Form No. 714, ''Annual Electric Control and Planning Area Report''.

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0140. The Commission is now requesting that OMB approve a three year extension on these mandatory collection requirements.

4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing provisions of the Federal Power Act (FPA). The Commission uses the information reported on FERC Form No. 714 to provide timely electric system operational data to facilitate analyses of control area practices, to examine actual electricity flows, to prepare reports on the electric utility industry or individual utilities, to monitor electric utility forecasts of loads and plans for system expansion, and to obtain a comprehensive picture of energy generation, transfers, and load distribution.

5. *Respondent Description:* The respondent universe currently comprises approximately 250 public utilities.

6. *Estimated Burden:* 12,500 total burden hours, 250 respondents, 250 responses annually, 50.0 hours per response (average).

Statutory Authority: Sections 4, 202, 203, 205, 206(b), 207, 210, 211, 212, 304(a) and 311 of the Federal Power Act, as amended (49 Stat. 838, 16 U.S.C. 791a–825r).

Lois D. Cashell,

Secretary.

[FR Doc. 97–377 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–212–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 2, 1997.

Take notice that on December 30, 1996, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Title Page

Third Revised Sheet No. 1
First Revised Sheet No. 21
Second Revised Sheet No. 251
First Revised Sheet No. 253
First Revised Sheet No. 266
First Revised Sheet No. 336
Second Revised Sheet No. 348
Fourth Revised Sheet No. 349
Third Revised Sheet No. 354
Second Revised Sheet No. 358A
First Revised Sheet No. 387
Original Sheet No. 388
Original Sheet No. 389

CNG requests a waiver of the 30-day notice requirement so that these substitute tariff sheets may become effective on December 31, 1996.

CNG states that the revised tariff sheets are submitted to comply with the regulations promulgated under Order Nos. 582 and 582–A.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

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, DC, 20426, in accordance with sections 385.214 and 385.211 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–350 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP97–213–000, RP95–366–002, and RP94–96–020]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 2, 1997.

Take notice that on December 30, 1996, CNG Transmission Corporation (CNGT), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Twenty-Fourth Revised Sheet No. 32
Twenty-Fourth Revised Sheet No. 33
Substitute Second Revised Sheet No. 361

CNGT requests an effective date of February 1, 1997, for revised Sheet Numbers 32 and 33, and an effective date of January 1, 1997, for substitute Sheet Number 361.

CNGT states that the purpose of this filing is to submit CNGT's quarterly revision of the Section 18.2.B Surcharge, effective for the three-month period commencing February 1, 1997. The charge for the quarter ending January 31 has been $0.0000 per Dt, as authorized by Commission order dated October 21, 1996, in Docket No. RP96–401. CNGT's proposed Section 18.2.B Surcharge for the next quarterly period is $0.0119 per Dt.

CNGT also submits Substitute Second Revised Sheet No. 361 to correct a language omission from the January 12, 1996, compliance filing in Docket No. RP94–96.

CNGT states that copies of this letter of transmittal and enclosures are being mailed to CNGT's customers and interested state commissions.

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 Sheet, N.E., Washington, DC, 20426, in accordance with Sections 385.214 and 385.211 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–351 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–209–000]

Columbia Gas Transmission Corporation; Notice of Filing Calculations of Excess Revenues

January 2, 1997.

Take notice that on December 27, 1996, Columbia Gas Transmission Corporation (Columbia) tendered for filing a report in order to set forth adjustments to the Excess Revenue credited to its firm transportation customers. Columbia filed its last report of Excess Revenue calculations of March 13, 1996 following termination of its Excess Revenue Crediting Mechanism pursuant to the order of the Commission in Docket No. RP95–408.

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, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protests must be filed on or before January 9, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–347 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–208–000]

Columbia Gulf Transmission Company; Notice of Filing

January 2, 1997.

Take notice that on December 27, 1995, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following report.

Pursuant to Section 34 (Crediting of Excess Revenues) of the General Terms and Conditions (GTC) of Columbia Gulf's FERC Gas Tariff, Second Revised Volume No. 1, Columbia Gulf calculated revenues applicable to Rate Schedules ITS–1 and ITS–2 (Applicable Rate Schedules) for the twelve-month period ended October 31, 1996. Based upon the calculations, the revenues generated were not sufficient to result in any Excess Revenues for crediting.

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, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before January 9, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–346 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–207–000]

Distrigas of Massachusetts Corporation; Notice of Compliance Filing

January 2, 1997.

Take notice that on December 27, 1996, Distrigas of Massachusetts Corporation (DOMAC) made a compliance filing submitting new and revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1.

DOMAC states that its filing includes revisions to bring its tariff into compliance with the newly revised Part 154 of the regulations of the Federal Energy Regulatory Commission Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs, FERC Stats. & Regs. [Regs. Preambles, 1991–1996] (CCH) 31,025 (October 11, 1995) (Order No. 582). Its filing also includes revisions that will create consistency with the Gas Industry Standards Board business practice standards, Standards For Business Practices of Interstate Natural Gas Pipelines; Order 587; Final Rule, III FERC [Regs. Preambles] (CCH) 31,038 (July 26, 1996) (Order No. 587). DOMAC states that revisions do not include changes in substantive provisions of its tariff. With respect those tariff sheets tendered pursuant to Order No. 582, DOMAC has requested waiver of applicable rules and regulations as may be necessary to permit acceptance of the tariff sheets with the effective date of December 31, 1996.

DOMAC states that copies of the filing have been served upon all of DOMAC's customers and affected state regulatory commissions.

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–345 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–214–000]

Florida Gas Transmission Company; Notice of Filing of Report of Cash-Out Activity

January 3, 1997.

Take notice that on December 31, 1996, Florida Gas Transmission

Company (FGT) tendered for filing schedules detailing certain information related to the Cash-Out mechanism from December 1, 1995 through September 30, 1996. No tariff changes are proposed therein.

FGT states that Section 19.1 of the General Terms and Conditions (GTC) of its FERC Gas Tariff provides for on Annual Report containing an accounting for of costs and revenues associated with the Cash-Out Mechanism, Fuel Recovery Mechanism and various Balancing Tools provided for in FGT's Tariff. FGT states the instant filing is made in compliance with those provisions.

FGT proposes to directly refund $1,227,048 of excess revenues to shippers identified in Schedule B to FGT's filing. FGT proposes to make these refunds within 30 days following a final Commission Order accepting the filing.

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 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 10, 1997. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–373 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–210–000]

Honeoye Storage Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 2, 1997.

Take notice that on December 30, 1996 Honeoye Storage Corporation (Honeoye) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, revised tariff sheets to be effective January 1, 1997.

Honeoye states that the purpose of the filing is to reflect a change in address and to convert Honeoye's volume 2 from a volumetric (MCF) to a thermal energy basis (MMBTU). Honeoye states that there will be no change in rates and revenues under the proposed revisions.

Honeoye requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective January 1, 1997.

Honeoye states that copies of the filing are being mailed to Honeoye's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protests with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with the Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–348 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–211–000]

K N Interstate Gas Transmission, Notice of Filing of Reconciliation Report

January 2, 1997.

Take notice that on December 30, 1996 K N Interstate Gas Transmission Co. (KNI) filed its reconciliation report in the above captioned docket. The filing relates to KNI's reporting requirement pursuant to Section 27 (Crediting of Excess Rate Schedule IT Revenue); Section 28 (Crediting of Excess Fixed Storage Cost Revenue); Section 34 (Crediting of Out of Path Zone Revenue); and Section 35 (Crediting of Imbalance Revenue) of its FERC Gas Tariff, Third Revised Volume No. 1–B and for its Buffalo Wallow system pursuant to Section 31 (Crediting of Excess Rate Schedule IT Revenue) for its FERC Gas Tariff, First Revised Volume No. 1–D. The reconciliation report addresses in conjunction with the effectiveness of the terms of KNI's tariff the reporting period October 1, 1995 through September 30, 1996 and presents the results of KNI's various revenue crediting requirements and displays the proposed disposition of any amounts to be refunded.

Any person desiring to be heard or to make any protest with reference to 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before January 9, 1997. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–349 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–164–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

January 3, 1997.

Take notice that on December 20, 1996, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP97–164–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate as a jurisdictional facility a meter station placed in service under Section 311(a) of the NGPA, under Koch's blanket certificate issued in Docket No. CP82–430–00 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.

Koch proposes to operate as a jurisdictional facility a meter station placed in service under Section 311(a) of the NGPA which will enable it to provide services to Louisiana Gas Service Company in Plaquemines Parish, Louisiana.

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. 97–371 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–6–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

January 3, 1997.

Take notice that on December 31, 1996, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Seventeenth Revised Sheet No. 5A, with a proposed effective date of January 1, 1997.

National states that under Article II, Section 1, of the approved settlement approved in Docket Nos. 94–367–000, *et al.,* National is required to recalculate semi-annually the maximum Interruptible Gathering (IG) rate to be effective on July 1 and January 1. The recalculation produced an IG rate of 11 cents per dth.

In addition, pursuant to Article I, Section 4, National is required to redetermine quarterly the Amortization Surcharge to reflect revisions in the Plant to be Amortized, interest and associated taxes, and a change in the determinants. The recalculation produced an Amortization Surcharge of 13.77 cents per dth.

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 or 385.214). All such motions or protests must be filed in accordance with 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–375 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. LP97–167–000]

Natural Gas Pipeline Company of America; Notice of Request Under Blanket Authorization

January 2, 1997.

Take notice that on December 23, 1996, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in the above docket a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authority to operate an existing delivery point located in Love County, Oklahoma, that was originally constructed as a receipt point to deliver natural gas to Texaco Exploration & Production, Inc. (Texaco), a producer; and to provide Natural Gas Act jurisdictional service, including transportation services under Subpart G of Part 284 of the Commission's Regulations at such delivery point, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural states that it can deliver up to approximately 1,000 MMBtu per day of natural gas to Texaco. Natural states that it has sufficient capacity to provide these services at the proposed delivery point without detriment or disadvantage to Natural's peak day and annual delivery capacity.

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 Rules of Practice and Procedure (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 is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–340 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–57–000]

NorAm Gas Transmission Company; Notice of Cancellation of Technical Conference

January 3, 1997.

Take notice that the technical conference originally scheduled to be held on Thursday, January 8, 1997, has been canceled until further notice. See also 61 FR 67007, Dec. 19, 1996.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–372 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–16–001]

Northern Natural Gas Company; Notice of Compliance Filing

January 2, 1997.

Take notice that on December 23, 1996, Northern Natural Gas Company (Northern) tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1. Northern asserts that the purpose of this filing is to comply with the Commission's order issued October 31, 1996, in Docket No. RP97–16–000.

Northern states that this filing is to establish the revised 1996–1997 SBA Cost Recovery surcharge rate. Therefore, Northern states that it is filing 31 Revised Sheet Nos. 50 and 51 and 6 Revised Sheet No. 53 to revise these surcharges effective January 1, 1997.

Northern states that copies of its filing were served upon the company's customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–343 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–100–001]

Northwest Pipeline Corporation; Notice of Compliance Filing

January 2, 1997.

Take notice that on December 27, 1996, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective December 27, 1996:

Second Revised Sheet No. 1
First Revised Substitute Sixth Revised Sheet No. 5–A
Substitute First Revised Third Revised Sheet No. 200
Substitute First Revised Sheet No. 212

Northwest states that this filing is being submitted to provide revised tariff sheets to comply with the Commission's December 17, 1996 Letter Order in this docket related to tariff changes previously submitted by Northwest as required by Order Nos. 581, 582, and 582–A.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–344 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

Notice of Amendment of License

January 2, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No:* 135.

c. *Date Filed:* December 26, 1996.

d. *Applicant:* Portland General Electric Company.

e. *Name of Project:* Oak Grove Project.

f. *Location:* Clackamas County, Estacada, Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. Section 791(a)–825(r).

h. *Applicant Contact:* Mr. Gary Hackett, Portland General Electric Company, 121 S.W. Salmon Street, Portland, OR 97204.

i. *FERC Contact:* Susan Tseng, (202) 219–2798.

j. *Comment Date:* February 3, 1997.

k. *Description of Project:* The licensee proposes to modify the Frog Lake embankment dam of the Oak Grove Hydroelectric Project. Frog Lake is the forebay of the powerhouse and is formed by two embankment dams. In order to control significant seepage and cracking of the reservoir bottom, the licensee proposes to reconfigure Dam B by installing a new central embankment and removing the western portion of Dam B. The new embankment would reduce Frog Lake from about 13 acres to 6 acres and reduce the storage from approximately 446 acre-feet to about 175 acre-feet.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–341 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3195–068 California]

Sayles Hydro Associates; Notice of Availability of Draft Environmental Assessment

January 2, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order 486, 52 FR 47897), the Commission's Office of Hydropower Licensing has reviewed an application to surrender the license for the Sayles Flat Hydroelectric Project, No. 3195–068. The Sayles Flat Project is located on the South Fork American River in El Dorado County, California. A Draft Environmental Assessment (DEA) was prepared for the surrender request. The DEA finds that approving the plan would not constitute a major federal action significantly affecting the quality of the human environment.

The DEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA can be viewed in the Public Reference Branch, Room 1C–1, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Please submit any comments within 40 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please affix Project No. 3195–068 to all comments. For further information, please contact the project manager, Ms. Rebecca Martin, at (202) 219–2650.

Lois D. Cashell,

Secretary.

[FR Doc. 97–342 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–162–000]

Southern Natural Gas Company; Notice of Request Under Blanket Authorization

January 2, 1997.

Take notice that on December 19, 1996, Southern Natural Gas Company (Southern), 1900 Fifth Avenue North, Birmingham, Alabama 35203, filed in Docket No. CP97–162–000 a request pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216(b)) for authorization to abandon by retiring and dismantling the Berry Meter Station (Berry M.S.), located in Tuscaloosa County, Alabama, under the blanket certificate issued in Docket No. CP82–406–000, pursuant to Section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern states that the Berry M.S. was constructed and installed pursuant to a certificate issued in Docket No. CP69–24, by order dated November 11, 1968. Southern notes that the Berry M.S. was utilized to provide natural gas service to the Gas Board of the Town of Berry (Berry). Berry's sales service agreement with Southern expired on October 1, 1992. Southern notes that effective November 1, 1993, it abandoned its existing sales service to Berry pursuant to the terms of Commission Order No. 636 in Docket No. RS92–10. Southern asserts that since that time, it has not provided any natural gas service to Berry, and Berry disconnected its distribution facilities from Southern's measurement facilities. Southern Claims that at the time the sales service was abandoned, it proposed to leave the measurement facilities in place in the event Berry desired to receive transportation service from Southern. Southern states that no transportation service has been requested, and the station has been out of service since October 15, 1993. According to Southern, Berry has confirmed that it no longer desires natural gas service from Southern and that it has other natural gas suppliers. Southern states that Berry does not object to the abandonment of the facilities.

Southern seeks authorization to abandon the Berry M.S. by retiring and dismantling all of the above-ground facilities, including the meter runs, pipeline, valves, building, and fence. Southern alleges that the abandonment will decrease maintenance costs for Southern. Southern contends that the abandonment will not result in any termination of an existing service. Southern states that the proposed abandonment is not prohibited by any of its existing tariff.

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–339 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–2–17–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 3, 1997.

Take notice that on December 31, 1996 Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets listed on Appendix A to the filing to become effective February 1, 1997.

Texas Eastern states that these revised tariff sheets are filed pursuant to Section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern states that Section 15.1 provides that Texas Eastern shall file to be effective each February 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers and to also reflect the EPC Surcharge which is designed to clear the balance in the Deferred EPC Account.

Texas Eastern states that these revised tariff sheets are being filed to reflect a small increase in Texas Eastern's EPC Adjustment effective February 1, 1997. Texas Eastern states that the primary cause of the rate change is attributable to the lower negative balance of the Deferred EPC Account as of October 31, 1996 as compared to the negative balance of the Deferred EPC account as of October 31, 1995. Texas Eastern states that it has utilized its latest actual twelve months of electric power costs and its latest actual twelve months service quantities as its projections for the future period. Texas Eastern states that the impact of this EPC filing on rates at February 1, 1997 for typical long haul service under Rate Schedule FT–1 from Access Area Zone East Louisiana to Market Zone 3 (ELA–M3) equates to an overall increase of $0.0076/dth of which $0.0040/dth impacts the reservation component of rates and $0.0036/dth impacts the usage component.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern and current interruptible shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 97–374 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–161–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

January 2, 1997.

Take notice that on December 19, 1996, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa Oklahoma 74101, filed in the above docket, a request pursuant to Sections 157.205 157.212(a) and 157.216(b) of the Commission's Regulations under the Natural Gas Act for authorization to relocate and replace the Kansas Gas & Electric Burden town border meter setting and appurtenant facilities,

located in Cowley County, Kansas, under the authorization issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that the projected volume of delivery through the relocated facilities will remain unchanged. The total project cost is estimated to be $23,780.

WNG states that this change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified 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 Rules of Practice and Procedure (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 is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–338 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC97–10–000, et al.]

Consolidated Edison Company of New York, Inc., et al.; Electric Rate and Corporate Regulation Filings

December 31, 1996.

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

1. Consolidated Edison Company of New York, Inc.

[Docket No. EC97–10–000]

Take notice that on December 23, 1996, Consolidated Edison Company of New York, Inc. (Con Edison) submitted an application pursuant to Section 203 of the Federal Power Act for authority to carry out a ''disposition of facilities'' that would be deemed to occur as the result of a proposed corporate reorganization that would create a holding company. The proposed reorganization is described more fully in the application, which is on file with the Commission and open to public inspection.

The application states that Con Edison would become a subsidiary of the proposed holding company. It also states that the proposed holding company structure is intended to be a response to the New York Public Service Commission requirements in its ''competitive opportunities'' proceeding. It further states that the purposes of the proposed transaction are to better position Con Edison for industry restructuring, to increase financial flexibility and to better insulate utility customers from the risks of non-utility ventures. The application declares that the proposed Transaction will not affect jurisdictional facilities, rates or services.

Comment date: January 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Nantahala Power & Light Company

[Docket No. ER96–1484–001]

Take notice that on December 13, 1996, Nantahala Power & Light Company tendered for filing its refund report in the above-referenced docket.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Anoka Electric Cooperative

[Docket No. ER96–2387–000]

Take notice that on December 20, 1996, Anoka Electric Cooperative (Anoka) submitted for filing an amendment to its filing in this docket.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Wholesale Power Services, Inc.

[Docket Nos. ER96–2504–001 and ER96–2506–001]

Take notice that on December 2, 1996, Wholesale Power Services, Inc. tendered for filing its compliance filing in the above-referenced dockets.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER97–300–000]

Take notice that on December 20, 1996, New England Power Company tendered for filing an amendment to its filing in this docket.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Pennsylvania Power & Light

[Docket No. ER97–484–000]

Take notice that on December 23, 1996, Pennsylvania Power & Light Company (PP&L) filed a Service Agreement, dated December 20, 1996, with PP&L for non-firm point-to-point transmission service under PP&L's Open Access Transmission Tariff (the Tariff). The Service Agreement adds PP&L as an eligible customer under its own Tariff.

PP&L requests an effective date of July 9, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to the Pennsylvania Public Service Commission.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Minnesota Power & Light Company

[Docket No. ER97–814–000]

Take notice that on December 16, 1996, Minnesota Power & Light Company (MP), tendered for filing Supplement No. 6 to its Electric Service Agreement with the City of Keewatin, Minnesota (Keewatin). MP requests an effective date of sixty days from the filing date. MP states that the amendment extends the terms of the Agreement to December 31, 2011.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power & Light Company

[Docket No. ER97–815–000]

Take notice that on December 16, 1996, Florida Power & Light Company (FPL), filed the Contract for purchases and Sales of Power and Energy between FPL and National Gas & Electric L.P. FPL requests an effective date of December 20, 1996.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power & Light Company

[Docket No. ER97–816–000]

Take notice that on December 16, 1996, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with AES Power, Inc. for Firm Short-Term transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on July 9, 1996.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Southern Indiana Gas and Electric Company

[Docket No. ER97–817–000]

Take notice that on December 16, 1996, Southern Indiana Gas and Electric Company (SIGECO), submitted for filing a Notice of Cancellation of the following interchange agreements.

LG&E Power Marketing, Inc., Enron Power Marketing, Inc., AES Power, Inc., Louis Dreyfus Electric Power, Inc., InterCoast Power Marketing Company, Heartland Energy Services, Inc., Catex Vitol Electric, L.L.C., Electric Clearinghouse, Inc., Rainbow Energy Marketing Corp., Industrial Energy Applications, Inc., Koch Power Services, Inc.

[Rate Schedule No. 46, Rate Schedule No. 47, Rate Schedule No. 48, Rate Schedule No. 49, Rate Schedule No. 50, Rate Schedule No. 51, Rate Schedule No. 52, Rate Schedule No. 53, Rate Schedule No. 54, Rate Schedule No. 55, Rate Schedule No. 56]

Copies of this filing have been served upon each of the parties to the agreements.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Electric and Gas Company

[Docket No. ER97–818–000]

Take notice that on December 16, 1996, Public Service Electric and Gas Company (PSE&G), tendered for filing agreements to provide non-firm transmission service to MidCon Power Services Corp. and The Power Company of America, L.P., pursuant to PSE&G's Open Access Transmission Tariff presently on file with the Commission in Docket No. OA96–80–000.

PSE&G further requests waiver of the Commission's Regulations such that the agreements can be made effective as of December 13, 1996.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Duke Power Company

[Docket No. ER97–819–000]

Take notice that on December 16, 1996, Duke Power Company tendered for filing copies of estimated billing information for calendar year 1997 to which the Southwestern Power Administration will be billed by Duke Power Company under Article II of the Settlement in Docket No. ER90–315–000.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. New York State Electric & Gas Corporation

[Docket No. ER97–820–000]

Take notice that on December 16, 1996, New York State Electric & Gas Corporation (NYSEG), filed Service Agreements between NYSEG and Delmarva Power & Light Company, Engelhard Power Marketing, Inc., Plum Street Energy Marketing, Inc., and The Power Company of America, L.P. (Customers). These Service Agreements specify that the Customers have agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed on July 9, 1996 in Docket No. OA96–195–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of December 17, 1996 for the Service Agreements. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customers.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Interstate Power Company

[Docket No. ER97–821–000]

Take notice that on December 17, 1996, Interstate Power Company, tendered for filing a Notice of Cancellation of its Rate Schedule FERC No. 146.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Pennsylvania Power & Light Company

[Docket No. ER97–822–000]

Take notice that on December 17, 1996, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated November 26, 1996, with PanEnergy Trading and Marketing Services, L.L.C. (PanEnergy) for non-firm point-to-point transmission service under PP&L's Open Access Transmission Tariff. The Service Agreement adds PanEnergy as an eligible customer under the Tariff.

PP&L requests an effective date of December 17, 1996 for the Service Agreement.

PP&L states that copies of this filing have been supplied to PanEnergy and to the Pennsylvania Public Utility Commission.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Company

[Docket No. ER97–823–000]

Take notice that on December 17, 1996, New England Power Company, filed a Service Agreement with Freedom Energy Company, L.L.C. under NEP's FERC Electric Tariff, Original Volume No. 5.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. New England Power Company

[Docket No. ER97–824–000]

Take notice that on December 17, 1996, New England Power Company filed a Service Agreement with Consolidated Edison Company of New York, Inc., under NEP's FERC Electric Tariff, Original Volume No. 5.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. New England Power Company

[Docket No. ER97–825–000]

Take notice that on December 17, 1996, New England Power Company, filed a Service Agreement with Cinergy Services, Inc. under NEP's FERC Electric Tariff, Original Volume No. 5.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. New England Power Company

[Docket No. ER97–826–000]

Take notice that on December 17, 1996, New England Power Company, filed a Service Agreement with Consolidated Edison Company of New York, Inc., under NEP's FERC Electrict Tariff, Original Volume No. 5.

Comment date: January 14, 1997, in accordance with Stardard Paragraph E at the end of this notice.

20. Pennsylvania Power & Light Company

[Docket No. ER97–827–000]

Take notice that on December 17, 1996, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated November 29, 1996, with AYP Energy, Inc. (AYP) for non-firm point-to-point transmission service under PP&L's Open Access Transmission Tariff. The Service Agreement adds AYP as an eligible customer under the Tariff.

PP&L requests an effective date of December 17, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to AYP and to the Pennsylvania Public Utility Commission.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Resource Energy Services Company, LLC

[Docket No. ER97–828–000]

Take notice that on December 17, 1996, Resource Energy Services Company, LLC (Resource Energy), petitioned the Commission for (1) blanket authorization to sell electricity at market-based rates; (2) acceptance of Resource Energy's Rate Schedule FERC No. 1; (3) waiver of certain Commission Regulations; and (4) such other waivers and authorizations as have been granted to other power marketers, all as more fully set forth in Resource Energy's petition on file with the Commission. Resource Energy has requested expedited action on its petition.

Resource Energy states that it intends to engage in electric power transactions as a broker and as a marketer. In transactions where Resource Energy acts as a marketer, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with purchasing parties.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–829–000]

Take notice that on December 17, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Northeast Utilities Service Company (NEU).

Con Edison states that a copy of this filing has been served by mail upon NEU.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–830–000]

Take notice that on December 17, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Noram Energy Services, Inc. (NES).

Con Edison states that a copy of this filing has been served by mail upon Noram.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. UtiliCorp United Inc.

[Docket No. ER97–831–000]

Take notice that on December 17, 1996, UtiliCorp United Inc. (UtiliCorp), filed a service agreement with PanEnergy Trading and Market Services for service under its non-firm point-to-point open access service tariff for its operating division, WestPlains Energy-Colorado.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Pennsylvania Power & Light Company

[Docket No. ER97–832–000]

Take notice that on December 17, 1996, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated December 12, 1996, with WPS Energy Services, Inc. (WPS) for non-firm point-to-point transmission service under PP&L's Open Access Transmission Tariff. The Service Agreement adds WPS as an eligible customer under the Tariff.

PP&L requests an effective date of December 17, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to WPS and to the Pennsylvania Public Utility Commission.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Pennsylvania Power & Light Company

[Docket No. ER97–833–000]

Take notice that on December 17, 1996, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated December 5, 1996, with TransCanada Power Corp. (TransCanada) for non-firm point-to-point transmission service under PP&L's Open Access Transmission Tariff. The Service Agreement adds TransCanada as an eligible customer under the Tariff.

PP&L requests an effective date of December 17, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to TransCanada and to the Pennsylvania Public Utility Commission.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Central Maine Power Company

[Docket No. ER97–834–000]

Take notice that on December 17, 1996, Central Maine Power Company (CMP), tendered for filing a service agreement for sale of capacity and/or energy entered into with Southern Energy Marketing, Inc. Service will be provided pursuant to CMP's Power Sales Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 2, as supplemented.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Central Maine Power Company

[Docket No. ER97–835–000]

Take notice that on December 17, 1996, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Plum Street Energy Marketing, Inc. Service will be provided pursuant to CMP's Power Sales Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 2, as supplemented.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–836–000]

Take notice that on December 17, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Aquila Power Corporation (Aquila).

Con Edison states that a copy of this filing has been served by mail upon Aquila.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. El Paso Electric Company

[Docket No. ER97–846–000]

Take notice that on December 18, 1996, El Paso Electric Company tendered for filing Supplement No. 3 to Rate Schedule FERC No. 80, the Long Term Firm Transmission Service Agreement between EPE and Plains Electric Generation and Transmission Cooperative, Inc.

Comment date: January 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Central Minnesota Municipal Power Agency

[Docket No. OA97–90–000]

Take notice that on December 16, 1996, Central Minnesota Municipal Power Agency and its members cities of Delano, Glencoe, Janesville, Kenyon, Lake Crystal, Mountain Lake and Truman, Minnesota tendered for filing a request for waiver of separation of functions requirement.

Comment date: January 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Minnesota Power & Light Company

[Docket No. OA97–91–000]

Take notice that on December 16, 1996, for the purpose of clarifying the unbundling of its wholesale generation, transmission, and ancillary services rates pursuant to the Commission's Order No. 888 for transactions under its Wholesale Coordination Sales Tariff, WCS–2, Docket No. ER95–1823–000, as FERC Electric Tariff Original Volume No. 5, Original Sheets 1–4, Minnesota Power & Light Company (Company) filed revised Sheet Nos. 2 and 3 to the WCS–2 tariff for the information of, and, to the extent required under 18 CFR 35.28(c)(2)(ii), section 206 of the Federal Power Act, other applicable law and regulation, compliance with the Commission's Order No. 888.

Comment date: January 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Minnesota Power & Light Company

[Docket No. OA97–92–000]

Take notice that on December 16, 1996, for the purpose of unbundling its wholesale rates pursuant to Order No. 888, Minnesota Power & Light Company filed Exhibit B (Unbundled Power Sale Rate Information, Pages 1–4) as an addendum to Supplement No. 4 to the Electric Service Agreement between Minnesota Power & Light Company and the City of Buhl, Minnesota, Docket No. ER96–3007–000 modifying Rate Schedule FERC No. 121, (Buhl Supplement) to the extent required under 18 CFR 35.28(c)(2)(ii), section 206 of the Federal Power Act, other applicable law and regulation. The Company also requested that the Commission accept the Buhl Supplement for filing previously submitted in Docket No. ER96–3007–000 supplemented with this rate unbundling information.

Comment date: January 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Inland Power & Light Company

[Docket No. OA97–94–000]

Take notice that on December 17, 1996, Inland Power & Light Company tendered for filing an Application for Waiver of Reciprocity Requirement, in accordance with Section 35.28(e)(2) of the Rules of the Federal Energy Regulatory Commission (18 CFR 35.28(e)(2)), or in the Alternative, Application for Waiver of Requirements of Order Nos. 888 and 889, in accordance with Section 35.28(d) of the Rules of the Commission, 18 CFR 35.28(d), as more fully set forth in the Application which is on file with the Commission and open to public inspection.

Comment date: January 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Cinergy Services, Inc.

[Docket No. OA97–95–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 18, 1996, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), modifications to the Interchange Agreement between Cinergy and The Power Company of America, L.P.

The modifications are being made to comply with the unbundling requirement for coordination contracts contained in the Commission's Order No. 888 by the December 31, 1996 deadline.

Cinergy has requested an effective date of January 1, 1997.

Copies of the filing were served on The Power Company of America, L.P., the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: January 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. Cinergy Services, Inc.

[Docket No. OA97–96–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 18, 1996, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), modifications to the Interchange Agreement between Cinergy and Coral Power, L.L.C.

The modifications are being made to comply with the unbundling requirement for coordination contracts contained in the Commission's Order No. 888 by the December 31, 1996 deadline.

Cinergy has requested an effective date of January 1, 1997.

Copies of the filing were served on Coral Power, L.L.C., the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: January 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. Atlantic City Electric Company

[Docket No. OA97–97–000]

Take notice that on December 18, 1996, Atlantic City Electric Company tendered for filing Standards of Conduct pursuant to Order No. 889.

Comment date: January 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

38. Vermont Electric Power Company, Inc.

[Docket No. OA97–98–000]

Take notice that on December 18, 1996, Vermont Electric Power Company, Inc. (VELCO), on behalf of itself and other transmitting utilities in the state of Vermont, submitted for filing pursuant to Section 35.28(d) of the Commission's Regulations, as amended by Order No. 888, *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities,* FERC Stats. & Regs. ¶ 31,036 (1996), an application for limited waiver of certain obligations relating to the operation of an Open Access Same-Time Information System (OASIS) under Order No. 889, *Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct,* FERC Stats. & Regs. ¶ 31,035 (1996).

VELCO states that it has served a copy of its compliance filing on each of the Vermont distribution utilities served by VELCO, the Vermont Department of Public Service, and the Vermont Public Utility Board.

Comment date: January 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

39. Montana-Dakota Utilities Company

[Docket No. OA97–99–000]

Take notice that on December 19, 1996, Montana-Dakota Utilities Company tendered for filing a request for waiver of Order 889 to the Standards of Conduct.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

40. Cinergy Services, Inc.

[Docket No. OA97–100–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 19, 1996, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), modifications to the Interchange Agreement between PSI and Big Rivers Electric Corporation.

The modifications are being made to comply with the unbundling requirement for coordination contracts contained in the Commission's Order

No. 888 by the December 31, 1996 deadline.

Cinergy has requested an effective date of January 1, 1997.

Copies of the filing were served on Big Rivers Electric Corporation, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

41. Cinergy Services, Inc.

[Docket No. OA97–101–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 19, 1996, tendered for filing on behalf of its operating companies, the Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), modifications to the Interconnection Agreement between PSI and Central Illinois Public Service Company.

The modifications are being made to comply with the unbundling requirement for coordination contracts contained in the Commission's Order NO. 888 by the December 31, 1996 deadline.

Cinergy has requested an effective date of January 1, 1997.

Copies of the filing were served on Central Illinois Public Service Company, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

42. Cinergy Services, Inc.

[Docket No. OA97–102–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 19, 1996, tendered for filing, on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), modifications to the Interconnection Agreement between PSI and Northern Indiana Public Service Company.

The modifications are being made to comply with the unbundling requirement for coordination contracts contained in the Commission's Order No. 888 by the December 31, 1996 deadline.

Cinergy has requested an effective date of January 1, 1997.

Copies of the filing were served on Northern Indiana Public Service Company, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

43. Cinergy Services, Inc.

[Docket No. OA97–103–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 19, 1996, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), modifications to the Interconnection Agreement between PSI and Indiana Michigan Power Company.

The modications are being made to comply with the unbundling requirement for coordination contracts contained in the Commission's Order No. 888 by the December 31, 1996 deadline.

Cinergy has requested an effective date of January 1, 1997.

Copies of the filing were served on Indiana Michigan Public Service Company, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

44. Cinergy Services, Inc.

[Docket No. OA97–104–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 19, 1996, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), modifications to the Interchange Agreement between PSI and American Municipal Power—Ohio, Inc.

The modifications are being made to comply with the unbundling requirement for coordination contracts contained in the Commission's Order No. 888 by the December 31, 1996 deadline.

Cinergy has requested an effective date of January 1, 1997.

Copies of the filing were served on American Municipal Power—Ohio, Inc., the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

45. Carolina Power & Light Company

[Docket No. OA97–105–000]

Take notice that Carolina Power & Light Company) on December 19, 1996, tendered for filing written procedures implementing Order No. 889 Standards of Conduct.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

46. Cinergy Services, Inc.

[Docket No. OA97–106–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 19, 1996, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), modifications to the Electric Agreement between PSI and Tennessee Valley Authority.

The modifications are being made to comply with the unbundling requirement for coordination contracts contained in the Commission's Order No. 888 by the December 31, 1996 deadline.

Cinergy has requested an effective date of January 1, 1997.

Copies of the filing were served on Tennessee Valley Authority, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–337 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER97–326–000, et al.]

West Texas Utilities Company, et al.; Electric Rate and Corporate Regulation Filings

January 2, 1997.

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

1. West Texas Utilities Company

[Docket No. ER97–326–000]

Take notice that on December 27, 1996, West Texas Utilities Company tendered for filing an amendment in the above-referenced docket.

Comment date: January 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Company

[Docket No. ER97–632–000]

Take notice that on December 12, 1996, New England Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: January 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. IGM, Inc.

[Docket No. ER97–742–000]

Take notice that on December 10, 1996, IGM, Inc., tendered for filing a Notice of Cancellation of FERC Electric Rate Schedule No. 1.

Comment date: January 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Electric & Gas Company

[Docket No. ER97–837–000]

Take notice that on December 17, 1996, Public Service Electric & Gas Company (PSE&G), tendered for filing an application for authorization to sell electric capacity and energy at market-based rates.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

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

[Docket No. ER97–838–000]

Take notice that on December 17, 1996, Public Service Company of Oklahoma, Southwestern Electric Power Company, Central Power and Light Company and West Texas Utilities Company (collectively, the CSW Operating Companies), tendered for filing service agreements under which they will provide transmission service to Sonat Power Marketing L.P. (Sonat) and Vitol Gas & Electric L.L.C. (Vitol) under their point-to-point transmission service tariffs. The December 17, 1996 filing also includes a Notice of Cancellation of Service Agreements that terminates obsolete service agreements. The CSW Operating Companies request that the filing be accepted to become effective as of December 3, 1996.

The CSW Operating Companies state that a copy of the filing has been served on Sonat and Vitol.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. PacifiCorp

[Docket No. ER97–839–000]

Take notice that on December 17, 1996, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Construction Agreement dated November 11, 1996 (Agreement) between PacifiCorp and Eugene Water & Electric Board (EWEB).

PacifiCorp requests that a waiver of prior notice be granted and that an effective date of one day after the date the Commission receives this filing be assigned to the Agreement.

Copies of this filing were supplied to EWEB, the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (53) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Great Bay Power Corporation

[Docket No. ER97–840–000]

Take notice that on December 17, 1996, Great Bay Power Corporation (Great Bay), tendered for filing a service agreement between Commonwealth Electric Company and Great Bay for service under Great Bay's revised Tariff for Short Term Sales. This tariff was accepted for filing by the Commission on May 17, 1996, in Docket No. ER96–726–000. The revised form of service agreement is proposed to be effective December 15, 1996.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. NESI Power Marketing, Inc.

Docket No. ER97–841–000

Take notice that on December 17, 1996, NESI Power Marketing, Inc. (NESI PM), filed its Rate Schedule providing for wholesale sales of power and energy by NESI PM to eligible purchasers at agreed upon rates.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Portland General Electric Company

[Docket No. ER97–842–000]

Take notice that on December 18, 1996, Portland General Electric Company (PGE), tendered for filing under FERC Electric tariff, First Revised Volume No. 2, an executed Service Agreement with Amoco Energy Trading Corporation.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement to become effective December 1, 1996.

A copy of this filing was caused to be served upon Amoco Energy Trading as noted in the filing letter.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Illinois Power Company

[Docket No. ER97–843–000]

Take notice that on December 18, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which American Electric Power Service Corporation, as agent for AEP Companies, will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of December 9, 1996.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. UtiliCorp United Inc.

[Docket No. ER97–844–000]

Take notice that on December 18, 1996, UtiliCorp United Inc. (UtiliCorp) filed service agreements with CNG Power Services for service under its non-firm point-to-point open access service tariff for its operating divisions, Missouri Public Service and WestPlains Energy-Kansas.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. National Gas & Electric L.P.

[Docket No. ER97–845–000]

Take notice that on December 17, 1996, National Gas & Electric L.P. (NG&E), tendered for filing with the Federal Energy Regulatory Commission service agreements with Western Area Power Administration, dated November 20, 1996, and Southwestern Power Administration, dated November 26,

1996. Under the tendered service agreements, NG&E and Western Area Power Administration agree to contracts enabling the sale and transmission of nonfirm electric service; and NG&E and Southwestern Power Administration agree to a contract to enable the transmission of non-Federal power on an interruptible basis. NG&E requests an effective date of November 20, 1996, for the Western Area Power Administration service agreements, and December 1, 1996 for the Southwestern Area Power Administration service agreement.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Virginia Electric and Power Company

[Docket No. ER97–847–000]

Take notice that on December 18, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between AYP Energy, Inc. and Virginia Power under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement Virginia Power will provide non-firm point-to-point service to AYP Energy, Inc. as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Pennsylvania Power & Light Company

[Docket No. ER97–848–000]

Take notice that on December 18, 1996, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated December 10, 1996 with WPS Energy Services, Inc. (WPS) under PP&L's FERC Electric Tariff, Original Volume No. 1. The Service Agreement adds WPS as an eligible customer under the Tariff.

PP&L requests an effective date of December 18, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to WPS and to the Pennsylvania Public Utility Commission.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. The Dayton Power and Light Company

[Docket No. ER97–849–000]

Take notice that on December 18, 1996, The Dayton Power and Light Company (Dayton), submitted service agreements establishing Heartland Energy Services, Inc. as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon Heartland Energy Services, Inc., and the Public Utilities Commission of Ohio.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Central Maine Power Company

[Docket No. ER97–850–000]

Take notice that on December 18, 1996, Central Maine Power Company (CMP), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with Northeast Utilities Service Company. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. H.Q. Energy Services (US) Inc.

[Docket No. ER97–851–000]

Take notice that on December 19, 1996, H.Q. Energy Services (US) Inc., (HQUS), tendered for filing a petition for an order accepting its proposed FERC Electric Rate Schedule No. 1, authorizing market-based rates, and granting waivers of certain Commission Regulations and granting certain blanket approvals. HQUS has requested that its rate schedule be accepted for filing and allowed to become effective as of the date of filing. HQUS intends to engage in transactions in which it will sell electric power at rates and on terms and conditions negotiated with the purchaser.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Ontario Hydro Interconnected Markets Inc.

[Docket No. ER97–852–000]

Take notice that on December 18, 1996, Ontario Hydro Interconnected Markets Inc. (OHIM), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective at the earliest possible time, but no later than 60 days from the date of its filing.

OHIM intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where OHIM sells electric energy, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party. As outlined in the petition, OHIM is an affiliate of Ontario Hydro, an integrated electric utility serving customers in Ontario, Canada.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Delmarva Power & Light Company

[Docket No. ER97–853–000]

Take notice that on December 19, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing executed umbrella service agreements with Aquila Power Corporation, Baltimore Gas & Electric Company, Coral Power, L.L.C., Enron Power Marketing, Inc., Niagara Mohawk Power Corporation, Plum Street Energy Marketing, USGen Power Services, L.P., and Virginia Electric & Power Company under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed by Delmarva in Docket No. ER96–2571–000.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Louisville Gas and Electric Company

[Docket No. ER97–854–000]

Take notice that on December 17, 1996, Louisville Gas and Electric Company tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Cinergy under Rate GSS.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. New England Power Company

[Docket No. ER97–855–000]

Take notice that on December 19, 1996, New England Power Company (NEP), filed a Security Analysis Services Agreement and the REMVEC II Agreement. The REMVEC II Agreement establishes REMVEC II, an organization that will operate as a satellite of the New England Power Exchange. Under the Security Analysis Services Agreement, NEP will provide security

analysis services to the REMVEC II participants.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Montaup Electric Company

[Docket No. ER97–856–000]

Take notice that on December 19, 1996, Montaup Electric Company (Montaup), requested waiver of § 35.14 of the Commission's Regulations in order to flow through the wholesale fuel adjustment clause as a credit $88,052 in proceeds received by it from the Environmental Protection Agency (EPA) from the sale of Clean Air Act emissions allowances in 1994 and 1995. Montaup requests that it be allowed to flow through those proceeds by deducting that amount from current period fuel costs in determining the fuel adjustment as applied to service in the first month after this request for waiver is granted. This request is made upon the recommendation of the Office of Chief Accountant in a draft audit report.

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Arizona Public Service Company

[Docket No. ER97–857–000]

Take notice that on December 19, 1996, Arizona Public Service Company (APS), tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service to the United States Department of Interior, Bureau of Indian Affairs, Colorado River Agency (the Agency) under APS' Open Access Transmission Tariff filed in Compliance with FERC Order No. 888.

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

Comment date: January 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–379 Filed 1–7–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5674–3]

Access to Confidential Business Information by Booz, Allen & Hamilton

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA is authorizing Booz, Allen & Hamilton of McLean, VA and its team subcontractor PRC–EMI, of McLean, VA access to information which has been submitted to EPA under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Some of this information may be claimed or determined to be Confidential Business Information.

DATES: EPA will begin transferring data to Booz, Allen & Hamilton and its team subcontractor PRC–EMI five working days from the date of this notice.

ADDRESSES: Send or deliver written comments to Charles Young, Superfund Accounting Branch, Financial Management Division, Office of the Comptroller (3303F), Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William Cooke, Chief, Superfund Accounting Branch (3303F), Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. Telephone (202) 260–9268.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–W4–0010 Booz, Allen & Hamilton and its team subcontractor PRC–EMI will provide support services and resources to the Environmental Protection Agency to (1) develop an intergrated system to perform on-screen reconciliation of documented expenditures from the accounting systems to the electronic images that support the expenditures and (2) perform other administrative functions in support of CERCLA in the Research Triangle Park, NC which includes, but is not limited to, indexing and scanning of documents into the Superfund Cost Recovery Imaging Processing System (SCRIPS); data preparation for data entry; data entry into local PC applications; document retrieval and quality assurance review.

In providing this support, Booz, Allen & Hamilton and PRC–EMI employees will have access to Agency documents for the purpose of document processing, filing, abstracting, analyzing, inventorying, retrieving, tracking and more. The documents to which Booz, Allen & Hamilton will have access potentially include all financial documents submitted under CERCLA. Some of these documents may contain information which may be claimed or determined to be CBI.

Pursuant to EPA regulations at 40 CFR Part 2, Subpart B, EPA has determined that Booz, Allen & Hamilton and PRC–EMI requires access to Confidential Business Information to provide the support and services required under the contract. These regulations provide for five working days notice before contractors are given CBI.

Booz, Allen & Hamilton and PRC–EMI will be required by contract to protect confidential information. These documents are maintained in EPA office and file space.

Dated: December 20, 1996.

Kathryn S. Schmall,

Acting Chief Financial Officer.

[FR Doc. 97–412 Filed 1–7–97; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–00205; FRL–5581–8]

Notice of Availability of FY 1997 Multimedia Environmental Justice Through Pollution Prevention Grant Funds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is soliciting grant proposals under the Environmental Justice Through Pollution Prevention (EJP2) grant program. EPA anticipates that $4.2 million will be available in Fiscal Year 1997. The purpose of this program is to support pollution prevention approaches that address environmental justice concerns in affected communities. The grant funds will support (1) local environmental, environmental justice, community grass-roots organizations, as well as tribal governments that promote environmental justice using pollution prevention as the preferred approach, and (2) national and regional organizations who will, in partnership with local environmental, environmental justice, community grass-roots organizations, as well as tribal governments, promote environmental justice using pollution prevention as the preferred approach.

DATES: All applications must be received by EPA's contractor, ERG, located in Arlington, Virginia, by April 15, 1997.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the EJP2 grant program guidance and application package, or to obtain more information regarding the EJP2 grant program, please contact Chen Wen at (703) 841–0483. A complete electronic copy of the EJP2 grant program guidance and application package is also available on the EPA Homepage on the Internet. The EJP2 grant program guidance and application package is located at: http:/ www.epa.gov/opptintr/ejp2

SUPPLEMENTARY INFORMATION:

I. Scope and Purpose of the EJP2 Grant Program

The purpose of the FY 1997 EJP2 grant program is to support the use of pollution prevention approaches to address the environmental problems of minority communities and/or low-income communities. This grant program is designed to fund projects which have a direct impact on affected communities. Funds awarded must be used to support pollution prevention programs in minority and/or low-income communities. The Agency strongly encourages cooperative efforts between communities, business, industry, and government to address common pollution prevention goals. Projects funded under this grant may involve public education, training, demonstration projects, public-private partnerships, or approaches to develop, evaluate, and demonstrate non-regulatory strategies and technologies.

II. Definition of Environmental Justice and Pollution Prevention

Environmental justice is defined by EPA as the fair treatment of people of all races, cultures, and incomes with respect to the development, implementation, and enforcement of environmental laws, regulations, programs, and policies. Fair treatment means that no racial, ethnic, or social economic group should bear a disproportionate share of the negative environmental consequences resulting from the operation of industrial, municipal, and commercial enterprises, and from the execution of federal, state, local, and tribal programs and policies.

The Pollution Prevention Act of 1990 establishes a hierarchy of environmental preferences. These practices include, in order of preference:

- Pollution prevention
- Recycling
- Treatment
- Disposal

Pollution prevention means source reduction. That is, any practice that reduces or eliminates any pollutant at the source of generation prior to recycling, treatment, or disposal. Pollution prevention also includes practices that reduce or eliminate the creation of pollutants through:

Increased efficiency in the use of raw materials, energy, water, or other resources; and

Protection of natural resources by conservation.

This grant program is focused on using the top of the hierarchy--pollution prevention--to bring about better environmental protection.

III. Eligibility

Any affected, non-profit community organizations with section 501(c)(3) or section 501(c)(4)[1] IRS tax status, or state and federally recognized tribal organizations may submit an application upon the publication of this solicitation. ''Non-profit organization'' is defined as any corporation, trust, association, cooperative, or other organizations that is:

(1) Operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest.

(2) Not organized primarily for profit.

(3) Uses its net proceeds to maintain, improve, and/or expand its operations. While state and local governments and academic institutions are also eligible to receive grants, preference will be given to private, non-profit, community-based/grassroots organizations, and state and federally recognized tribal organizations. Organizations must be incorporated by April 15, 1997, in order to be eligible to receive funds. Private businesses, federal agencies, and individuals are ineligible for this grant. Organizations excluded from applying directly, as well as those inexperienced in grant-writing, are encouraged to develop partnerships and prepare joint proposals with national, regional, or local organizations.

No applicant can receive two grants for the same project at one time. EPA will consider only one proposal for a given project. Applicants may submit more than one application as long as the applications are for separate and distinct projects.

Organizations seeking funds from the EJP2 grant program can request up to $100,000 for local projects, and up to $250,000 for projects that involve multiple communities located in more than one EPA Region, or projects that are national in scope. In accordance with 40 CFR parts 30 and 23, EPA no longer requires cost sharing or matching under this grant program as it applies to institutions of higher education, hospitals, and other non-profit organizations, unless otherwise required by statute, regulation, Executive Order, or official Agency policy. Therefore, any matching requirements may need to be determined on a case-by-case basis depending upon the substantive focus of the grant proposal. Applicants that are governmental entities, such as state and local governments, are subject to a twenty-five (25) percent matching or cost-sharing requirement. Matching or cost-sharing requirement may be satisfied through either cash or in-kind contributions.

Dated: December 23, 1996.

William H. Sanders, III

Director, Office of Pollution, Prevention, and Toxics.

[FR Doc. 97–414 Filed 1–7–97; 8:45 am]

BILLING CODE 6560–50–F

[1] As a result of the Lobbying Disclosure Act of 1995, EPA (and other federal agencies) may not award grants to non-profit, section 501(c)(4) organizations that engage in lobbying activities. This restriction applies to any lobbying activities of a secton 501(c)(4) organization without distinguishing between lobbying funded by federal money and lobbying funded by other sources.

[PF–688; FRL–5582–6]

Interregional Research Project Number 4; Pesticide Tolerance Petitions Filing

AGENCY: Environmental Protection Agency (EPA).

SUMMARY: This notice announces the filing of amendments to pesticide petitions 0E3909, 2E4052, 2E4065, 2E4092, and 3E4162. These amendments propose to extend the effective date for time-limited tolerances established for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one (also referred to in this document as sethoxydim) and its metabolites in or on various raw agricultural commodities. This notice contains a summary of the amended petition prepared by BASF Corporation (BASF) and submitted by the Interregional Research Project Number 4 (IR–4), the petitioner.

DATES: Comments, identified by the docket number [PF–688; FRL–5582–6], must be received on or before February 7, 1997.

ADDRESSES: By mail, submit written comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St. SW.,

Washington, DC 20460. In person, bring comments to Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

Information submitted as comments concerning this document may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: OPP-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number PF–688. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8783, e-mail:jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received amendments to pesticide petitions 0E3909, 2E4052, 2E4065, 2E4092, and 3E4162 from the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903. These amendments propose, pursuant to section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a, to amend 40 CFR part 180 by extending the effective date to expire on December 31, 1998, for time-limited tolerances established for residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on asparagus at 4.0 parts per million (ppm), carrot at 1.0 ppm, cranberry and endive at 2.0 ppm, and peppermint and spearmint at 30 ppm. Registration for use of sethoxydim on endive is limited to Florida based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

EPA has determined that the amendment contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The nature of the residue is adequately understood, and practical and adequate analytical methods are available for enforcement purposes. Enforcement methods for sethoxydim are listed in the Pesticide Analytical Manual, Volume II (PAM II). Enforcement methods have also been submitted to the Food and Drug Administration for publication in PAM II.

As required by section 408(d) of the FFDCA, as recently amended by the Food Quality Protection Act, IR–4 submitted a summary of amendments to the pesticide petitions and authorization for the summary to be published in the Federal Register in a notice of receipt of the petition. The summary was prepared by and represents the views of BASF; EPA, as mentioned above, is in the process of evaluating the petition. As required by section 408(d)(3) EPA is including the summary as a part of this notice of filing. EPA may have made minor edits to the summary for the purpose of clarity.

I. Petition Summary

A. Toxicological Profile

1. *Data summary.* A summary of toxicological studies for sethoxydim follows:

i. A 1–year feeding study with dogs fed diets containing 0, 8.86/9.41, 17.5/19.9, and 110/129 milligrams (mg)/kilogram (kg)/day (males/females) with a no-observed-effect-level (NOEL) of 8.86/9.41 mg/kg/day (males/females) based on equivocal anemia in male dogs at the 17.5-mg/kg/day dose level.

ii. A 2–year chronic feeding/carcinogenicity study with mice fed diets containing 0, 40, 120, 360, and 1,080 ppm (equivalent to 0, 6, 18, 54, and 162 mg/kg/day) with a systemic NOEL of 120 ppm (18 mg/kg/day) based on non-neoplastic liver lesions in male mice at the 360 ppm (54 mg/kg/day) dose level. There were no carcinogenic effects observed under the conditions of the study. The maximum tolerated dose (MTD) was not achieved in female mice.

iii. A 2–year chronic feeding/carcinogenic study with rats fed diets containing 0, 2, 6, and 18 mg/kg/day with a systemic NOEL greater than or equal to 18 mg/kg/day (highest dose tested). There were no carcinogenic effects observed under the conditions of the study. This study was reviewed under current guidelines and was found to be unacceptable because the doses used were insufficient to induce a toxic response and an MTD was not achieved.

iv. A second chronic feeding/carcinogenic study with rats fed diets containing 0, 360, and 1,080 ppm (equivalent to 18.2/23.0, and 55.9/71.8 mg/kg/day (males/females). The dose levels were too low to elicit a toxic response in the test animals and failed to achieve an MTD or define a lowest effect level (LEL). Slight decreases in body weight in rats at the 1,080-ppm dose level, although not biologically significant, support a free-standing no-observed-adverse-effect-level (NOAEL) of 1,080 ppm (55.9/71.8 mg/kg/day (males/females)). There were no carcinogenic effects observed under the conditions of the study.

v. A developmental toxicity study in rats fed dosages of 0, 50, 180, 650, and 1,000 mg/kg/day with a maternal NOAEL of 180 mg/kg/day and a maternal LEL of 650 mg/kg/day (irregular gait, decreased activity, excessive salivation, and anogenital staining); and a developmental NOAEL of 180 mg/kg/day and a developmental LEL of 650 mg/kg/day (21 to 22 percent decrease in fetal weights, filamentous tail, and lack of tail due to the absence of sacral and/or caudal vertebrae, and delayed ossification in the hyoids, vertebral centrum and/or transverse processes, sternebrae and/or metatarsals, and pubes).

vi. A developmental toxicity study in rabbits fed doses of 0, 80, 160, 320, and 400 mg/kg/day with a maternal NOEL of 320 mg/kg/day and a maternal LOEL of 400 mg/kg/day (37 percent reduction in

body weight gain without significant differences in group mean body weights and decreased food consumption during dosing); and a developmental NOEL greater than 400 mg/kg/day (highest dose tested).

vii. A 2–generation reproduction study with rats fed diets containing 0, 150, 600, and 3,000 ppm (approximately 0, 7.5, 30, and 150 mg/kg/day) with no reproductive effects observed under the conditions of the study.

viii. Mutagenicity studies including: Ames assays were negative for gene mutation in *Salmonella typhimurium* strains TA98, TA100, TA1535, and TA1537, with and without metabolic activity; a Chinese hamster bone marrow cytogenetic assay was negative for structural chromosomal aberrations at doses up to 5,000 mg/kg in Chinese hamster bone marrow cells *in vivo*; and recombinant assays and forward mutations tests in *Bacillus subtilis*, *Escherichia coli*, and *S. typhimurium* were all negative for genotoxic effects at concentrations of greater than or equal to 100 percent.

ix. In a rat metabolism study, excretion was extremely rapid and tissue accumulation was negligible.

2. *Chronic toxicity*. Based on the available chronic toxicity data, EPA has established the Reference Dose (RfD) for sethoxydim at 0.09 milligrams (mg)/kilogram (kg) bw/day. The RfD for sethoxydim is based on a 1–year feeding study in dogs with a threshold no-observed effect level (NOEL) of 8.86 mg/kg/day and an uncertainty factor of 100.

3. *Acute toxicity*. Based on the available acute toxicity data, sethoxydim does not pose any acute dietary risks. Several acute toxicology studies place technical sethoxydim in acute toxicity category IV for primary eye and dermal irritation and acute toxicity category III for acute oral, dermal, and inhalation. The dermal sensitization-guinea pig study was waived because no sensitization was seen in guinea pigs dosed with the end-use product Poast (18 percent active ingredient).

4. *Carcinogenicity*. These tolerances were established as time-limited tolerances since an acceptable carcinogenicity study is needed in one rodent species. A repeat chronic feeding/carcinogenicity study in rats was submitted to EPA in November of 1995 and is awaiting review. The Agency will reassess sethoxydim tolerances based on the outcome of the rat chronic feeding/carcinogenicity study and, if appropriate, will establish permanent tolerances for asparagus, carrot, cranberry, endive, peppermint and spearmint. In the interim, there is little risk from the proposed time extension for these uses of sethoxydim, since available studies in rats and mice indicate no carcinogenic effects, there are adequate data to establish a RfD, existing tolerances (including these time-limited tolerances) do not exceed the RfD, and the tolerances for asparagus, carrot, cranberry, endive, and mint utilize less than 1 percent of the Reference Dose. Thus a cancer risk assessment is not necessary.

B. Aggregate Exposure

For purposes of assessing the potential dietary exposure, BASF has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from the tolerances of sethoxydim on: asparagus at 4.0 ppm, carrot at 1.0 ppm, cranberry and endive at 2.0 ppm, and peppermint and spearmint at 30.0 ppm. (The TMRC is a ''worst case'' estimate of dietary exposure since it is assumed that 100 percent of all crops for which tolerances are established are treated and that pesticide residues are at the tolerance levels.) The TMRC from existing tolerances for the overall U.S. population is estimated at 0.0311961 mg/kg bw/day, or 36 percent of the RfD. Dietary exposure to residues of sethoxydim in or on asparagus, carrot, cranberry, endive and mint increases the TMRC by 0.000701 mg/kg bw/day and accounts for less than 1 percent of the RfD for the overall U.S. population. EPA estimates indicate that dietary exposures will not exceed the RfD for any population subgroup for which EPA has data [See Proposed Rule at 60 FR 13941, March 15, 1995]. This exposure assessment relies on very conservative assumptions—100 percent of crops will contain sethoxydim residues and those residues would be at the level of the tolerance which results in an overestimate of human exposure.

Other potential sources of exposure of the general population to residues of pesticides are residues in drinking water and exposure from non-occupational sources. Based on the available studies used in EPA's assessment of environmental risk, BASF does not anticipate exposure to residues of sethoxydim in drinking water. There is no established Maximum Concentration Level (MCL) for residues of sethoxydim in drinking water under the Safe Drinking Water Act (SDWA).

EPA has not estimated non-occupational exposure for sethoxydim. Sethoxydim is labeled for use by homeowners on the following use sites: flowers, evergreens, shrubs, trees, fruits, vegetables, ornamental ground covers, and bedding plants. Hence, the potential for non-occupational exposure to the general population exists. However, these use sites do not appreciably increase exposure. Protective clothing requirements, including the use of gloves, adequately protect homeowners when applying the product. The product may only be applied through hose-end sprayers or tank sprayers as a 0.14% solution. Sethoxydim is not a volatile compound so inhalation exposure during and after application would be negligible. Dermal exposure would be minimal in light of the protective clothing and the low application rate. Post-treatment (re-entry) exposure would be negligible for these use sites as contact with treated surfaces would be low. Dietary risks from treated food crops are already adequately regulated by the established tolerances. The additional uses endive, asparagus , carrots, cranberries, peppermint, and spearmint will not increase the non-occupational exposure appreciably, if at all. Thus, BASF believes that the potential for non-occupational exposure to the general population is insignificant.

BASF also considered the potential for cumulative effects of sethoxydim and other substances that have a common mechanism of toxicity. BASF is aware of one other active ingredient which is structurally similar, clethodim. However, BASF believes that consideration of a common mechanism of toxicity is not appropriate at this time. BASF does not have any reliable information to indicate that toxic effects produced by sethoxydim would be cumulative with clethodim or any other chemical; thus, BASF is considering only the potential risks of sethoxydim in its exposure assessment.

C. Determination of Safety for U.S. Population

Reference Dose (RfD). Using the conservative exposure assumptions described above, based on the completeness and the reliability of the toxicity data, EPA has estimated that aggregate exposure to sethoxydim will utilize 37 percent of the RfD for the U.S. population. EPA generally has no concern for exposures below 100 percent of the RfD. Therefore, based on the completeness and reliability of the toxicity data, and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of sethoxydim, including all anticipated dietary exposure and all other non-occupational exposures.

D. Determination of Safety for Infants and Children

1. *Developmental toxicity.* Developmental toxicity was observed in a developmental toxicity study using rats but was not seen in a developmental toxicity study using rabbits. A developmental NOAEL of 180 mg/kg/day and developmental LEL of 650 mg/kg/day were established for the rat study. Effects noted in the rat study included decrease in fetal weights (21 to 22 percent), filamentous tail, lack of tail (due to absence of sacral and/or caudal vertebrae), and delayed ossification (hyoids, vertebral centrum and/or transverse processes, sternebrae and/or metatarsals, and pubes). The developmental NOEL for the rabbit study was greater than 400 mg/kg/day and was the highest dose tested. The developmental effects observed in the rat study are believed to be secondary effects resulting from maternal stress.

2. *Reproductive toxicity.* A two-generation reproduction study with rats fed diets containing 0, 150, 600, and 3,000 ppm (approximately 0, 7.5, 30, and 150 mg/kg/day) produced no reproductive effects during the course of the study. Although the dose levels were insufficient to elicit a toxic response, the Agency has considered this study usable for regulatory purposes and has established a free-standing NOEL of 3,000 ppm (approximately 150 mg/kg/day) [See Proposed Rule at 60 FR 13941, March 15, 1995].

RFD. Based on the demonstrated lack of significant developmental or reproductive toxicity BASF believes that the RfD used to assess safety to children should be the same as that for the general population, 0.09 mg/kg/day. Using the conservative exposure assumptions described above, BASF has concluded that the most sensitive child population is that of children ages 1 to 6. BASF calculates the exposure to this group to be less than 70 percent of the RfD for all uses (including those proposed in this document). The proposed tolerances in endive, asparagus, carrot, cranberry, peppermint and spearmint represent an exposure to this group of less than 1 percent. Based on the completeness and reliability of the toxicity data and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the residues of sethoxydim, including dietary exposure and all other non-occupational exposures.

3. *Endocrine effects.* No special studies investigating potential estrogenic or endocrine effects of sethoxydim have been conducted. However, the standard battery of required studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. These studies are generally considered to be sufficient to detect any endocrine effects but no such effects were noted in any of the studies.

II. Other Considerations

There is no reasonable expectation that secondary residues will occur in milk, eggs, or meat of livestock and poultry from the proposed uses of sethoxydim on asparagus, cranberries, endive, and mint; there are no livestock feed commodities associated with these commodities. Any secondary residues occurring in meat, fat, meat byproducts and milk of cattle, goats, hogs, horses and sheep from the proposed use on carrots will be covered by existing tolerances. There are no residues expected to occur in poultry meat, meat byproducts, fat or eggs since carrots are not considered a poultry feed item. There are no Codex maximum residue levels established for residues of sethoxydim on asparagus, carrots, cranberry, endive, or mint.

III. Public Record

EPA invites interested persons to submit comments on this notice of filing. Comments must bear a notation indicating the docket number, [PF–688; FRL–5582–6]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8:30 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [PF–688; FRL–5582–6] (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 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can 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 notice of filing, 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 rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects

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

Authority: 21 U.S.C. 346a.

Dated: December 31, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–415 Filed 1–7–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 23, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Gib S. Nichols, Helena, Montana; to acquire an additional 6.4 percent, for a

total of 28.1 percent, of the voting shares of Flathead Holding Company of Bigfork, Bigfork, Montana, and thereby indirectly acquire Flathead Bank of Bigfork, Bigfork, Montana.

Board of Governors of the Federal Reserve System, January 2, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–367 Filed 1–7–97; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, 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 February 3, 1997.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. BOK Financial Corporation, Tulsa, Oklahoma; to acquire 100 percent of the voting shares of First TexCorp, Inc., Dallas, Texas, and thereby indirectly acquire First Texas Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, January 2, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–369 Filed 1–7–97; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 23, 1997.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. The Bank of New York Company, Inc., New York, New York; to engage through its subsidiary, BNY Capital Markets, Inc., New York, New York, in underwriting and dealing in debt and equity securities of all types, other than shares of open-end investment companies. *See Canadian Imperial Bank of Commerce*, 76 Fed. Res. Bull. 158 (1990); *J. P. Morgan & Co. Incorporated*, 75 Fed. Res. Bull. 192 (1989), *aff'd sub nom. Securities Industries Ass'n* v. *Board of Governors of the Federal Reserve System*, 900 F.2d 360 (D.C. Cir. 1990); and *Citicorp*, 73 Fed. Res. Bull. 473 (1987), *aff'd sub nom. Securities Industry Ass'n* v. *Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir.), *cert. denied*, 486 U.S. 1059 (1988).

2. The Toronto-Dominion Bank, Toronto, Canada and Waterhouse Investor Services, Inc., New York, New York; to acquire 50 percent of the voting shares of Marketware International, Inc., and thereby engage in providing data processing and data transmission services, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis Minnesota; to acquire Statewide Mortgage Company, Birmingham, Alabama, and thereby engage in the purchase, origination, and sale of mortgage loans and related servicing rights, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 2, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–368 Filed 1-7-97; 8:45 am]

BILLING CODE 6210-01-F

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, January 13, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–458 Filed 1–6–97; 9:49 am]

BILLING CODE 6210–01–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System Federal Register Citation of Previous Announcement: 62 FR 408, January 3, 1997.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:45 a.m., Wednesday, January 8, 1997.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting: Guidance on international supervisory coordination.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–459 Filed 1–6–97; 9:49 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Statement of Organization, Functions, and Delegations of Authority

Part J (Agency for Toxic Substances and Disease Registry) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (50 FR 25129–25130, dated June 17, 1985, as amended most recently at 61 FR 9710, dated March 11, 1996) is amended to reflect the following organizational changes within the Division of Health Education (DHE), Agency for Toxic Substances and Disease Registry (ATSDR): (1) Retitle the Division of Health Education to the Division of Health Education and Promotion; (2) revise the functional statement for DHE; and (3) establish a substructure within the Division.

Delete the title and functional statement for the *Division of Health Education (JB7)* and insert the following:

Division of Health Education and Promotion (JB7). (1) Develops and implements strategies and programs to educate individuals, communities (including underserved and minority), and health care providers about the health effects of hazardous substances in the environment; (2) in collaboration with other ATSDR programs, evaluates the outcome and impact of public health activities in communities affected or potentially affected by hazardous wastes sites or releases; (3) develops, delivers, and evaluates health messages and materials to increase public awareness, promote the adoption of healthy behaviors, and improve the quality of life in communities exposed to hazardous substances in the environment; (4) works with Federal, state, tribal governments, and local health entities to develop, implement, or facilitate health promotion strategies, based on the scientific findings developed through ATSDR programs, for communities at risk, and particularly susceptible populations (e.g., women, children, minorities, and underserved populations) at risk or exposure to hazardous substances in the environment; (5) provides the agency's leadership in developing and implementing education, training, and evaluation programs developed by national health organizations; (6) conducts activities that involve affected communities in the development and implementation of public health strategies that address the health impact of hazardous substances in their environment; (7) develops and disseminates health education materials to meet the environmental health information needs of communities and health professionals; (8) conducts qualitative and quantitative research of strategies for site-specific health education, promotion, and health risk communication.

Office of the Director (JB71). (1) Plans, directs, coordinates, evaluates, and manages the operations of the Division of Health Education and Promotion; (2) develops goals and objectives and provides leadership, formulates policy, and provides guidance in program planning and development; (3) provides program management, administrative and logistical support services for the division; (4) coordinates division activities with other components of ATSDR, other Federal, state, and local agencies, community groups, national associations, and nonprofit organizations; (5) oversees a quality assurance and training program for the division's activities.

Communication and Research Branch (JB72). (1) Develops and disseminates innovative communications methods and materials to enhance site-specific public health and diverse populations (e.g., women, children, minorities, and underserved populations) at risk of exposure to hazardous substances in the environment; (2) conducts qualitative and quantitative research to develop model standards for defining site-specific health risk communication objectives and to measure performance and outcomes; (3) coordinates the division's site-specific applied research program.

Health Education Branch (JB73). (1) Plans, directs, coordinates, evaluates, and provides leadership in environmental health education; (2) develops effective health education tools and applies these tools through continuing education, curriculum development, and advances in information technology; (3) provides environmental health education expertise, resources, and training to public health partners and communities; (4) plans, implements, and evaluates community involvement strategies to advance health education, promotion, and health risk communication among populations (e.g., women, children, minorities, and underserved populations) at risk of exposure to hazardous substances in the environment; (5) conducts qualitative and quantitative research of strategies for site-specific health education.

Health Promotion Branch (JB74). (1) Plans, coordinates, evaluates, and manages the health promotion, evaluation, and quality assurance activities of the division and provides support and technical advice to the evaluation and assurance activities of ATSDR; (2) develops strategies and implements methods for evaluating the outcome and impact of public health activities undertaken by ATSDR in communities exposed to hazardous

waste sites and releases; (3) collaborates with Federal, state, tribal governments, and local health entities to develop, implement, or coordinate public health promotion actions based on the scientific findings developed through ATSDR programs for communities (e.g., children, women, minorities and underserved populations) at risk of exposure to hazardous substances in the environment; (4) based on scientific findings developed through ATSDR programs, collaborates with individuals, communities, and medical and public health entities to promote implementation of public health actions to prevent or mitigate health impacts from hazardous waste sites and releases; (5) provides the agency's leadership in developing and implementing education, training, and evaluation programs developed by national health organizations; (6) coordinates the division's management information system; (7) conducts qualitative and quantitative research to develop innovative public health practice strategies to identify and address emerging public health issues associated with hazardous substances from waste sites or unplanned releases.

Dated: December 23, 1996.

David Satcher,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 97–405 Filed 1–7–97; 8:45 am]

BILLING CODE 4160–70–M

Centers for Disease Control and Prevention

National Vaccine Advisory Committee (NVAC), Subcommittee on Vaccine Safety, Subcommittee on Immunization Coverage, Subcommittee on Future Vaccines, and the Advisory Commission on Childhood Vaccines (ACCV), Subcommittee on Vaccine Safety: Meetings

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 Federal advisory committee meetings.

Name: National Vaccine Advisory Committee (NVAC).

Times and Dates: 9 a.m.–2 p.m., January 13, 1997; 8:30 a.m.–12:45 p.m., January 14, 1997.

Place: Hubert H. Humphrey Building, Room 503A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8 and 8:30 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Purpose: The Committee shall advise and make recommendations to the Director of the National Vaccine Program on matters related to the Program responsibilities.

Matters To Be Discussed: Agenda items include: A discussion of the National Vaccine Program Office highlights; managed care and Medicaid: ensuring optimal childhood immunization; managed care and immunization: American Association of Health Plan vaccine promotion activities; implementation of new recommendations for polio immunization; Public Broadcasting System's Nova Tape: Deadly Deception; report of meeting on case studies in vaccine research and developments from the Cold Spring Harbor meeting; adult immunization, Department of Health and Human Services Work Group; role of non-traditional providers for adult immunization; pandemic influenza preparedness plan; update on personal responsibility concept paper and leverage paper from the Subcommittee on Immunization Coverage; report from NVAC's Subcommittee on Vaccine Safety; status of the National Vaccine Plan.

Agenda items are subject to change as priorities dictate.

Name: NVAC Subcommittee on Vaccine Safety and the ACCV Subcommittee on Vaccine Safety.

Time and Date: 2 p.m.–5 p.m., January 13, 1997.

Place: Hubert H. Humphrey Building, Room 425A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This joint NVAC/ACCV subcommittee will review issues relevant to vaccine safety and adverse reactions to vaccines.

Matter to be Dicussed: The Subcommittee will discuss an update on the recommendations of the Task Force on Safer Childhood Vaccines; update on HHS/CDC response to funding on active surveillance; update on vaccine risk communication; and clarification of mouse toxicity test.

Name: NVAC Subcommittee on Immunization Coverage.

Time and Date: 2 p.m.–5 p.m., January 13, 1997.

Place: Hubert H. Humphrey Building, Room 423A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee will identify and propose solutions that provide a multifaceted and holistic approach to reducing barriers that result in low immunization coverage for children.

Matters to be Discussed: The Subcommittee will discuss the forum on assessment and related immunization issues; the outline for the Subcommittee's report; and the assessment of immunization coverage.

Name: NVAC Subcommittee on Future Vaccines.

Time and Date: 2 p.m.–5 p.m., January 13, 1997.

Place: Hubert H. Humphrey Building, Room 405A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee will develop policy options and guide the National Vaccine Program activities which will lead to accelerated development, licensure, and best use of new vaccines in the simplest possible immunization schedules.

Matters to be Discussed: The Subcommittee will discuss an update on vaccine procurement strategies and case studies in vaccine development. This notice is being published less than 15 days prior to the meeting due to programmatic issues that had to be resolved.

CONTACT PERSON FOR MORE INFORMATION: Felecia D. Pearson, Committee Management Specialist, National Vaccine Program Office, CDC, 1600 Clifton Road, NE, M/S D50, Atlanta, Georgia 30333, telephone 404/639–7250.

Dated: January 3, 1997.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–461 Filed 1–6–97; 11:53 am]

BILLING CODE 4163–18–P

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the

Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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

Proposed Projects

1. Loan Information System Records for the DHHS and DHUD Hospital Mortgage Insurance, Guarantee, and Direct Loan Programs (OMB No. 0915–0174)—Extension, no change—The Division of Facilities Loans within the Health Resources and Services Administration monitors outstanding direct and guaranteed loans made under Section 621 of Title VI and Section 1601 of Title XVI of the Public Health Service Act, as well as loans insured under the Section 242 Hospital Mortgage Insurance Program of the Fair Housing Act. These programs were designed to aid construction and modernization of health care facilities by increasing the access of facilities to capital through the assumption of the mortgage credit risk by the Federal Government.

Operating statistics and financial information are collected annually from hospitals with mortgages that are insured under these programs. The information is used to monitor the financial stability of the hospitals to protect the Federal investment in these facilities. The form used for the data collection is the Hospital Facility Data Abstract. No changes in the form are proposed. Because of the relatively small level of effort associated with submitting this report, there are no plans to develop a system for electronic transmission of the data. The estimate of annual burden hours is as follows:

Form	No. of respondents	Responses per respondent	Hours per response	Total hour burden
Hospital Facility Data Abstract	250 hospitals	1	1 hour	250 hours.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: January 2, 1997.

J. Henry Montes,

Director, Office of Policy and Information Coordination.

[FR Doc. 97–424 Filed 1–7–97; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

Submission for OMB Review; Comment Request; Pilot Research for Epidemiologic Studies of Migrant and Seasonal Farmworkers

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the Federal Register on October 24, 1996, page 55159, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, any information collection that has been extended, revised, or implemented after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Pilot Research for Epidemiologic Studies of Migrant and Seasonal Farmworkers. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* A pilot study will be conducted to evaluate the ability to trace farmworkers over extended periods of time, to determine cancer diagnosis and treatment patterns among migrant and seasonal farmworkers, and to assess the reliability of farm work histories from farmworkers and from their spouses. The information will be used by the NCI to identify the most appropriate study design, case ascertainment procedures, and exposure assessment methods for a full-scale epidemiologic study of cancer among migrant and seasonal farmworkers. Determining the feasibility of using automated data collection techniques to obtain occupational histories from farmworkers will be part of this project. *Frequency of Response:* One-time study. *Affected public:* Individuals or households. *Type of Respondents:* Farmworkers and relatives. The annual reporting burden is as follows:

Type of respondents	Estimated No. of respondents	Estimated No. of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Farmworkers	78	1.0	.333	26
Farmworkers with family history of cancer	67	1.0	.167	11
Farmworkers' relatives with cancer	33	1.0	.333	11
Farmworkers and spouses	53	1.2	1.000	64
Farmworker Opportunity Program Clients	13,333	1.0	.167	2,222
Total				2,334

There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection or information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Shelia Hoar Zahm, Project Officer, National Cancer Institute, Executive Plaza North, Room 418, Rockville, MD 20892–7364, or call non-toll-free number (301) 496–9093, or FAX your request to (301) 402–1819, or E-mail your request, including your address, to ZahmS@epndce.nci.nih.gov.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before February 7, 1997.

Dated: December 6, 1996.

Nancy L. Bliss,

OMB Project Clearance Liaison.

[FR Doc. 97–334 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Institutes Of Health

National Eye Institute; National Institute of Arthritis and Musculoskeletal and Skin Diseases: Licensing Opportunity and/or Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Use of Antiflammins

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health is seeking licensees and/or CRADA partners for the further development and commercialization of its patent portfolio for antiflammins. The inventions claimed in U.S. Patent No. 5,266,562 issued 30 Nov 1993, ''Anti-Inflammatory Agents,'' are available for either exclusive or non-exclusive licensing (in accordance with 35 U.S.C. 207 and 37 CFR Part 404) and/or further development under one or more CRADAs in several clinically important applications as described below in the Supplementary Information.

To speed the research, development and commercialization of this new class of drugs, the National Institutes of Health is seeking one or more license agreements and/or CRADAs with pharmaceutical or biotechnology companies in accordance with the regulations governing the transfer of Government-developed agents. Any proposal to use antiflammins in the treatment of inflammatory disease processes will be considered.

ADDRESSES: CRADA proposals and questions about this opportunity should be addressed to: Ms. Sue Patow, Office of Technology Transfer, National Heart, Lung, and Blood Institute, Building 31, Room 1B30, Bethesda, MD 20892 (301/402–5579). CRADA proposals must be received by the date specified below.

Licensing proposals and questions about this opportunity should be addressed to: Ms. Carol Lavrich, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Rockville, MD 20852 (301/496–7735 ext. 287). Respondees interested in licensing the invention will be required to submit an Application for License to Public Health Service Inventions. Respondees interested in submitting a CRADA proposal should be aware that it may be necessary to secure a license to the above patent rights in order to commercialize products arising from a CRADA agreement.

DATES: There is no deadline by which license applications must be received. CRADA proposals must be received on or before April 8, 1997.

SUPPLEMENTARY INFORMATION: Antiflammins are biologically active synthetic oligopeptides, derived from the sequence similarity between lipo-cortin-1 and uteroglobin, an anti-flammatory protein. These peptides have antiphospholipase A_2 and immunomodulatory properties. Because of the great therapeutic potential of specific and potent antiflammin drugs that may be developed, scientists in several Institutes at the National Institutes of Health are examining the use of antiflammins in the treatment of Health are examining the use of antiflammins in the treatment of a variety of inflammatory processes, including acute anterior ocular inflammation (uveitis) and psoriasis.

Dr. Chi-Cho Chan, a clinical investigator at the National Eye Institute (NEI), has an IND for the use of antiflammin 2 in acute anterior uveitis, and seven patients have previously been enrolled in a clinical trial. To date, no toxicity has been observed in patients treated with this drug. Dr. Chan and Dr. Whitcup at the NEI are interested in developing new topical formulations of antiflammins and the initiation of multi-center randomized clinical trials of antiflammins for the treatment of anterior uveitis, post-operative ocular inflammation, and allergic conjunctivitis.

Dr. John DiGiovanna, an investigator in the National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS), is studying the use of antiflammins to treat psoriasis, a hyperproliferative inflammatory skin disease. Dr. DiGiovanna would like to continue these studies with a collaborator capable of expanding these studies to include other inflammatory skin diseases such as atopic and contact dermatitis, as well as develop animal and *in vitro* models to study the effects of antiflammins on skin.

In addition, Dr. Dimitrios T. Boumpas, also of NIAMS, is studying the use of anti-inflammatory/immunosuppressive compounds to treat psoriatic arthritis, rheumatoid arthritis, and systemic lupus erythematosus. Dr. Boumpas would like to initiate studies with a collaborator to investigate the effects of antiflammins in animal models of these diseases including toxicity studies and its use and toxicity in patients with autoimmune rheumatic diseases.

CRADA aims include the rapid publication of research results and the timely exploitation of commercial opportunities. The CRADA partner(s) will enjoy rights of first negotiation for licensing Government rights to any inventions arising under the agreement and will be expected to advance funds payable upon signing the CRADA to help defray Government expenses for patenting such inventions and other CRADA-related costs.

The role of the NEI and NIAMS in these CRADAs will be as follows:

1. Provide the Collaborator(s) with samples of the subject compounds for pharmaceutical evaluation.

2. Continue the detailed physicochemical characterization of the test compounds as well as research on their mechanism of biological action, and publish these results and provide

all data to the Collaborator as soon as they become available.

3. Conduct controlled clinical trials of antiflammin formulations that have been determined to have therapeutic potential in ocular and skin inflammatory diseases.

The role of the Collaborator(s) will be to:

1. Perform an exhaustive evaluation of these compounds with respect to their biological activities and to develop appropriate vehicles for drug delivery for disease processes covered under the CRADA. The Collaborator(s) will supply data to the NEI and/or NIAMS in a timely fashion.

2. Synthesize and formulate structural variants of these subject compounds to optimize desired effects.

3. Expand the basic toxicological data as needed in preparation for additional clinical studies.

4. Conduct basic studies designed to better understand the potential for antiflammins in the treatment of inflammatory diseases, bioavailability and how to best administer these agents.

5. Support the execution of clinical trials designed to evaluate efficacy and toxicity. This may include providing pharmaceutical grade compound, equipment and supplies, and support personnel.

6. Provide new and improved formulations in appropriate vehicles.

Selection criteria for choosing the CRADA partner(s) will include but not be limited to:

1. Ability to complete the quality pharmacological evaluations required according to an appropriate timetable to be outlined in the Collaborator's proposal. The target commercial application as well as the strategy for evaluating the test agents' potential in that capacity must be clearly delineated therein.

2. The level of financial support the Collaborator will supply for CRADA-related Government activities.

3. A willingness to cooperate with the NEI and NIAMS in publication of research results.

4. An agreement to be bound by the DHHS rules involving human subjects, patent rights, ethical treatment of animals, and randomized clinical trials.

5. Agreement with provisions for equitable distribution of patent rights to any inventions developed under the CRADA(s). Generally, the rights of ownership are retained by the organization which is the employer of the inventor, with (1) an irrevocable, non-exclusive, royalty-free license to the Government (when a company employee is the sole inventor) or (2) an option to negotiate an exclusive or non-exclusive license to the company on terms that are appropriate (when the Government employee is the sole inventor).

Dated: December 23, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–333 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

National Center for Research Resources: Licensing Opportunity and/or Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Development of Technologies and Applications for Spatial and Temporal Control of Gene Expression Using a Heat Shock Protein Promoter in Combination With Local Heat

AGENCY: National Institutes of Health, PHS, HHS.

ACTION: Notice.

SUMMARY: The National Center for Research Resources (NCRR) and collaborating institutes of the NIH are seeking CRADA partners and/or licensees for the development of different technologies and applications to provide a safe and efficient introduction of exogenous genes under the control of a heat-sensitive promoter and to assess the efficacy of spatial and temporal control of gene expression using MRI guided FUS. This project is with the In Vivo NMR Research Center, NCRR, in a collaborative study with the National Institute on Aging, the National Heart Lung and Blood Institute, and the National Institute of Dental Research of the National Institutes of Health, Bethesda, Maryland

The NCRR has applied for patents claiming this core technology. Non-exclusive and/or exclusive licenses for these patents covering core aspects of this project are available (in accordance with 35 U.S.C. 207 and 37 CFR Part 404) to interested parties.

DATES: There is no deadline by which license applications or CRADA proposals must be received.

ADDRESSES: CRADA capability statements/proposals and questions about this opportunity should be addressed to Mr. Tom Ingalls, Technology Transfer Specialist, NCRR, Bldg. 12A/Room 4057, Bethesda, Maryland 20892–2490; Phone: 301/496–6235.

Licensing applications and licensing inquiries regarding this technology should be addressed to Mr. Larry Tiffany, Office of Technology Transfer, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Phone: 301/496–7735, ext. 206; Fax: 301/402–0220.

Information on the patent and patent applications and pertinent information not yet publicly described can be obtained under a Confidential Disclosure Agreement. Respondees interested in licensing the invention(s) will be required to submit an Application for License to Public Health Service Inventions. Respondees interested in submitting a CRADA proposal should be aware that it may be necessary to secure a license to the above patent rights in order to commercialize products arising from a CRADA agreement.

SUPPLEMENTARY INFORMATION: In many instances, it is desirable to express exogenous genes only in certain tissues, and/or at will at certain times, and/or only to a certain degree. However, current gene transfer and exogenous gene expression protocols do not provide adequate means of simultaneously controlling which cells in a heterogeneous population are transformed and when, where, and to what degree the transferred genes are expressed. Here, we seek to accomplish the spatial and local control of expression of exogenous genes using a heat-inducible promoter (such as the inducible hsp70 promoter) in combination with local heat, preferably provided by Magnetic Resonance Imaging (MRI) guided Focused Ultrasound (FUS).

The goals of this project are to use the respective strengths of both parties to achieve one or more of the following:

1. Evaluate the feasibility and safety of gene therapy utilizing a range of suitable vectors as a treatment approach to carry out a systemic gene transfer in which the therapeutic gene is under the control of a heat-sensitive promoter showing negligible constitutive expression at normal body temperature.

2. Evaluate the feasibility of controlling the local and temporal induction of gene expression (pharmacokinetics) using local heat provided by Magnetic Resonance Imaging guided Focused Ultrasound.

3. Develop and evaluate gene therapy products for use in experimental animal models and for human use based on the above control of expression.

It is anticipated that the commercial collaborator(s) will participate in ongoing studies on one or more of the research projects involving:

1. The transfer of genes for various lymphokines into experimental animal

models based on an adenovirus vector or other vectors. It is highly desirable that the collaborator have the resources to provide new effective vectors for gene transfer.

2. The modulation of the inducibility of the heat-sensitive promoter using appropriate modifications of the promoter and by using anti-inflammatory or other drugs.

3. Dosage and toxicity of local production of lymphokines applied to cancer and other diseases.

4. Initial applications in the field of anticancer therapy, immunomodulatory gene products and angiogenesis.

The collaborator may also be expected to contribute financial support under this CRADA for supplies and personnel to support these projects.

Dated: December 19, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–335 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications and issued patents listed below may be obtained by contacting the indicated licensing specialist at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Chimeric GAG Pseudovirions

GJ Tobin, MA Gonda (NCI)
OTT Reference No. E–105–96/0 filed 16 May 96
Licensing Contact: Cindy K. Fuchs, J.D., 301/496–7735 ext 232

This technology is based upon a novel method for generating pseudovirions containing HIV Gag and chimeric Gag-Env fusion proteins that may be used in a prophylactic vaccine or to boost the immune response of HIV-infected individuals. In addition to the foregoing method, the invention provides recombinant chimeric nucleic acids encoding a Gag-frameshift (fs)-fusion partner fusion protein; a pseudovirion comprising a retroviral Gag protein and a fusion partner; an immunogenic composition comprising a pseudovirion; and a Gag-fs-fusion partner fusion protein. Mice inoculated with the pseudovirions developed cytotoxic T lymphocyte responses specific to both HIV Gag and Env epitopes as well as a strong humoral response to Gag. The method allows the packaging of other non-viral proteins such as interleukins, interferons, and other cytokines. (portfolio: Infectious Diseases—Vaccines, viral, AIDS)

MHC Class II–Restricted Melanoma Antigens and Their Use in Therapeutic Methods

SL Topalian, SA Rosenberg, P Robbins (NCI)
Serial No. 08/533,895 filed 26 Sep 95
Licensing Contact: Joseph Contrera, M.S., J.D., 301/496–7056 ext 244

The present invention relates to MHC class II-restricted melanoma antigens and their use in the treatment of human cancers. Cytotoxic $CD8^+$ T cells have been shown to recognize autologous and MHC class I compatible allogenic melanomas expressing shared tumor-associated antigens. Several class I-restricted melanoma-associated antigens have been identified on a molecular level. These antigens and derivative class I-restricted peptides 8 to 10 amino acids in length are being developed as clinical vaccines to stimulate $CD8^+$ T cell responses against melanoma. While $CD8^+$ T cells are important in the effector phase of the immune response, the $CD4^+$ helper arm has been shown to mediate critical priming and effector functions as well. T cell receptors on $CD4^+$ T cells recognize a complex of antigenic peptide in conjunction with MHC class II molecules. Most of these antigenic peptides are 10–34 amino acids in length. Strong and lasting immunity depends, in part, on $CD4^+$ T cell function. Therefore, class II-restricted melanoma antigens may be useful in immunotherapeutic approaches to melanoma.

The present invention relates to MHC class II-restricted melanoma antigens recognized by $CD4^+$ T cells and the nucleic acid sequences that encode them. The invention contains claims to MHC class II immunogenic peptides of tyrosinase and methods of producing an immune response to these peptides. This invention also provides a method for identifying additional class II-restricted melanoma antigens. (portfolio: Cancer—Therapeutics, vaccines; Cancer—Therapeutics, immunomodulators and immunostimulants; Cancer—Therapeutics, biological response modifiers)

eps15, Substrate for the Epidermal Growth Factor Receptor Kinase

PP DiFiore, F Fazioli (NCI)
Filed 07 Jun 95
Serial Nos. 08/480,145 and 08/477,389 (both DIV of 08/095,737, now U.S. Patent 5,487,979)
Licensing Contact: Susan Rucker, J.D., 301/496–7056 ext 245

These applications describe eps15, a substrate for the Epidermal Growth Factor Receptor (EGFR). This substrate is distinct from a previously identified substrate for the EGFR known as eps8 (U.S. Patent 5,378,809). EGFR is a cell surface receptor, with tyrosine kinase activity, which as been implicated in mitogenesis via a process known as mitogenic signal transduction. Substrates for the EGFR, such as eps15, may be useful in research on signal transduction involving EGFR, and as diagnostic or prognostic indicators due to their ability to be used in determining the tyrosine kinase activity of tissue sample. In particular, recent work with eps15 fusion proteins has shown that eps15 may be linked to myeloid leukemia due to its translocation. Thus, eps15 may also serve as a tumor marker. In addition to the cDNA, constructs expressing eps15, antibodies to eps15, and methods for assaying eps15 (immunological and DNA based) are described. (portfolio: Research Tools and Reagents, receptors and cell lines; Cancer—Research Reagents)

T-Cell Receptors and Their Use In Therapeutic and Diagnostic Methods

P Hwu, M Nishimura, SA Rosenberg (NCI)
Serial No. 08/411,098 filed 27 Mar 95
Licensing Contact: Joseph Contrera, M.S., J.D., 301/496–7056 ext 244

Tumor infiltrating lymphocytes (TIL) play an important role in tumor regression. TIL cells that recognize a variety of specific tumor antigens have been identified. This invention embodies nucleic acid and amino acid sequences of T-cell receptors which recognize or bind tumor antigens. The claims of this invention relate to the use of these T-cell receptors or hematopoietic stem cells engineered to carry these receptors or chimeric receptors comprised of an antibody variable region joined to the cytoplasmic region of CD28 from a T-cell for therapeutic uses. This

application addresses technologies which encompass the broad category of T-cell receptor and chimeric T-cell technologies. As such, it is likely that the technologies will have numerous applications in the field of immunotherapy and will potentially be licensable to multiple applicants for a variety of novel therapeutic approaches. (portfolio: Gene-Based Therapies—Therapeutics, delivery systems; Cancer—Therapeutics, immunomodulators and immunostimulants; Cancer—Therapeutics, vaccines; Cancer—Therapeutics, gene therapy, genes)

Process for Producing Monoclonal Antibodies Reactive With Human Breast Cancer

J Schlom, D Colcher, M Nuti, PM Hand, FC Austin (NCI)
Serial No. 06/330,959 filed 15 Dec 81
U.S. Patent No. 4,522,918 issued 11 June 85
Licensing Contact: Joseph Contrera, M.S., J.D., 301/496–7056 ext 244

Breast cancer is the second leading cause of cancer death among women, having only recently been surpassed by lung cancer. The incidence rate has remained somewhat steady, and is currently about 108 per 100,000. This invention describes a process to produce antibodies from hybridoma cultures for the detection, prognosis, and treatment of human breast cancer. These eleven antibodies are activated only by tumor cells from human mammary cells and not by apparently normal human tissues. The isotopes of ten and the antibodies are IgG of various subclasses, and one is IgM. The antibodies may be useful in five major areas in the management of human breast cancer: (1) The diagnosis of primary and metastatic breast tumor lesions by assay of human body fluids; (2) the in-situ detection, via gamma scanning, of primary or metastatic breast tumor lesions; (3) the treatment of primary or metastatic breast cancer using one or a combination of the antibodies either alone or coupled with toxic drugs, compounds, or radioactive isotopes; (4) use of the antibodies in the staining of populations of human cells in tissue sections from tumor lesions to indicate the degree of malignancy of the cell populations; and (5) the detection of micro-lesions containing only a few cells that could not be detected by conventional staining techniques. A patent for this invention has been issued by the U.S. Patent and Trademark Office. (portfolio: Cancer—Diagnostics, in vitro, MAb based; Cancer—Research Materials, MAb based)

Dated: December 23, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–332 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Microbiology and Infectious Diseases Research Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on February 12–14, 1997 at the Belmont Conference Center, Manor House Conference Room, 6555 Belmont Woods Road, Elkridge, Maryland.

The meeting will be open to the public from 9 a.m. to 10 a.m. on February 12, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10 a.m. until recess on February 12, from 9 a.m. until recess on February 13, and from 9 a.m. until adjournment on February 14. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Gary Madonna, Scientific Review Administrator, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Solar Building, Room 4C21, Rockville, Maryland 20892, telephone 301–496–3528, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: December 30, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–321 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Notice of Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council on January 27–28, 1997. The meeting will be held in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland. The meeting of the Subcommittee on Planning will be open on January 27. The Subcommittee meeting will be held in Building 31, Room 2A03, from 8:00 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

The Council meeting will be open to the public on January 27 from 10:00 a.m. until 5:30 p.m. The agenda includes a report by the Director, NICHHD, a report by the Mental Retardation and Developmental Disabilities Branch, an update on the Inclusion of Children in Clinical Research, and other business of the Council. The meeting will be open on January 28 upon completion of applications at approximately 1:00 p.m. to adjournment if any policy issues are raised which need further discussion.

In accordance with the provisions set forth in sections 552b(c)(4), and 552b(c)(6), Title 5, United States Code and section 10(d) of Public Law 92–463, the meeting of the full Council will be closed to the public on January 28 from 8:00 a.m. to approximately 1:00 p.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Executive Secretary, NACHHD, 6100 Executive

Boulevard, Room 5E03, National Institutes of Health, Bethesda, Maryland 20892–7510, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information. Individuals who plan to attend the open session and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Plummer.

(Catalog of Federal Domestic Assistance Program Nos. 93.864, Population Research, and 93.865, Research for Mothers and Children, National Institutes of Health)

Dated: December 30, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–327 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Notice of a Meeting of the National Advisory Dental Research Council

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on January 27–28, 1997. The meeting of the full Council will be open to the public on January 27 from 8:30 a.m. to approximately 4:30 p.m., Conference Room 6, Sixth Floor, Building 31, National Institutes of Health, Bethesda, Maryland, for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting of the Council will be closed to the public on January 27, 4:30 p.m. until recess and on January 28, 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and information concerning individuals associated with the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal applications and reports, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Dushanka V. Kleinman, Executive Secretary, National Advisory Dental Research Council, and Deputy Director, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C39, Bethesda, Maryland 20892, (telephone (301) 496–9469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary listed above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: December 30, 1996.

Paula N. Hayes,

Acting, Committee Management Officer, NIH.

[FR Doc. 97–323 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Pathology and Veterinarian Support Service.

Date: January 15, 1997.

Time: 9:00 a.m.

Place: EPN, 6th Floor Conference Room, Rm. 640, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Lalita D. Palekar, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 640, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7575.

Purpose/Agenda: To evaluate and review contract proposals.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being submitted less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: December 26, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 97–320 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Initial Review Group (IRG) meeting:

Name of IRG: Clinical Trials Review Committee

Date: February 23–26, 1997

Time: 7:00 p.m.

Place: Hyatt Regency One Bethesda Metro Center Bethesda, Maryland 20814

Contact Person: Dr. Joyce A. Hunter 6701 Rockledge Drive, Rm. 7192, MSC 7924 Bethesda, Maryland 20892 (301) 435–0287

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 30, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–322 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the following National Heart, Lung, and Blood Institute Special Emphasis Panel.

The meeting will be open to the public to provide concept review of proposed contract or grant solicitations.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contract Person listed below in advance of the meeting.

Name of Panel: Opportunities and Obstacles to Genetic Research in NHLBI Clinical Studies.

Dates of Meeting: February 5, 1997.

Time of Meeting: 8:00 a.m.
Place of Meeting: Holiday Inn Georgetown, 2101 Wisconsin Avenue, Washington, D.C. 20007.
Agenda: Discussion of Future Initiatives with Emphasis on Stored Samples for Genetic Research.
Contact Person: Susan E. Old, Ph.D., NHLBI/DHVD, Two Rockledge Center, 6701 Rockledge Drive, Rm. 9150, MSC 7940, Bethesda, Maryland 20892, (301) 435–0560.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 30, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–326 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Tuberculosis Academic Award Review.
Date: January 28, 1997.
Time: 9:00 a.m.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.
Contact Person: Louise P. Corman, Ph.D., Two Rockledge Center, Room 7180, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0270.
Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Reference Laboratory to Evaluate Therapies for Sickle Cell Disease (Telephone Conference Call).
Date: February 26, 1997.
Time: 1:30 p.m.
Place: Rockledge Building II, Room 7214, 6701 Rockledge Drive, Bethesda, Maryland 20892.
Contact Person: Diane M. Reid, M.D., Two Rockledge Center, Room 7182, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0277.
Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Molecular Genetics of Coagulation Disorders.
Date: February 26–27, 1997.
Time: 7:30 p.m.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.
Contact Person: Louis M. Ouellette, Ph. D., Two Rockledge Center, Room 7216, 6701 Rockledge Driver, Bethesda, MD 20892–7924, (301) 435–0310.
Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Hepatic Gene Therapy for Hemophilia B.
Date: February 27–28, 1997.
Time: 7:30 p.m.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.
Contact Person: Louis M. Ouellette, Ph.D., Two Rockledge Center, Room 7216, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0310.
Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 30, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–328 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Radio Frequency Coils for High Field MRI (Telephone Conference Call).
Date: January 22, 1997.
Time: 2:00 p.m.
Place: Rockledge Building Two, Room 7214, 6701 Rockledge Drive, Bethesda, Maryland.
Contact Person: Ivan Baines, Ph.D., Two Rockledge Center, Room 7184, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0277.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: ECG Monitoring in MRI to Detect Cardiac Ischemia (Telephone Conference Call).
Date: January 22, 1997.
Time: 2:45 p.m.
Place: Rockledge Building Two, Room 7214, 6701 Rockledge Drive, Bethesda, Maryland.
Contact Person: Ivan Baines, Ph.D., Two Rockledge Center, Room 7184, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0277.
Purpose/Agenda: To review and evaluate contract proposals.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c) (4) and 552b(c) (6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to these meetings due to the urgent need to meet timing limitations imposed by the contract review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 30, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–329 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the National Institute of Neurological Disorders and Stroke (NINDS).

The National Advisory Neurological Disorders and Stroke Council and its subcommittee meetings will be open to the public as indicated below. Attendance by the public will be limited to space available.

The meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive

Secretary or the Scentific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary listed for the meeting.

Name of Committee: The Planning Subcommittee of the National Advisory Neurological Disorders and Stroke Council.
Date: February 12, 1997.
Place: National Institutes of Health, Building 31, Conference Room 8A28, 9000 Rockville Pike, Bethesda, MD 20892.
Closed: 1:30 p.m.–recess.

Name of Committee: National Advisory Neurological Disorders and Stroke Council.
Dates: February 13–14, 1997.
Place: National Institutes of Health, Building 31, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.
Open: February 13, 8:30 a.m.–approximately 3 p.m.
Agenda: A report by the Director, NINDS; a report by the Director, Division of Extramural Activities, NINDS; a report by the Scientific Director, NINDS; a report by the Director, DRG; and a scientific presentation by an NINDS intramural scientist.
Closed: February 13, approximately 3 p.m.–recess. February 14, 8:30 a.m.–adjournment.
Executive Secretary: Constance W. Atwell, Ph.D., Director, Division of Extramural Activities, NINDS, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9248.

The following meetings will be totally closed to review and evaluate grant applications:

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Subcommittee A.
Date: February 9–10, 1997.
Time: February 9, 8 a.m.–recess. February 10, 8 a.m.–adjournment.
Place: Disneyland Hotel, 1150 West Cerritos, Anaheim, CA 92802.
Contact Person: Dr. Katherine Woodbury, Scientific Review Administrator, National Institutes of Health, Federal Building, Room 9C–10, Bethesda, MD 20892, (301) 496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Subcommittee B.
Date: February 17–19, 1997.
Time: February 17, 7:30 p.m.–recess. February 18, 8 a.m.–recess. February 19, 8 a.m.–adjournment.
Place: Lodge at Torrey Pines, Torrey Pines Boulevard, La Jolla, CA 92037.
Contact Person: Dr. Paul Sheehy, Scientific Review Administrator, National Institutes of Health, Federal Building, Room 9C–10, Bethesda, MD 20892, (301) 496–9223.

Name of Committee: Training Grant and Career Development Review Committee.
Date: February 27, 1997.
Time: 8 a.m.–adjournment.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Dr. Alfred W. Gordon, Scientific Review Administrator, National Institutes of Health, Federal Building, Room 9C–10, Bethesda, MD 20892, (301) 496–9223.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Reserach Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: December 20, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–331 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institutes of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meeting:

Purpose/Agenda: To review and evaluate a research grant application.
Name of SEP: Training Grant in Academic Orthopedics (Telephone Conference Call).
Date of Meeting: January 6, 1997.
Time: 10:00 a.m.–adjournment.
Place of Meeting: Natcher Building, 45 Center Drive, Rm 5AS–25U, Bethesda, Maryland 20892–6500.
Scientific Review Administrator: Tommy Broadwater, Ph.D., Chief, Grants Review Branch, NIAMS, Natcher Building, 45 Center Drive, Rm 5AS–25U, Bethesda, Maryland 20892–6500, Telephone: 301–594–4952.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Diseases Research], National Institutes of Health, HHS)

Dated: January 2, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–448 Filed 1–3–97; 4:15 pm]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Behavioral and Neurosciences.
Date: January 17, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5192, Telephone Conference.
Contact Person: Dr. David Simpson, Scientific Review Administrator, 6701 Rockledge Drive, Room 5192, Bethesda, Maryland 20892, (301) 435–1278.
This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Multidisciplinary Sciences.
Date: February 21–22, 1997.
Time: 2:00 p.m.
Place: Laguna Hotel, Laguna Beach, CA.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Name of SEP: Biological and Physiological Sciences.
Date: February 26, 1997.
Time: 12:00 p.m.
Place: Double Tree Hotel, Rockville, MD.
Contact Person: Dr. Mushtaq Khan, Scientific Review Administrator, 6701 Rockledge Drive, Room 4124, Bethesda, Maryland 20892, (301) 435–1778.
The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 30, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–324 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division

of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Biological and Physiological Sciences.
Date: January 17, 1997.
Time: 10:00 a.m.
Place: NIH, Rockledge 2, Room 4150, Telephone Conference.
Contact Person: Dr. Marcia Litwack, Scientific Review Administrator, 6701 Rockledge Drive, Room 4150, Bethesda, Maryland 20892, (301) 435–1719.

Name of SEP: Biological and Physiological Sciences.
Date: January 24, 1997.
Time: 10:00 a.m.
Place: NIH, Rockledge 2, Room 4150, Telephone Conference.
Contact Person: Dr. Marcia Litwack, Scientific Review Administrator, 6701 Rockledge Drive, Room 4150, Bethesda, Maryland 20892, (301) 435–1719.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 30, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–325 Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Behavioral and Neurosciences.
Date: February 10, 1997.
Time: 8:00 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Kathleen Michels, Scientific Review Administrator, 6701 Rockledge Drive, Room 5180, Bethesda, Maryland 20892, (301) 435–1250.

Name of SEP: Multidisciplinary Sciences.
Date: February 24–25, 1997.
Time: Holiday Inn, Chevy Chase, MD.
Place: 9:00 a.m.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Multidisciplinary Sciences.
Date: March 3–4, 1997.
Time: 1:00 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Multidisciplinary Sciences.
Date: March 10–11, 1997.
Time: 8:00 a.m.
Place: Doubletree Hotel, Rockville, MD.
Contact Person: Dr. Nadarajen A. Vydelingum, Scientific Review Administrator, 6701 Rockledge Drive, Room 5210, Bethesda, Maryland 20892, (301) 435–1176.

The meetings will be closed in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93,306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 30, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–330, Filed 1–7–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4170–N–01]

Notice of Native American Housing Assistance and Self-Determination Act of 1996 Implementation Meetings

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of implementation meetings for the Native American Housing Assistance and Self-Determination Act of 1996.

SUMMARY: This notice announces the first meetings sponsored by HUD to develop the regulations necessary to carry out the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Pub. L. 104–330, approved October 26, 1996).

DATES: A meeting to discuss the allocation formula requirements will be held on January 7, 8, and 9, 1997. A meeting to discuss regulations required under NAHASDA will be held on January 14, 15, and 16 1997.

ADDRESSES: The meetings will be held at the Office of Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO.

FOR FURTHER INFORMATION CONTACT: Dominic Nessi, Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO; telephone (303) 675–1600 (voice) or 1–800–877–8339 (TTY for speech or hearing impaired individuals). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 106 of NAHASDA requires the publication of a notice in the Federal Register within 90 days of its enactment to establish transition requirements, provide notice of negotiated rulemaking, and invite public comment. HUD will hold a series of meetings in the National Office of its Office of Native American Programs to discuss the regulatory implementation of NAHASDA. As indicated above, under the heading **DATES,** the first series of meetings on January 7, 8, and 9, will focus on the allocation formula requirements of NAHASDA section 302. A second series of meetings, on January 14, 15, and 16, will focus on the other regulatory requirements of NAHASDA. The input from these meetings will be utilized in the development of HUD's regulations implementing NAHASDA.

Dated: January 6, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–491 Filed 1–6–97; 1:43 pm]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–612–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council Meeting, notice of meeting.

SUMMARY: This notice announces a meeting of the Arizona Resource Advisory Council. The meeting will be held January 31, 1997, beginning at 10:00 a.m. in the 1A Conference Room at the Bureau of Land Management

Arizona State Office, 222 North Central Avenue, Phoenix, Arizona. The agenda items to be covered at the one-day business meeting include review of previous meeting minutes, and review and evaluation of incoming public comments on the Standards and Guidelines Statewide Plan Amendment. A public comment period will take place at 11:30 a.m. January 31, 1997 for any interested publics who wish to address the Council.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens or Ken Mahoney Bureau of Land Management, Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, (602) 417–9512.

Terrance P. O'Sullivan,

Acting Deputy State Director, Resource Planning, Use and Protection Division.

[FR Doc. 97–229 Filed 1–7–97; 8:45 am]

BILLING CODE 4310–32–M

[WY–989–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 16 N., R. 81 W., accepted December 26, 1996
T. 41 N., R. 86 W., accepted December 26, 1996
T. 32 N., R. 107 W., accepted December 26, 1996
T. 43 N., R. 115 W., accepted December 26, 1996
T. 42 N., R. 116 W., accepted December 26, 1996

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: December 27, 1996.

Jerry L. Messick,

Acting Chief, Cadastral Survey Group.

[FR Doc. 97–354 Filed 1–7–97; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 to 9675

Notice is hereby given that a proposed consent decree modification in *United States* v. *Accurate Partitions Corp., et al.,* Civil Action No. S91–00646M, was lodged on December 20, 1996 with the United States District Court for the Northern District of Indiana, South Bend Division. The proposed consent decree resolves the United States' claims against four settling defendants and sixteen settling *de minimis* defendants for unreimbursed past costs incurred in connection with the Fisher-Calo Superfund Site located in Kingsbury, Indiana in return for a total payment of $333,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Accurate Partitions Corp., et al.,* DOJ Ref. #90–11–2–549.

The proposed consent decree may be examined at the office of the United States Attorney, 204 South Main Street, MO1 Federal Building, South Bend, Indiana 44601; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $8.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Walker Smith,

Deputy Chief, Environment and Natural Resources Division.

[FR Doc. 97–358 Filed 1–7–97; 8:45 am]

BILLING CODE 4410–15–M

Notice of Extension of Comment Period for Consent Order Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

On December 5, 1996, at 61 FR 64532, the Department of Justice published a notice that a proposed consent order in *United States* v. *BASF Corporation, et al.,* Civil Action No. 96–CV–75279–DT, had been lodged with the United States District Court for the Eastern District of Michigan on November 18, 1996. The proposed consent order resolves certain claims alleged against 35 parties under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.,* for the United States' response costs at the Metamora Landfill Site in Lapeer County, Michigan.

The Department of Justice has been requested to extend the thirty day comment period to permit interested parties additional time to review the consent decree and prepare comments. The Department of Justice will extend the comment period to January 21, 1997. Persons wishing to submit comments should follow the procedures set out in the Notice of Lodging on December 5, 1996, at 61 FR 64532.

Joel Gross,

Chief, Environmental Enforcement Section Environment and Natural Resources Division.

[FR Doc. 97–359 Filed 1–7–97; 8:45 am]

BILLING CODE 4410–15–M

[AAG/Order No. 125–96]

Privacy Act of 1974; Notice of New System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Office of Community Oriented Policing Services (''COPS''), Office of the Police Corps and Law Enforcement Education, proposes to establish a new system of

records entitled, ''Police Corps System, Justice/COPS–001.''

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment on the routine uses of a new system. The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires that it be given a 40-day period in which to review the system.

Therefore, please submit any comments by February 7, 1997. The public, OMB, and the Congress are invited to send written comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530 (Room 850, WCTR).

A description of the system of records is provided below. In addition, the Department has provided a report to OMB and the Congress in accordance with 5 U.S.C. 552a(r).

Dated: December 9, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration.

SYSTEM NAME:

Police Corps System, Justice/COPS–001.

SYSTEM LOCATION:

Records may be retained at the U.S. Department of Justice (''DOJ''), Office of Community Oriented Policing Services (''COPS''), Office of the Police Corps and Law Enforcement Education, 1100 Vermont Ave., NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for educational scholarships under the Police Corps Program; individuals who have been approved to receive such scholarships; and individuals who either are receiving, or have received, funds provided under the Police Corps Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Included are any records which may assist COPS in its administration of the Police Corps Program. Records may include an individual's name; Social Security number; current residence and telephone number; financial data; scholarship application and associated forms; personal, professional and demographic background information (including age, race and gender); educational background and achievements; progress reports; designated police department assignment; and employment record within the assigned police department. Records may also include those generated as a result of a scholarship recipient's failure to serve in a designated agency or otherwise fulfill the terms of the agreement (e.g. amounts due; status of claim; history of claim; and other records relevant to the scholarship recipient's failure to fulfill the terms of the agreement).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is established and maintained under the authority of 5 U.S.C. 552a and 42 U.S.C. 14095, 14097, 14102.

PURPOSE(S):

The purpose of the Police Corps System of Records is to support COPS in its administration of the Police Corps program which provides educational scholarships to students in exchange for their commitment to serve in a designated police department upon graduation. It will enable COPS to monitor the progress of the Police Corps program and its scholarship recipients, to maintain records on and to verify that all of the scholarship applicants and/or recipients have provided accurate background information, to calculate and verify amounts of educational assistance to be awarded, to process scholarship-related payments, and to select the State agencies which will participate in the Police Corps program. It will also allow COPS to pursue the collection of debts associated with the granting of scholarships.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Relevant information may be used by Department of Treasury personnel in the processing of scholarship-related payments.

2. Relevant records may be disclosed, as appropriate, to designated State agencies to assist them in recruiting, screening and matching individuals with an appropriate police department.

3. Relevant records may be disclosed to contractors and subcontractors to the extent necessary to perform the required law enforcement training, administrative tasks, technical installations, maintenance operations and/or other similar duties.

4. In the event that a record(s) indicates a violation or a potential violation of the law, whether civil, criminal or regulatory in nature, the relevant records may be disclosed to the agency charged with enforcing or implementing such law.

5. Relevant records may be disclosed to a court or adjudicative body before which DOJ is authorized to appear when any of the following is a party to the litigation or has an interest in the litigation, and such records are determined by COPS to be arguably relevant to the litigation: a) COPS or any subdivision thereof; b) any COPS or other DOJ employee in his or her official capacity; c) any COPS or other DOJ employee in his or her individual capacity where DOJ has agreed to represent the employee; or d) the United States, where COPS has determined that the litigation is likely to affect it or any of its subdivisions.

6. Relevant records may be disclosed to an actual or potential party or to his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, or informal discovery proceedings.

7. Relevant records may be disclosed to a Federal agency in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of any employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

8. Relevant records may be disclosed to Federal, State, and local licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

9. Relevant records may be disclosed to the National Archives and Records Administration and the General Services Administration for use in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

10. Relevant records may be disclosed to other Federal or State agencies as specified in applicable law or implementing regulations.

11. Relevant records may be disclosed to the news media and the public pursuant to 28 CFR 50.2 unless it is determined that the release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

12. Relevant records may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

13. Relevant records may be disclosed to the Internal Revenue Service to obtain addresses which may be used to locate a scholarship recipient, including

delinquent scholarship recipients; or, where appropriate, to obtain information such as will enable COPS to assess and verify the ability of a delinquent scholarship recipient to repay debts owed to the Federal Government, e.g., information as to whether a scholarship applicant has a delinquent tax account, or a tax refund due.

14. Relevant records may be provided to another Federal agency to effect either a salary offset or an authorized administrative offset to a delinquent account in order to collect debts owed to the Federal Government; or, when other collection efforts have failed, to the IRS to effect an offset against Federal income tax refund due, but only after due process requirements have been met.

15. Relevant records may be disclosed to any third party who may possess the information such as the U.S. Post Office, a State motor vehicle administration, a professional organization, an alumni association, etc., to obtain a current mailing address of the scholarship recipient, including delinquent scholarship recipients, in order to locate such individual(s).

16. Relevant records may be disclosed to a Federal, State, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the debt, the identity or location of the debtor, the debtor's ability to pay, or relating to any other matter which is relevant and necessary to the settlement, effective litigation and enforced collection of the debt, or relating to the civil action trial or hearing, and the disclosure is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an agency.

17. Addresses obtained from the IRS may be redisclosed as follows:

(a) To debt collection agencies (or agents), but only for the purpose of locating an individual(s) to collect or compromise a claim;

(b) To consumer reporting agencies as part of the information provided under subsection (b)(12) (described below) which is directly related to the identity of the debtor.

DISCLOSURE TO CONSUMER REPORTING AGENCIES IN ACCORDANCE WITH SECTION 3711(F) OF TITLE 31 (AS AUTHORIZED UNDER SUBSECTION (B)(12) OF THE PRIVACY ACT (5 U.S.C. 552A)):

Information may be disclosed to a consumer reporting agency (as defined by 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3)) where such information is directly related to the identity of the debtor, i.e., name, address, and taxpayer ID (SS#), together with the amount, status, and history of claim, and agency or program under which claim arose, for the purpose of encouraging repayment of overdue debts, e.g., to provide an incentive for delinquent scholarship recipients to repay Federal Government debts by making these debts a part of their credit records. Such disclosure may be made only when a claim is overdue and only after due process steps have been taken to notify the delinquent recipient and give him or her a chance to meet the terms of the debt. Prior to such disclosure, satisfactory assurances will be obtained from such consumer reporting agency concerning compliance by that agency with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*) and any other Federal law governing the provisions of consumer credit information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Information may be stored on electronic media via a configuration of personal computers, servers and mainframes, using hard disks, floppy diskettes, magnetic tape, compact disks, and/or optical disks. Documentary records will be maintained in file folders.

RETRIEVABILITY:

Records will be retrievable by identifying an individual's name; Social Security number; police department assignment; educational institution; or other identifying number or characteristic.

SAFEGUARDS:

Information will be safeguarded in accordance with U.S. Department of Justice rules and policies governing the security and access to automated information systems. These safeguards include the use of passwords and user identification codes to limit access only to authorized personnel in the performance of their official duties with respect to the Police Corps program. Additionally, paper records will be stored in secured areas to prevent unauthorized access. Moreover, any individual who has access to the system of records will be required to protect the information from public view and from unauthorized use.

RETENTION AND DISPOSAL:

Records will be retained and/or destroyed in accordance with U.S. Department of Justice rules and policies. The retention and destruction schedule for these records in pending approval. Computerized records will be destroyed by shredding, degaussing, etc., and documentary records will be destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Community Oriented Policing Services, Office of the Police Corps and Law Enforcement Education, 1100 Vermont Avenue, N.W. Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Please direct any inquiries concerning the system of records, including questions relating to whether the system contains information about you, to the System Manager identified above.

RECORD ACCESS PROCEDURES:

Address requests in writing to the System Manager identified above, and provide a reasonable description of the record being sought.

CONTESTING RECORD PROCEDURES:

Address requests in writing to the System Manager identified above and provide a reasonable description of the record; state clearly and concisely the information being contested, the reasons for requesting the correction, and the proposed amendment to the information. In addition, provide supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

All information contained in the system of records is obtained from the individuals covered by the system; their educational institutions; consumer reporting agencies; designated State agencies; other Federal agencies, including but not limited to the IRS and the U.S. Postal Service; and third parties who serve as references for the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–356 Filed 1–7–97; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 126-96]

Privacy Act of 1974; Notice of New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice proposes to establish a new system of records to be maintained by the Justice Management Division, Security and Emergency Planning Staff.

The Security Access Control System (SACS), JUSTICE/JMD–014, is a new

system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) and (11) has been published.

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30 day period in which to comment on the proposed system of records. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40 day period in which to conclude its review of the system. Therefore, please submit any comments by February 7, 1997. The public, OMB, and Congress are invited to submit any comments to Patricia E. Neely, Program Analyst, Information Management Security Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530 (Room 850 WCTR).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report on this system on OMB and the Congress.

The system of records is described below.

Dated: December 12, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/JMD–014

SYSTEM NAME:

Security Access Control System (SACS)

SYSTEM LOCATION:

U.S. Department of Justice, Main Building, Room 6538, 950 Pennsylvania Ave. N.W., Washington, D.C. 20530–0001

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Justice (DOJ) employees, contractors, or other individuals who have been granted access to the Main Building, and/or to such other DOJ satellite buildings as are served by this system i.e., those buildings which are served by a direct terminal from the Main Building.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, badge number, picture of badge containing picture ID and signature, social security number, division (company name), home telephone number, office telephone number, office room number and building, date, time, and location of entry into or exit from the Main Building or such other DOJ satellite buildings as are served by this system. Letters of request from individuals, e.g., contractors, for issuance of badges are also included.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

The maintenance of the system is authorized by Executive Order 12958, the Privacy Act of 1974 (5 U.S.C. 552a(e)(10)), and Pub. L. No. 90–620, as amended (44 U.S.C. Chapters 21 and 23), 5 U.S.C. 301, and 40 U.S.C. 486(c), as implemented by 41 CFR 101–20.3 and 41 CFR 101–20.103. The Executive Order and Statutes address the security of records maintained by Federal agencies, Public Buildings, Property and Works to include Conduct on Federal Property and Physical Protection and Building Security.

PURPOSE OF THE SYSTEM:

The purpose of the system is to enhance the safety of DOJ employees, and the security of Federal records and property by effectively restricting access to authorized personnel and by detecting unauthorized entry into the Main Building (and to such other DOJ satellite buildings as are served by a direct terminal from the Main Building). Specifically, access badges, or other similar devices, must be inserted into a reader to gain entry into such DOJ buildings. Similarly, access badges, etc., may be required to exit from such buildings. Management officials and selected staff personnel (on a need-to-know basis) may use the information to determine the status of individuals entering DOJ buildings, and to maintain control of access badges issued.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information may be disclosed as follows: (a) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; (b) to the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (c) to a court or adjudicative body before which the DOJ is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the DOJ to be arguably relevant to the litigation: (i) The DOJ, or any component or subdivision thereof, or (ii) any employee of the DOJ in his or her official capacity, or (iii) any employee of the DOJ in his or her individual capacity where the DOJ has agreed to represent the employee, or (iv) the United States, where the DOJ determines that the litigation is likely to affect it or any of its components or subdivisions; (d) to the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2006; and (e) to private contractors and/or maintenance personnel but only to the extent that access is needed to perform their duties such as maintenance or similar administrative support operations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on a hard drive Winchester disk, magnetic tape reels, and on floppy disks. Letters of requests are stored in file folders and file cabinets.

RETRIEVABILITY:

Records are retrieved by name and by badge number.

SAFEGUARDS:

Access to the Main Building is controlled by guards and the SACS. Access to the room housing the system is protected by a three way combination lock, key in knob, and a simplex lock. Software safeguards include a password required to access the system, and restrictions on screens or files permitted to be accessed. Paper records are stored in locked cabinets.

RETENTION AND DISPOSAL:

Records generated by inserting the badge for entry and exit, e.g., badge number, date, time, and location of entry into or exit from the DOJ buildings, are maintained for a period of twelve months and are destroyed by overwriting with new information. Other records are retained until such time as the record subject has no need to enter the DOJ buildings, except that letters of request are retained for three months.

SYSTEM MANAGER AND ADDRESS:

Director, Security and Emergency Planning Staff, Department of Justice, Room 6525, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530–0001.

NOTIFICATION PROCEDURE:

Inquiries concerning this system should be in writing and made to the system manager identified above.

RECORD ACCESS PROCEDURES:

Make all requests for access in writing to the System Manager at the address identified above. Clearly mark the envelope and letter ''Privacy Act Request.'' Provide full name and date of

birth, with a notarized signature of the individual who is the subject of the record, and a return address.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information in the record to the System Manager at the address identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope ''Privacy Act Request.'' The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE PROCEDURES:

Individuals covered by the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–357 Filed 1–7–97; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 15, 1996, Orpharm, Inc., 728 West 19th Street, Houston, Texas 77008, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basis classes of controlled substances listed below:

Drug	Schedule
Methadone (9250)	II
Methadone-intermediate (9254)	II
Levo-alphacetylmethadol (LAAM) (9648).	II

The firm plans to manufacture methadone and methadone-intermediate for the production of LAAM.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 10, 1997.

Dated: December 17, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–430 Filed 1–17–97; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 16, 1996, Pharmacia & Upjohn Company, 7000 Portage Road, 2000–41–109 Kalamazoo, Michigan 49001, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of 2,5-dimethoxyamphetamine (7396) a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture the controlled substance for distribution as bulk product to a customer.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 10, 1997.

Dated: December 17, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–431 Filed 1–7–97; 8:45 am]

BILLING CODE 4410–09–M

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of information collection under review; petition by entrepreneur to remove conditions.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register on September 19, 1996, at 61 FR 49351, allowing for a 60-day public comment period. One comment was received by the Immigration and Naturalization Service. The comment is being addressed by the form originator.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 7, 1997. This process is conducted in accordance with 5 CFR Part 1320.10.

Written comments and/or suggestions regarding the item contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Office, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1534.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection or information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection*: *Extension of a currently approved collection.*

(2) *Title of the Form/Collection*: Petition by Entrepreneur to Remove Conditions.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection*: Form I–829. Office of

Examinations, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*: Primary: Individuals or Households. This form is used by a conditional resident alien entrepreneur who obtained such status through a qualifying investment, to apply to remove the conditions on his or her conditional resident status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 200 respondents at 65 minutes (1.08) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 216 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: January 2, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–352 Filed 1–7–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 2, 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 the ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Theresa M. O'Malley (202) 219–5096 x 166. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 9:00 a.m. and 12:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316, within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

* evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility, and clarify 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: Occupational Safety and Health Administration.

Title: Benzene (1910.0128).

OMB Number: 1218–0129.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 13,441.

Estimated Time Per Respondent: 5 minutes.

Total Burden Hours: 130,457.

Total Annualized capital/startup costs: - 0 -.

Total annual costs (operating/maintaining systems or purchasing services): $7,895,301.

Description: The purpose of the Benzene standard and its information collection is designed to provide protection for employees from the adverse effects associated with the occupational exposure to benzene. The standard requires employers to monitor employee exposure to benzene, to monitor employee health and to provide employees with information about their exposures and the health effects of injuries.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–397 Filed 1–7–97; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[IA 96–103]

Cecil Ray Owen; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Between January 25, 1995 and May 23, 1995, Mr. Cecil Ray Owen was employed by Westinghouse Electric Corporation (WEC) as a millwright at Virginia Electric and Power Company's (VEPCO) North Anna Power Station (NAPS). VEPCO holds License Nos. NPF–4 and NPF–7 for North Anna Units 1 and 2, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on April 1, 1978 and August 21, 1980, respectively. The licenses authorize VEPCO to operate NAPS in accordance with the conditions specified therein. WEC is a contractor to VEPCO and provides various services at NAPS.

II

10 CFR 73.56 requires, in part, that nuclear power plant licensees implement access authorization programs or accept a contractor's access authorization program for individuals seeking unescorted access to protected and vital areas of nuclear power plants. The objective of the regulation is to provide high assurance that individuals granted unescorted access are trustworthy and reliable and do not constitute an unreasonable risk to the health and safety of the public. The unescorted access authorization program must include a background investigation, including an individual's employment history. The decision to grant unescorted access authorization must be based upon the licensee's review and evaluation of all pertinent information developed.

III

In order to be certified for unescorted access at NAPS, Mr. Owen was required to complete a WEC preemployment security questionnaire which included a requirement that he list all prior employment for the last five years. Mr. Owen completed the questionnaire in January 1995. The questionnaire was used by WEC to conduct a background investigation. Mr. Owen was granted unescorted access authorization to NAPS on the basis of information he submitted on this WEC preemployment security questionnaire. Information regarding prior drug usage is material to the NRC in that licensee fitness-for-duty

programs must provide reasonable assurance that plant personnel will perform their tasks in a reliable and trustworthy manner and are not under the influence of any substance, legal or illegal, which in any way adversely affects their ability to safely and competently perform their duties. Fitness-for-duty programs must also provide reasonable measures for early detection of persons not fit to perform activities. Withholding information regarding prior drug usage circumvents these provisions of the fitness-for-duty programs. Deliberate misconduct demonstrates untrustworthiness to conduct activities at an NRC-licensed facility.

The Nuclear Regulatory Commission Office of Investigations (OI) conducted an investigation, completed on June 26, 1996, which found that Mr. Owen completed the WEC background questionnaire for a position at NAPS and deliberately failed to identify previous employment, within the five year period, where his employment was terminated for a positive drug test.

The deliberate misconduct rule in 10 CFR 50.5(a)(2) provides, in part, that an employee of a licensee, or employee of a contractor or subcontractor of a licensee, may not deliberately submit to the licensee, or the licensee's contractor or subcontractor, information that the employee knows to be incomplete or inaccurate in some respect material to the NRC. Mr. Owen violated this provision in that he was employed by WEC, a contractor to VEPCO, an NRC licensee, and deliberately provided information to WEC that was not complete, in that he did not identify one previous employer on an access authorization questionnaire he filled out at WEC's request. This information was material to the NRC as WEC and VEPCO relied on it in order to satisfy the requirement of 10 CFR Part 26 (Fitness for Duty Programs) and 10 CFR 73.56 (Personnel access authorization requirements for nuclear power plants).

Other pertinent information call into question Mr. Owen's credibility and trustworthiness. Mr. Owen, when questioned by OI, did not admit that he had falsified the questionnaire. Mr. Owen asserted that the questionnaire he completed had a statement on the bottom that only those periods of employment in excess of 30 days be included. When confronted with a photocopy of the questionnaire he signed, which contained instructions to list all employment for the previous five years, Mr. Owen remained steadfast in his assertion that the form he signed only required periods of employment in excess of 30 days. During the OI interview, Mr. Owen repeatedly denied using illegal drugs. However, when confronted with the laboratory results from his previous employer, Mr. Owen admitted that he used marijuana on isolated occasions.

Mr. Owen also told OI that he had not begun working at NAPS when he was advised of his denial of unescorted access when, in fact, he was employed at NAPS during the period between January 25 and May 23, 1995.

On August 19, 1996, the NRC sent a certified letter to Mr. Owen advising him of the apparent violation of NRC requirements and offering him the opportunity to attend a predecisional enforcement conference. The letter required a written response within 30 days of receipt and advised Mr. Owen that if he decided not to participate in a conference, the NRC would proceed based on the OI findings. After Mr. Owen received the letter, he telephoned Mr. A. Gibson, Director, Division of Reactor Safety, in the Region II office. Mr. Owen commented that a ban would affect his livelihood in that a large portion of his work was at nuclear sites. Mr. Gibson said that Mr. Owen should address this potential impact in his written response. As of the date of this Order, the NRC had not received a written response from Mr. Owen.

IV

Based on the results of the OI investigation and the lack of any additional information from Mr. Owen, the staff concludes that Mr. Owen's omission was deliberate and in violation of 10 CFR 50.5(a)(2).

The NRC must be able to rely on licensees, contractors and their employees to provide information that is complete and accurate in all material respects. This is essential with respect to access authorization programs at nuclear power plants because: (1) temporary access determinations are made on the basis of information provided by individuals prior to completion of a full background check; and, (2) the purpose of an access authorization program is to assure the trustworthiness and reliability of individuals granted unescorted access. Mr. Owen's deliberate omission raises serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to NRC licensees and their contractors. His omission also raises doubts about his trustworthiness and reliability.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with Commission requirements and that the health and safety of the public will be protected if Mr. Owen were permitted at this time to be involved in NRC-licensed activities. Therefore, public health and safety and the public interest require that Mr. Owen be prohibited from any involvement in NRC-licensed activities for a period of one year from the date of this Order and, if he is currently involved with another licensee in NRC-licensed activities, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. Owen is required to notify the NRC of his first employment in NRC-licensed activities for one year following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Owen's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

V

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5 and 10 CFR 150.20, *It is hereby ordered*, effective immediately, that:

A. Mr. Cecil Ray Owen is prohibited for one year from the date of this Order from engaging in or exercising control over individuals engaged in NRC-licensed activities, including obtaining unescorted access at an NRC-licensed facility. If Mr. Owen is currently involved in NRC licensed activities, he must immediately cease such activities, inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

B. For one year following the period of prohibition set forth in Paragraph V.A. above, Mr. Cecil Ray Owen shall, within 20 days of his acceptance of his first employment offer involving NRC-licensed activities as defined in Paragraph V.A above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in NRC-licensed activities.

The notice shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon demonstration by Mr. Owen of good cause.

VI

In accordance with 10 CFR 2.202, Mr. Owen must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Owen or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region II, 101 Marietta Street, NW, Suite 2900, Atlanta, Georgia 30323 and to Mr. Owen if the answer or hearing request is by a person other than Mr. Owen. If a person other than Mr. Owen requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Owen or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Owen may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 2nd day of January 1997.

For the Nuclear Regulatory Commission.

James L. Milhoan,

Deputy Executive Director for Nuclear Reactor Regulation, Research, and Regional Operations.

[FR Doc. 97–399 Filed 1–7–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket No.: 40–8027]

Sequoyah Fuels Corporation, Gore, Oklahoma; Consideration of Amendment to Source Material License and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

This is a notice to inform the public that the U.S. Nuclear Regulatory Commission is considering issuance of an amendment to Source Material License No. SUB–1010, issued to Sequoyah Fuels Corporation, at the Sequoyah Facility, Gore, Oklahoma. The licensee requested the amendment in a letter dated November 18, 1996, to remove the special process commitments contained in Chapter 6. These commitments are generally requirements for support system operation during processing. Because processing is prohibited, system operation is not required.

The NRC hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of the NRC's rules of practice for domestic licensing proceedings in 10 CFR Part 2'' (54 FR 8269). 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 Office 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 20555–0001. 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 requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(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 a hearing is timely in accordance with § 2.1205(c).

Each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Sequoyah Fuels Corporation, to the attention of Mr. John H. Ellis, President, P.O. Box 610, Gore, OK 74435; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For further details with respect to this action, refer to the application for the amendment dated November 18, 1996, available for inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at Stanley Tubbs Memorial Library, 101 E. Cherokee, Sallisaw, Oklahoma 74955.

Dated at Rockville, Maryland, this 31st day of December 1996.

For the U.S. Nuclear Regulatory Commission.

John W. N. Hickey, Chief,

Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–402 Filed 1–7–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority (Sequoyah Nuclear Plant Units 1 and 2); Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the Tennessee Valley Authority (the licensee) to withdraw its May 19, 1995, application for proposed amendment to Facility Operating License Nos. DPR–77 and DPR–79 for Sequoyah Nuclear Plant Units 1 and 2, located in Soddy Daisy, Tennessee.

The proposed amendment would have revised Technical Specification surveillance requirement 4.1.1.3 to conditionally exempt the end-of-life measurement of moderator temperature coefficient.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on June 21, 1995 (60 FR 32372). However, the licensee made a decision to withdraw the proposed change on December 17, 1996 on the basis that the change is no longer required. This notice is to document withdrawal of the subject amendment request.

For further details with respect to this action, see the application for amendment dated May 19, 1995.

The above document is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee.

Dated at Rockville, Maryland, this 30th day of December 1996.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Senior Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–401 Filed 1–7–97; 8:45 am]

BILLING CODE 7590–01–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of January 6, 13, 20, and 27, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of January 6
Tuesday, January 7
9:30 a.m. Briefing on Investigative Matters (Closed—Ex. 5 & 7)
2:00 p.m. Discussion of Procedures for NRC Strategic Assessment (Closed—Ex. 2)
Thursday, January 9
12:00 noon. Affirmation Session (PUBLIC MEETING) (if needed)
Week of January 13—Tentative
Monday, January 13
10:00 a.m. Briefing on NRC Strategic Assessment (PUBLIC MEETING) (Contact: John Craig, 301–415–3812)
11:30 a.m. Affirmative Session (PUBLIC MEETING) (if needed)
Week of January 20—Tentative
Tuesday, January 21
3:30 p.m. Briefing on Investigative Matters (Closed—Ex. 5 & 7)
Wednesday, January 22
10:00 a.m. Briefing on Codes and Standards (PUBLIC MEETING) (Contact: Gil Millman, 301–415–5843)
11:30 a.m. Affirmation Session (PUBLIC MEETING) (if needed)
Week of January 27—Tentative
Monday, January 27
10:00 a.m. Briefing by DOE on Plutonium Disposition (PUBLIC MEETING) (Contact: Vanice Perin, 301–415–8143)
Wednesday, January 29
10:00 a.m. Briefing on Operating Reactors and Fuel Facilities (PUBLIC MEETING) (Contact: Victor McCree, 301–415–1711)
11:30 a.m. Affirmation Session (PUBLIC MEETING) (if needed)
Thursday, January 30
10:00 a.m. Briefing on Millstone by Northeast Utilities and NRC (PUBLIC MEETING) (Contact: Bill Travers, 301–415–8500)
Friday, January 31
10:00 a.m. Briefing on Integrated Materials Performance Evaluation Program (PUBLIC MEETING) (Contact: Don Cool, 301–415–7197)

* 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 Commission 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 to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: January 3, 1997.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–473 Filed 1–6–97; 10:21 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 10.12, ''Preparation of Petitions for Rulemaking Under 10 CFR 2.802 and Preparation and Submission of Proposals for Regulatory Guidance Documents,'' provides guidance to persons who submit petitions for rulemaking to the NRC concerning the type and quantity of information that would allow the NRC to process the petition in an expeditious manner. This guide also provides the procedures for submitting proposals to change existing regulatory guidance documents.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection or copying for a fee at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Single copies of regulatory guides, both active and draft, may be obtained free of charge by writing the Office of Administration, Attn: Distribution and

Services Section, USNRC, Washington, DC 20555–0001, or by fax at (301) 415–2260. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 23rd day of December 1996.

For the Nuclear Regulatory Commission.

David L. Morrison,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 97–400 Filed 1–7–97; 8:45 am]

BILLING CODE 7590–01–P

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meetings

Notice is hereby given of the meetings of the Prospective Payment Assessment Commission on Tuesday and Wednesday, January 14 and 15, 1997, at the Madison Hotel, 15th & M Streets, NW., Washington, DC, 202/862–1600.

The Full Commission will convene at 9:00 a.m. on January 14, 1997, and adjourn at approximately 5:15 p.m. On Wednesday, January 15, 1997, the meeting will convene at 8:00 a.m. and adjourn at approximately 3:30 p.m. The meetings will be held in Executive Chambers 1, 2, and 3 each day.

All meetings are open to the public.

Donald A. Young,

Executive Director.

[FR Doc. 97–361 Filed 1–7–97; 8:45 am]

BILLING CODE 6820–BW–M

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on January 15, 1997, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Letter to Mr. Ken Apfel, OMB, Re Bulletin No. 96–02. Consolidation of Agency Data Centers

(2) Consultative Medical Examinations Contract

(3) Medicare Solicitation Notice

(4) Potential Option for Co-Location of Branch Offices (Westbury)

(5) Phase IV Office Closures (Options A thru D)

(6) Proposed Buyout Offers

(A) Buyouts for Year 2000 Employees

(7) Senior Executive Service Allocation, Fiscal Years 1998 and 1999

(8) Outleasing of the First Floor

(9) Publication of Monthly Benefit Statistics

(10) Coverage Determinations:

A. Discussion of Hearings Officer's Report on Coverage Decision For CSX Sealand Terminals

B. Status of Intermodal Services under the Railroad Retirement and Railroad Unemployment Insurance Acts

C. South Central Rail Management, LLC

D. CSX Technology, Inc.

E. Belvidere & Delaware River Railway Company, Inc.

F. Industrial Temps, Inc.

G. Minnesota River Bridge Company

H. Response to Letter of 12/4/96 from Mr. Damen K. McCaddon Concerning Refunds of Railroad Retirement Taxes Paid to Employees Of the Durango & Silverton Narrow Gauge Railroad

(11) Regulations:

A. Part 211, Pay for Time Lost

B. Parts 230, 255 and 261

(12) December 18, 1996 Board Meeting—Recommendation Regarding Public Attendance at Future Board Meetings

(13) Labor Member Truth in Budgeting Status Report

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: January 3, 1997.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–462 Filed 1–6–97; 9:49 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38107; File Nos. SR–SCCP–96–11 and SR–Philadep–96–21]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to Participants Fund Contributions for Inactive Account(s)

December 31, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 15, 1996, the Stock Clearing Corporation of Philadelphia (''SCCP'') and the Philadelphia Depository Trust Company (''Philadep'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes (File Nos. SR–SCCP–96–11 and SR–Philadep–96–21) as described in Items I and II below, which items have been prepared primarily by SCCP and Philadep. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule change seeks permanent approval of SCCP's and Philadep's participants fund formulas with respect to inactive accounts and the account monitoring procedures related to such inactive accounts. The Commission previously approved these formulas and account monitoring procedures on a temporary basis through December 31, 1996.[2]

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, SCCP and Philadep included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP and Philadep have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The proposed rule change seeks permanent approval of amendments to both SCCP's and Philadep's Rule 1 and Rule 4 governing (i) the $5,000 minimum cash participants fund contribution for inactive accounts and (ii) the inactive account monitoring procedures designed to detect and collect additional participants fund contributions when an inactive account

[1] 15 U.S.C. 78s(b)(1).

[2] Securities and Exchange Act Release No. 37554 (August 9, 1996), 61 FR 42929 [File Nos. SR–SCCP–96–03 and SR–Philadep–96–07] (order granting temporary approval of proposed rule changes to establish separate participant categories for inactive accounts).

[3] The Commission has modified the text of the summaries submitted by SCCP and Philadep.

becomes active. The Commission previously approved these participants fund formulas, the procedures monitoring levels of account activity, and the procedures for collecting additional participants fund contributions on a temporary basis through December 31, 1996.[4] Throughout the temporary approval period, SCCP and Philadep have provided monthly reports to the Commission detailing inactive account activity. At this time, SCCP and Philadep are requesting that the Commission grant permanent approval to the inactive account participants fund contribution and the inactive account monitoring procedures.

SCCP and Philadep believe the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal will promote the prompt and accurate clearance and settlement of securities transactions and will assure the safeguarding of securities and funds in the custody or control of SCCP and Philadep or for which SCCP and Philadep are responsible.

(B) Self-Regulatory Organizations' Statement on Burden on Competition

SCCP and Philadep do not believe that the proposed rule changes will impact or impose a burden on competition.

(C) Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

No written comments have been solicited or received. SCCP and Philadep will notify the Commission of any written comments received by SCCP and Philadep.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[5] The Commission believes the proposed rule changes are consistent with SCCP's and Philadep's obligations under Section 17A(b)(3)(F) because in connection with establishing separate participant categories designed for participants that conduct limited activity, the proposals establish procedures to monitor the level of activity in those participants accounts and procedures to collect additional participants fund deposits if the activity in the accounts increase above certain thresholds.

SCCP and Philadep have established new surveillance procedures to monitor inactive participants' accounts to ensure that inactive participants are not able to conduct levels of activity above the inactive account thresholds without depositing additional funds. Pursuant to the temporary approval order, SCCP and Philadep have submitted on a monthly basis reports detailing the number of inactive participants, the value of their participants fund deposits, and the total activity in each inactive account for the prior month. After review of the monthly reports, the Commission believes that it is appropriate to grant permanent approval of the proposals. The inactive accounts reflect a small volume of activity that the Commission currently believes is adequately covered by the inactive account minimum participants funds deposit. Additionally, SCCP's and Philadep's procedures provide for the monitoring of activity in those participant accounts and the prompt collection of additional funds as the level of activity nears the maximum level of activity allowed in an inactive participants account.

However, SCCP and Philadep are to continue to submit on a monthly basis reports detailing the number of inactive participants, the value of their participants fund deposits, the total activity in each inactive account for the prior month, and the steps taken in the event that an inactive participant exceeded the inactive thresholds or became active. SCCP and Philadep must continue to submit such reports to the Commission so that the Commission can continue to monitor SCCP's and Philadep's administration of these new surveillance procedures established under these proposed rule changes.

SCCP and Philadep have requested that the Commission find good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of the filing. Because accelerated approval will enable SCCP and Philadep to keep in place without interruption their inactive participant procedures, the Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing.[6]

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 SCCP and Philadep. All submissions should refer to the file number SR–SCCP–96–11 and SR–Philadep–96–21 and should be submitted by January 29, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–SCCP–96–11 and SR–Philadep–96–21) be, and hereby are, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–385 Filed 1–7–97; 8:45 am]

BILLING CODE 8010–01–M

[4] For a complete discussion of SCCP's and Philadep's inactive account rules and procedures, refer to Securities and Exchange Act Release No. 37554, *supra* note 2.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] The staff of the Board of Governors of the Federal Reserve System has concurred with the Commission's granting of accelerated approval of Philadep's proposed rule change. Telephone conversation between John Rudolph, Board of Governors of the Federal Reserve System, and Chris Concannon, Staff Attorney, Division of Market Regulation, Commission (December 30, 1996).

[7] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2921]

Pennsylvania; and Contiguous Counties in New Jersey; Declaration of Disaster Loan Area

Philadelphia County and the contiguous counties of Bucks, Delaware, and Montgomery in the Commonwealth of Pennsylvania, and Burlington, Camden, and Gloucester Counties in the State of New Jersey constitute a disaster area as a result of damages caused by a fire which occurred on December 19 and 20, 1996 in the City of Philadelphia. Applications for loans for physical

damage may be filed until the close of business on February 28, 1997 and for economic injury until the close of business on September 30, 1997 at the address listed below:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, New York 14303 or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	8.000
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.250
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The numbers assigned to this disaster for physical damage are 292105 for Pennsylvania and 292205 for New Jersey. For economic injury the numbers are 932800 for Pennsylvania and 932900 for New Jersey.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 30, 1996.

Katherine D. Kincaid,

Acting Administrator.

[FR Doc. 97–370 Filed 1–7–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2501]

Significant Projects Which Have Been Tendered in the Oil and Gas Sector in Iran

Pursuant to section 5(e) of the Iran and Libya Sanctions Act of 1996 (Public Law 104–172), the Department of State is presenting the following list of significant projects which have been publicly tendered in the oil and gas sector in Iran. We have made no determinations with respect to the imposition of sanctions in connection with the projects on the list. A project's inclusion on or absence from the list should not be seen as relevant to a determination on the imposition of sanctions.

—South Pars Gasfield Development Project
—AMAK Gas Processing Facility
—Doroud Oilfield Expansion Project
—Salman Field Khuff Gas Reservoir (Dalan Formation) Development
—Bandar Abbas Condensate Refinery (Number 9 Refinery)
—Shiraz Refinery Expansion
—NGL–1200 Facility
—NGL–1300 Facility
—Lavan Island LPG Facility
—Balal Oilfield Development Project
—Soroush Oilfield Development Project.

Dated; January 2, 1997.

William Weingarten,

Deputy Assistant Secretary, Acting, Energy, Sanctions, and Commodities.

[FR Doc. 97–409 Filed 1–7–97; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice Number 2502]

International Joint Commission; Boundary Waters Treaty of 1909

Notice of Public Hearing on the Safety of Dams and Other Structures Operated under International Joint Commission Orders.

Certain dams and other structures along the United States-Canada border are operated under Orders of the International Joint Commission pursuant to the Boundary Waters Treaty of 1909 and the Rainy Lake Convention. Currently, oversight of safety considerations varies.

The International Joint Commission will hold a public hearing in Ottawa, Ontario on February 19, 1997 to evaluate these individual procedures and authorities, to hear the views of all interested persons on how best to ensure the safety of structures subject to Commission Orders, and to consider how long such Orders should remain in force.

The hearing will begin at 10 a.m. on February 19, 1997 at the location below: Canadian International Trade Tribunal, Hearing Room #2, 333 Laurier Avenue West, 18th floor, Ottawa, Ontario.

Everyone is invited to offer relevant information and views to the Commission, whether on their own behalf or in a representative capacity. Persons intending to participate in the hearing are encouraged to provide either Commission Secretary with copies of their remarks prior to the hearing.

Written submissions are encouraged from both those who attend and from those unable to attend the hearing. They may be sent to either Commission Secretary on or before March 21, 1997 at the addresses below:

Secretary, U.S. Section, 1250 23rd Street, NW., Suite 100 Washington, DC 20440 Telephone: (202) 736–9000 Fax: (202) 736–9015 Email: Bevacquaf@ijc.achilles.net

Secretary, Canadian Section 100 Metcalfe Street, 18th Floor Ottawa, ON K1P 5M1 Telephone: (613) 995–2984 Fax: (613) 993–5583 Email: Trippg@ijc.achilles.net

The International Joint Commission has approved construction and operation of certain structures along the border. Structures operating under Commission Orders include:

St. Croix River

Grand Falls Dam
Milltown Dam
Forest City Dam
Vanceboro Dam

Saint John River

Grand Falls Dam

Richelieu River

Fryers Island Dam

St. Lawrence River

Moses-Saunders Dam
Long Sault Dam
Iroquois Dam

Niagara River

Niagara Falls Control Structure
Lake Erie Ice Boom
Peace Bridge

St. Marys River

Compensating Works
Great Lakes Power Dam

Rainy and Namakan Lakes

Prairie Portage Dam
Kettle Falls Dam
Fort Frances-International Falls Dam

Kootenay River

Kootenay River Dyking
Corra Linn Dam

Columbia River

Grand Coulee Dam

Pend'Oreille River

Waneta Dam

Okanagan River

Zosel Dam

Dated: January 2, 1997.

Kathy Prosser,

Secretary, United States Section, International Joint Commission.

[FR Doc. 97–407 Filed 1–7–97; 8:45 am]

BILLING CODE 4710–14–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identifications of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public concerning acts, policies, and practices to be considered with respect to identification of countries under section 182 of the Trade Act of 1974, as amended.

SUMMARY: Section 182 of the Trade Act of 1974, as amended (Trade Act), requires the United States Trade Representative (USTR) to identify countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. 19 U.S.C. 2242. In addition, the USTR is required to determine which of the countries identified should be designated as priority foreign countries. Priority foreign countries typically are subject to a ''special'' 301 investigation of the acts, policies or practices which led to their designation. Section 182 of the Trade Act contains a special rule for the identification of actions by Canada affecting United States cultural industries.

USTR requests written submissions from the public concerning foreign countries' acts, policies, and practices that are relevant to the decision whether particular trading partners should be identified under section 182 of the Trade Act.

DATES: Submissions must be received on or before 12:00 noon on Tuesday, February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Joseph Papovich, Deputy Assistant USTR for Intellectual Property (202) 395–6864; Claude Burcky, Director for Intellectual Property (202) 395–6864; or Thomas Robertson, Associate General Counsel (202) 395–6800, Office of the United States Trade Representative.

SUPPLEMENTARY INFORMATION: Pursuant to section 182 of the Trade Act, the USTR must identify those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as priority foreign countries.

USTR may not identify a country as a priority foreign country if it is entering into good faith negotiations, or making significant progress in bilateral or multilateral negotiations, to provide adequate and effective protection of intellectual property rights.

Section 182 contains a special rule regarding actions of Canada affecting United States cultural industries. The USTR is obligated to identify any act, policy or practice of Canada which affects cultural industries, is adopted or expanded after December 17, 1992, and is actionable under article 2106 of the North American Free Trade Agreement (NAFTA). The identification of any such act, policy or practice shall have the same status as a priority foreign country designation under section 182(a)(2) of the Trade Act (i.e., the rules regarding initiation of a ''special'' 301 investigation will apply), unless the United States has already taken action pursuant to section 2106 of the NAFTA.

USTR must make the above-referenced identifications and designations within 30 days after publication of the National Trade Estimate (NTE) report, i.e., no later than April 30, 1997. Priority foreign countries typically are subject to a ''special'' 301 investigation of the acts, policies or practices which led to their designation.

Requirements for Submissions: Submissions should include a description of the problems experienced and the effect of the acts, policies, and practices on U.S. industry. Submissions should be as detailed as possible and should provide all necessary information for assessing the effect of the acts, policies and practices. Any submissions that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b)(55) FR 20593) and must be sent to Sybia Harrison, Special Assistant to the Section 301 Committee, Room 223, 600 17th Street, NW., Washington, D.C. 20508, no later than 12:00 noon on Tuesday, February 18, 1997. Because submissions will be placed in a file open to public inspection at USTR, business-confidential information should not be submitted.

Public Inspection of Submissions: Within one business day of receipt, submissions will be placed in a public file, open for inspection at the USTR Reading Room, in Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, D.C. An appointment to review the file may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 12:00 noon and from 1:00 p.m. to 4:00 p.m. Monday through Friday.

Joseph Papovich,

Deputy Assistant USTR for Intellectual Property.

[FR Doc. 97–416 Filed 1–7–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICR) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collections of information was published on October 22, 1996 [FR 61, page 54833].

DATES: Comments must be submitted on or before February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., (202) 267–9895, Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

1. *Title:* Transition to an all Stage 3 Fleet operating in the 48 contiguous United States and the District of Columbia.

OMB No. 2120–0553.

Type of Request: Extension of A Currently Approved Collection.

Affected Public: U.S. and foreign air carriers.

Abstract: 14 CFR Part 91 implements Sections 9308 and 9309 of the Airport Noise and Capacity Act of 1990, by establishing a schedule of reductions of Stage 2 airplanes and prohibiting their use in the contiguous U.S. after 12/31/99. Also, it precludes the operation of airplanes in the contiguous U.S. that

were imported pursuant to contracts executed after 11/5/90.

Burden Estimate: The estimated burden is 280 hours annually.

2. *Title:* Alcohol Misuse Prevention Program for Personnel Engaged in Specified Aviation Activities.

OMB No. 2120–0571.

Type of Request: Extension of A Currently Approved Collection.

Affected Public: The respondents are an estimated 5,300 specified aviation employers.

Abstract: This regulation requires specified aviation employers to implement an FAA-approved alcohol misuse prevention program, (AMPP), to provide the FAA with an AMPP certification statement, and to report annually on alcohol testing results.

Burden Estimate: The estimated burden is 14,000 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention DOT Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on December 23, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–383 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD 96–070]

National Baseline Requirements Group Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Coast Guard is undertaking an effort to identify the minimum capabilities a Vessel Traffic Service (VTS) must have to serve its wide range of users. The Coast Guard needs to establish national baseline operating requirements that will permit it to take advantage of available, off-the-shelf systems that will be less expensive to build and operate. In order to have a comprehensive representation of all waterway users, the Coast Guard has invited national representatives of several maritime organizations to provide input to assist in the development of these requirements. This is the first meeting of the National Baseline Requirements Group. There will be a series of 4–6 meetings which will continue through early 1997.

DATES: The meeting will be held January 15, 1997, from 9 a.m. to approximately 5 p.m.

ADDRESSES: The meeting will be held in the Marine Board Offices, National Academy of Science, 2001 Wisconsin Avenue, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peter Johnson, Marine Board, National Academy of Science, 2001 Wisconsin Avenue, Washington, DC, telephone (202) 334–3157, fax (202) 334–3789.

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

The agenda for the meeting consists of the following items:

(1) VTS Program Update and VTS Authority.

(2) Overview of Coast Guard Mission Needs.

(3) Scope—Critical Areas for VTS.

(4) Coast Guard Strawman Operational Requirements Menu and Coast Guard Expectations and Needs.

(5) Development of Minimum Safety Baseline VTS.

(6) Plans for Next Meeting.

(7) Adjournment.

Dated: December 31, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–421 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

[Docket No. 96–126; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1986 Mazda RX–7 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1986 Mazda RX–7 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1986 Mazda RX–7 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is February 7, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

LPC of New York, Inc. of Ronkonkoma, New York (''LPC'') (Registered Importer 96–100) has petitioned NHTSA to decide whether 1986 Mazda RX–7 passenger cars are eligible for importation into the United States. The vehicle which LPC believes is substantially similar is the 1986 Mazda RX–7 that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1986 Mazda RX–7 to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

LPC submitted information with its petition intended to demonstrate that the non-U.S. certified 1986 Mazda RX–7, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1986 Mazda RX–7 is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . . .*, 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 111 *Rearview Mirrors,* 112 *Headlamp Concealment Devices,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner states that the vehicle also complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) inscription of the word ''Brake'' on the lens of the brake failure indicator lamp; (b) replacement of the speedometer/odometer with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.- model sealed headlight assemblies; (b) installation of U.S.- model rear sidemarker lights.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 114 *Theft Protection*: installation of a U.S.- model warning buzzer relay and a warning buzzer in the steering lock electrical circuit.

Standard No. 118 *Power Window Systems*: rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection*: installation of a seat belt warning buzzer. Petitioner states that the vehicle is equipped with U.S.-model seat belt assemblies identical to those found on its U.S.-certified counterpart.

Standard No. 301 *Fuel System Integrity*: installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that a VIN plate will be installed in the vehicle so that it can be read from outside the left windshield pillar, and a VIN reference label will be installed on the edge of the door or latch post nearest the driver to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination Mazda in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 3, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–387 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–132; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1984 Nissan 300ZX Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1984 Nissan 300ZX passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1984 Nissan 300ZX that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is February 7, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA

has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

LPC of New York, Inc. of Ronkonkoma, New York (''LPC'') (Registered Importer 96–100) has petitioned NHTSA to decide whether 1984 Nissan 300ZX passenger cars are eligible for importation into the United States. The vehicle which LPC believes is substantially similar is the 1984 Nissan 300ZX that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non- U.S. certified 1984 Nissan 300ZX to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the non-U.S. certified 1984 Nissan 300ZX, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1984 Nissan 300ZX is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . . .*, 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 111 *Rearview Mirrors,* 112 *Headlamp Concealment Devices,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the non-U.S. certified 1984 Nissan 300ZX complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b)replacement of the speedometer/odometer with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation of U.S.- model headlight, and sidemarker assemblies.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 114 *Theft Protection:* installation of a U.S.- model warning buzzer relay and a warning buzzer in the steering lock electrical circuit.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning buzzer.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

The petitioner also states that a VIN plate will be installed on the vehicle so that it can be read from outside the left windshield pillar, and a VIN reference label will be installed on the edge of the door or latch post nearest the driver to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 3, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–422 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–131; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1992 Through 1996 BMW 325i Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992 through 1996 BMW 325i passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1992 through 1996 BMW 325i passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is February 7, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle

Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''Wallace'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1992 through 1996 BMW 325i passenger cars are eligible for importation into the United States. The vehicles which Wallace believes are substantially similar are 1992 through 1996 BMW 325i passenger cars that were manufactured for importation into, and sale in, the United States and certified by its manufacturer, Bayerische Motoren Werke A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1992 through 1996 BMW 325i passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that non-U.S. certified 1992 through 1996 BMW 325i passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1992 through 1996 BMW 325i passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence . . . .,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 1992 through 1996 BMW 325i passenger cars comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) replacement of the headlight assemblies; (b) replacement of the turn signal lens assemblies; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning device to be activated if the key is left in the steering lock and the driver's side door is opened.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a seat belt warning system; (b) installation of a U.S.-model driver's side air bag and knee bolster; (c) installation of a U.S.-model passenger's side air bag on model years for which this component was included as standard equipment on the U.S. certified counterpart. The petitioner states that the vehicles are equipped with Type 2 seat belts in all four outboard designated seating positions, and with a Type 1 seat belt in the rear center seating position.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that non-U.S. certified 1992 through 1996 BMW 325i passenger cars must be marked to comply with the Theft Prevention Standard at 49 CFR Part 541.

The petitioner also states that a VIN plate will be installed on the vehicles so that it can be read from outside the left windshield pillar, and a VIN reference label will be installed on the edge of the door or latch post nearest the driver, in compliance with the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 3, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–423 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–50–P

Surface Transportation Board

[STB Ex Parte No. 619]

Petition of Fieldston Co., Inc. To Establish Procedures Regarding Ex Parte Communications in Railroad Merger Proceedings

AGENCY: Surface Transportation Board.

ACTION: Statement of policy.

SUMMARY: The ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (ICCTA), at 49 U.S.C. 11324(f), permits, but does not require, ex parte communications in certain circumstances involving the consolidation, merger, or acquisition of control of railroads in a transaction that involves at least one Class I railroad. The Board announces that it will not entertain ex parte communications in railroad merger proceedings.

EFFECTIVE DATE: January 8, 1997.

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

SUPPLEMENTARY INFORMATION: In response to a petition filed by Fieldston Co., Inc., the Board has announced that it will not entertain ex parte communications in railroad merger proceedings. While a change in the law permits ex parte communications in railroad merger proceedings under certain conditions, the Board has decided not to entertain ex parte communications in these proceedings because entertainment of ex parte communications would impede efficiency, fairness, and public confidence in the Board's railroad merger review procedures.

Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Ave., N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: December 31, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–410 Filed 1–7–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Departmental Offices, Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. section 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, N.W., Washington, D.C., on February 4 and 5, 1997, of the following debt management advisory committee: Public Securities Association, Treasury Borrowing Advisory Committee.

The agenda for the meeting provides for a technical background briefing by Treasury staff on February 4, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. On February 5, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 11:30 a.m. Eastern time on February 4 and will be open to the public. The remaining sessions on February 4 and the committee's reporting session on February 5 will be closed to the public, pursuant to 5 U.S.C. App. section 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. section 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. section 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of the Under Secretary for Domestic Finance is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: January 2, 1997.

John D. Hawke, Jr.,

Under Secretary (Domestic Finance).

[FR Doc. 97–364 Filed 1–7–97; 8:45 am]

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Part II

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of Implementation Plans; California—Ozone; Final Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA114–0023; FRL–5665–8]

Approval and Promulgation of Implementation Plans; California—Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTIONS: Final rule.

SUMMARY: EPA is approving revisions to the California State Implementation Plan (SIP) for ozone for 6 nonattainment areas: South Coast, Southeast Desert, Ventura, Sacramento, San Diego, and San Joaquin Valley. In addition, EPA is approving specific local and statewide air pollution control measures, including the California enhanced motor vehicle inspection and maintenance program. The California Air Resources Board (CARB) submitted these SIP revisions to EPA on November 14, 1994, November 15, 1994, December 28, 1994, December 29, 1994, February 7, 1995, March 30, 1995, January 22, 1996, April 4, 1996, May 17, 1996, June 13, 1996, July 10, 1996, and July 12, 1996.

EPA is approving these revisions to the California SIP under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals for nonattainment areas.

EPA is also establishing a consultative process on the potential for additional mobile source controls that can contribute to attainment in the South Coast, and the Agency is committing to undertake rulemaking on those controls deemed to be appropriate for EPA.

EFFECTIVE DATE: This approval is effective on February 7, 1997.

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No. A–96–13, which is available for viewing during normal business hours at the following location: Air Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP materials are also available for inspection at the addresses listed below:

Environmental Protection Agency, Air Docket (6102), 401 M Street, S.W., Washington, DC

California Air Resources Board, 2020 L Street, Sacramento, California

In addition, copies of the relevant local plan, the State plan (1994 California Ozone SIP), public comments, and EPA's technical support documents for this rulemaking are available at the following locations:

San Diego Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Fresno, California

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, California

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, California

Electronic Availability

This document and related materials are available at Region 9's site on the World Wide Web at http://www.epa.gov/region09 (please look under Air Programs). The Federal Register is also available on the Internet by pointing a web browser at: http://www.access.gpo.gov/su__docs/ or by telnet to swais.access.gpo.gov.

FOR FURTHER INFORMATION CONTACT: Julia Barrow, Chief, Office of Planning, Air Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901; (415) 744–1230.

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I. Background

A. Summary

EPA is finalizing approval of the 1994 California Ozone SIP.[1] This action was proposed on March 18, 1996 (61 FR 10920–10962). The reader is referred to that notice for additional detail on the affected areas and the SIP submittals, as well as a summary of relevant Clean Air Act requirements and EPA interpretations of those requirements.

Specifically, EPA is approving in this document:

- The emission inventories in San Diego, San Joaquin, Sacramento, Ventura, the Southeast Desert, and the South Coast;[2]
- The 15% rate-of-progress plans for San Diego, San Joaquin, Ventura, and the South Coast;
- The post-1996 rate-of-progress plans for San Diego, San Joaquin, Sacramento, Ventura, and the South Coast;
- The modeling and attainment demonstrations in San Diego, San Joaquin, Sacramento, Ventura, the Southeast Desert, and the South Coast;
- All of the individual local control measures and the State control measures not previously approved; and
- The State's motor vehicle inspection and maintenance (I/M) program and regulations.

This approval indicates EPA's belief that this SIP, if faithfully implemented, will achieve clean air for California. The health of all Californians now depends on the dedication of the State to see that the plans are carried out. While the State may submit revisions to change individual strategies, EPA intends to hold it accountable for timely delivery of the commitments in the plans approved today.

An important aspect of EPA's approval involves the establishment of a public consultative process intended to identify the future mobile source strategies to provide the remaining emission reductions needed for attainment in the South Coast, which remains the Nation's only extreme ozone nonattainment area.

In submitting its 1994 SIP, the State maintained that achievement of clean air goals in the South Coast required further emission reductions from national and international mobile sources, as a supplement to the State's own aggressive mobile source control program and the massive contribution made by locally adopted regulations and control measures. The State argued that California lacked the legal authority or practical ability to control these sources, and that the Federal efforts were essential for progress and attainment in the South Coast because there are no feasible alternatives, in light of the stringent State and local controls on all other sources.

The State identified in the proposed SIP specific mobile sources requiring future Federal controls: onroad and nonroad vehicles and engines, pleasure craft, marine vessels, aircraft, and locomotives. For each source, the State specified a desired level of emission reductions and the years for Federal adoption and implementation.

Under the Constitution and the Clean Air Act, EPA does not believe that a state has authority to assign emission reduction responsibilities to the Federal government. Nevertheless, EPA believes that the Federal government should help speed clean air, not only in California but on a national basis.

Since the Clean Air Act Amendments of 1990, EPA has already issued 30 national regulations to help reduce emissions from mobile sources. Examples of important recent national controls include: (1) The heavy duty truck and bus rules for NO_X and PM issued in May 1993; (2) the NO_X standards for nonroad diesel engines 37kW and above promulgated in 1994; (3) the small nonroad gasoline engine standards (primarily for lawn and garden equipment) finalized in July 1995; and (4) the pleasurecraft engine standards issued in August 1996.

EPA will issue further national controls for remaining mobile source categories. In doing so, the Agency must set controls based on national considerations and criteria established by Congress in the applicable sections of Title II of the Act.

Since the 1994 California Ozone SIP was submitted, EPA has been working cooperatively with California and other stakeholders to develop more stringent controls for both onroad and nonroad vehicles and engines. These constructive, consensus-building activities have received widespread national support from the affected industries, states, and the environmental community, and have already resulted in agreement on stringent new national controls for highway trucks and buses, proposed on June 27, 1996 (61 FR 33421–33469), and for nonroad compression-ignition engines (agreement signed by EPA, California, and industry, on September 13, 1996). The proposed controls achieve California's reduction targets for these source categories while at the same time avoiding the inefficiencies and dislocation that would result from different and possibly conflicting Federal and California standards.

As a result of such successes, EPA is optimistic that the year-long consultative process will succeed and provide emission reductions that complement the California State and local controls contained in the South Coast SIP. The current status of EPA's activities in developing further mobile source controls is presented in Appendix A of this document.

In order to allow time to evaluate what additional mobile source reductions can contribute to ozone attainment in the South Coast, EPA intends to continue and broaden the consultation with the State and other affected parties through June 1997. As stated in the proposal, the Agency believes that this period provides the opportunity to agree on future mobile source reductions that will meet our environmental goals expeditiously and without adverse consequences to the State and the South Coast, whether the controls come from national and international standards or from new State and local measures.

On July 19, 1996, EPA held the first of several meetings in Los Angeles to describe the public consultative process and stimulate a useful exchange of ideas on innovative and ambitious approaches to achieve our pollution reduction targets. Appendix B to this document gives more details on the public consultative process and proposed future meetings.

At the conclusion of the consultative process, EPA believes that the State will have the information it needs to amend

[1] EPA will take action on the Santa Barbara SIP separately. After EPA's proposed approval was issued, ozone violations were recorded, which prevent the Santa Barbara area from meeting its attainment goals this year.

[2] The respective Federal ozone nonattainment areas are: San Diego Area, San Joaquin Valley Area, Sacramento Metro Area, Ventura County Area, Southeast Desert Modified AQMA Area, and Los Angeles-South Coast Air Basin Area. The boundaries of these areas are set forth at 40 CFR 81.305.

the South Coast attainment demonstration appropriately, based on the final mix of international, national, State, and local mobile source controls. The State has agreed, and has committed to submit a revised attainment demonstration by December 1997, and to adopt and submit any needed State measures by December 1999. As proposed, EPA is making a comparable enforceable commitment to undertake rulemakings, after the consultative process, on any controls which are determined to be appropriate for EPA.

EPA believes that, by working together with the State, local government, affected industry, environmental groups, and the general public, we can identify approaches to fulfill our public health obligations in ways that support progress in other areas of public concern.

The data collected and analyses performed as part of EPA's forthcoming report to Congress on the Benefits and Costs of the Clean Air Act demonstrate that air pollution control activities, while costly, have returned far greater economic benefits.[3] Similarly, California-specific studies have recently underscored the State's historic success in reconciling economic growth with air quality progress.[4]

If successfully implemented, the 1994 California Ozone SIP will succeed even more completely than previous clean air plans in harmonizing public health progress with the social and economic goals of the State's citizens. Federal approval of the 1994 SIP will help to provide the regulatory certainty needed to sustain and accelerate California's progress in achieving State and Federal clean air objectives. EPA will continue to work together with California to achieve the clean air that our citizen's deserve.

B. Response to Public Comments on General SIP Issues

1. Federal Assignments.

a. Importance of Federal Contribution and Difficulty of Further Local Controls. As discussed in the proposal, the 1994 California Ozone SIP includes 7 specific mobile source control measures assigned to the Federal government. These measures, which were in addition to those already promulgated by EPA, comprised a more stringent heavy-duty diesel vehicle standard, an off-road diesel equipment standard, a standard for gasoline- and LPG-fueled industrial equipment, national and international standards for marine vessels, national standards for locomotives with a South Coast clean locomotive fleet program, national standards for aircraft, and standards for pleasurecraft.

EPA received many comments underscoring the critical need for reductions from additional national regulations if California areas, particularly the South Coast, are to achieve healthy air quality. Most of these comments added a corollary: Further State and local controls could not reasonably be expected, given the comprehensiveness and stringency of existing regulations and committal measures in the SIP. As stated in the proposal, EPA recognizes that national and international mobile sources are increasingly significant components of the ozone problem, especially in the South Coast, and EPA is committing at this time to undertake the rulemaking on those controls that are determined to be appropriate. The increased Federal contribution that will come from ongoing national mobile source control measures, plus the State and local control measures in the SIP, add up to almost all of the needed emission reductions. EPA is confident that a small shortfall, if it still exists at the end of the public consultative process, will be addressed by cooperative Federal, State, and local strategies, without adverse impacts.

b. Public Consultative Process. The California Environmental Protection Agency (CEPA) commented that the proposed consultative process is much like the participatory approach California has used for many years to develop new environmental programs. CEPA stated that CARB's staff are prepared to begin work right away with EPA and other stakeholders to develop appropriate controls.

The American Association of Railroads (AAR) commented in support of EPA's proposed consultative process as an innovative and useful method to help assure that the SIP's goals are met.

Over twenty years of efforts to clean the air in Southern California have taught that cooperation and innovation by all parties are essential if attainment is to be achieved while retaining a healthy economy. The proposed consultative process builds on that experience, and in that manner provides a reasonable basis for EPA approval of the South Coast attainment demonstration.

The Western Riverside Council of Governments (WRCOG) supported the continuation and expansion of the collaborative process. WRCOG asked that a formal participation program should be developed as part of the consultative process, to provide a framework in which local governments and business communities could participate, since local agencies are required to implement whatever control measures are adopted from this process and success depends upon local government ''buy-in.'' The City of Los Angeles also requested that EPA establish a list of key stakeholders and begin seeking input through a formal process.

EPA agrees that local government participation in the design and review of control measures is critically important to ensure that the measures are efficient, acceptable to the affected communities, and successfully implemented. The Agency hopes that the process can be an open and informal exchange of ideas from the community at large. EPA believes that this is the most efficient structure and approach, in the limited amount of time, to share and receive important information that will help all participants to understand the issues involved and the opportunities to achieve the remaining emissions reductions needed from mobile sources.

c. Legal and Policy Issues. The Environmental Defense Center opposed EPA's proposed public consultative process to resolve the SIP's future mobile source component. EDC expressed perplexity at EPA's reliance on and endorsement of California's assignment of emissions reductions to meet California's shortfall in attainment demonstration for the South Coast:

> The novel ''consultative'' process is without basis in law or propriety under the facts. EPA should not accept ''assignment'' of California's shortfall; this action violates the Act, perverts the local air quality planning process, and rewards California's unwillingness to address its own air quality problems. The precedent is highly disfavorable to clean air and jeopardizes the health and well being of everyone in the United States.

As stated in the Notice of Proposed Rulemaking (NPRM), EPA believes that California does not have the authority to assign SIP responsibility to the Federal government. However, EPA recognizes that massive further reductions are needed for attainment in the South Coast and that attainment may be either

[3] See *The Benefits and Costs of the Clean Air Act, 1970 to 1990,* USEPA report prepared for US Congress under section 812 of the Clean Air Act, Draft report issued May 3, 1996. USEPA expects to issue the final report in the near future, along with a similar prospective analysis on benefits and costs of the 1990 Clean Air Act Amendments.

[4] See Alan Gordon, *Myths of Jobs vs. Resources: Environmental Protections and Economic Growth,* March 1996 (report prepared for the California Senate Office of Research), and Anil Puri, *Significance of California Air Pollution Control Regulations for Business Location Decisions,* May 1995 (report prepared for the California Air Resources Board Research Division).

very costly and disruptive or impossible if further reductions are not achieved from national and international sources.

EPA therefore established the public consultative process to resolve the complex issues associated with national and international sources and to determine what combination of controls at various levels are appropriate to contribute to the remaining emission reduction needs in the South Coast. Both EPA and the State have made enforceable commitments to prepare the controls that are determined, after the public consultation process, to be appropriate for them. Under these commitments, any new Federal or State rules both can and will be adopted before they are required to meet progress or attainment requirements in the South Coast. EPA also believes that those national or international controls that issue from the public consultative process will benefit, rather than disfavor, clean air elsewhere in the United States.

The ''Federal Assignments'' portion of the SIP is approvable because it is consistent, in the overall context of the California SIP, with the Clean Air Act requirements. The California SIP as a whole is approvable as long as, among other things, it includes ''[a] demonstration that the plan * * * will provide for attainment'' of the NAAQS. CAA section 182(c)(2)(A). As set forth in the proposal and below in section II.B.6., the South Coast SIP regulations and commitments, coupled with promulgated Federal measures, provide the great bulk of reductions needed for attainment. The amount of reductions expected from the consultative process is a small percentage of the overall amount of reductions needed for attainment. In addition, granting additional time for identifying and adopting the remaining measures is consistent with the statutory scheme because the time delays are relatively brief, in the context of the SCAB attainment process, and thus do not interfere with the deadline for ROP and attainment.

EPA counts towards the attainment demonstration reductions from measures resulting from the consultative process, even though those measures have not yet been determined, in part because of the practical and technical challenges of providing for attainment in the South Coast. The SIP provisions for the South Coast already include control requirements that, in general, are more expensive and technologically advanced, and apply to smaller emitters, than any other SIP in the nation.[5] Generating additional emissions reductions from additional SIP measures presents a high magnitude of complexity. Such additional SIP reductions may prove unnecessary depending on whether and how many additional reductions from other Federal measures will occur.

Both EPA and the State are committing to undergo the consultative process described above, and to promulgate controls determined by that process to be appropriate. Those EPA and State commitments are enforceable by citizens. Based on these commitments, EPA will assure that the gap in emissions reductions represented by the consultative process, and needed to attain, will be closed. For example, at the close of the consultative process, EPA may promulgate a rulemaking that identifies (i) additional SIP reductions that EPA considers appropriate for California to undertake, and additional Federal measures that EPA intends to promulgate; as well as (ii) schedules for the adoption or promulgation and implementation of both sets of measures.

For these reasons, EPA has concluded that the SIP for the South Coast, with its limited reliance on additional reductions to be determined through a consultative process, ''provide[s] for'' attainment, under section 182(c)(2)(A) of the Act.

EPA believes that CAA section 172(c)(6) supports its conclusion that the California SIP, including the consultative process commitments, ''provide[s] for'' attainment under section 182(c)(2)(A). Section 172(c)(6) of the Act requires, as a rule generally applicable to nonattainment SIPs, that the SIP ''include enforceable emission limitations, and such other control measures, means or techniques * * * *as may be necessary or appropriate* to provide for attainment * * * by the applicable attainment date * * *.'' (Emphasis added.) The emphasized terms mean that enforceable emission limitations and other control measures do not necessarily need to generate reductions in the full amount needed to attain. Rather, the emissions limitations and other control measures may be supplemented with other SIP rules—for example, the commitments EPA is approving today—as long as the entire package of measures and rules provides for attainment. Under these circumstances, the emission limitations and control measures generate reductions in an amount that falls short of the amount needed to attain; yet those limitations and measures are all that is necessary or appropriate to attain in light of the additional SIP rules for commitments.

EPA finds further support for its action in the Ninth Circuit's decision in *Kamp* v. *Hernandez*, 752 F.2d 1444 (1985). There, the court upheld EPA's full approval of a SIP that relied on a State's agreement to submit a fugitive emission control plan in the future. Although recognizing that lack of any controls on fugitive emissions would prevent attainment, the court justified its holding on the grounds that the plan was substantially complete, and that the remaining shortfall would be covered under the state's future submission. The court also interpreted the predecessor provision to section 172(c)(6) in a manner consistent with EPA's interpretation of section 172(c)(6) above.

EDC commented that it is unclear how the ''meet and confer'' commitments meet the minimal requirements of the Administrative Procedures Act (APA) and the public participation elements of the CAA.

EPA believes that these requirements will be met and intends a process with more than the legally-mandated public opportunities for input. All Federal mobile source measures will be issued through rulemaking that complies with the CAA and APA provisions. EPA will ensure that all other future SIP measures go through a fully public process that complies with applicable APA and CAA requirements for public involvement. Finally, any necessary revisions to the South Coast attainment demonstration must comply with all applicable public notification, public hearing, and public participation requirements.

EDC commented that the practical and legal insufficiency of the ''Federal Assignments'' portion of the SIP is reflected in EPA's proposal to make enforceable commitments to undertake additional rulemakings after a

[5] See, for example, SCAQMD rules 1111 (No_x from Gas Fired Furnaces), 1109 (Refinery Boilers & Process Heaters), 1134 (No_x from Stationary Gas Turbines), 1135 (No_x from Electric Power Generating Systems), 431.2 (Liquid Fuel Sulfur Content), 1142 (Marine Tank Vessel Operations), 1113 (Architectural Coatings), 1128 (Paper, Fabric & Film Coating Operations), 1106.1 (Pleasure Craft Coating Operations), 1130.1 (Screen Printing Operations), 1168 (VOCs from Adhesive Applications), 1175 (Polymeric Cellular Products—Blowing Foam), 1146 and 1146.1 (Industrial, Institutional, and Commercial Boilers, Generators, & Heaters), 1162 (Polyester Resin Operation), 1110.1 & 1110.2 (Emissions from Internal Combustion Engines), 1151 (Motor Vehicle Non-Assembly Line Coatings), 1124 (Aerospace Assembly & Component Manufacturing Operations), 1153 (Commercial Bakery Ovens), 462 (Organic Liquid Loading, 461 (Gas Transfer and Dispensing), 1136 (Wood Products Coatings), and Regulation XX (No_x/So_x RECLAIM program). See also the CARB rules for motor vehicles and fuels (generally), off-highway recreational vehicles and engines, consumer products (generally), and aerosol coating products.

consultative process (which EDC described as ''secret'') on control measures necessary to achieve the emissions reductions determined to be appropriate for EPA. EDC added: ''This promise to make future promises provides no certainty, specificity or meaning, and violates the spirit and letter of the CAA.''

In today's action, EPA finalizes its commitment to undertake rulemaking on any measures which are determined to be EPA's responsibility, and EPA finalizes its approval of California's enforceable commitment to adopt measures determined to be the State's responsibility. These enforceable commitments, in conjunction with the other SIP measures and other sources of emissions reductions, constitute the required demonstration of attainment and ROP. As noted in the discussion of the ''Federal Assignments'' (see Appendix A), significant progress has already occurred or is expected in the near future with respect to accomplishing, in enforceable form, specific regulations (such as EPA's recently proposed national standards for heavy-duty onroad vehicles) that achieve the vast majority of required reductions.

EPA has authority to commit itself to promulgate additional Federal measures determined through the consultative process to be appropriate, under CAA section 301. This provision authorizes the Administrator to ''prescribe such regulations as are necessary to carry out his functions under [the Clean Air Act].'' In title I of the Act, Congress set out what amounts to a ''blueprint'' by which nonattainment areas will attain the NAAQS. This blueprint couples SIP reductions with reductions from various Federal measures, such as reductions from mobile source measures promulgated by EPA under Title II of the Act. The EPA commitment prescribed in today's rulemaking is necessary to carry out EPA's functions both in promulgating mobile source regulations under Title II and in fulfilling its share of the ''blueprint'' reductions needed for attainment.

EPA proposed a public, not a secret, consultative process, and the Agency sets forth in Appendix B to this document more details on opportunities for the public to be involved in the difficult decisionmaking on what additional controls on mobile sources need to be adopted at the Federal, State, and local level. EPA's commitment, finalized in this action, is as specific and enforceable as possible, prior to the completion of critically important public input and consultation. After the consultative process is completed, in June 1997, responsibility for the small increment of necessary additional emission reductions should be fully resolved.

The Natural Resources Defense Council (NRDC) and the Coalition for Clean Air (CCA) submitted joint comments opposing EPA's proposed resolution of the ''Federal Assignments.'' The environmental groups stated that EPA's proposed approval violates the CAA by providing full credit toward attainment for ''Federal Assignments'' in the SIP. Although NRDC and CCA encouraged federal-state cooperation to achieve healthful air in the South Coast, they felt that the consultative process combined merely with gap-filling commitments cannot be used to circumvent the November 1994 deadline in the CAA for the State to provide evidence that it has the legal authority to implement and enforce all SIP provisions. NRDC and CCA commented that EPA cannot approve a SIP which relies for ROP and attainment on prospective federal measures over which CARB has no control and which have neither been formally proposed nor promulgated.

NRDC and CCA observed that some of what they describe as the ''nonexistent'' federal measures are given credit as early as 1999, but CARB is not required to submit replacement measures until the end of 1999. NRDC and CCA argued that the State should cover the ''Federal Assignments'' emissions in its 1994 SIP, which could then be revised to decrease the State's responsibilities as EPA adopts new federal regulations. The environmental groups stated that there is no reason why CARB cannot immediately begin development of these rules concurrent with the consultative process. Finally, NRDC and CCA commented that EPA should require that CARB immediately adopt rules, scheduled for implementation in the year 2000 or later, as backstop measures which will go into effect to the extent necessary to make up a shortfall that remains after the consultative process.

EPA's responses to EDC's comments address many of these concerns. EPA believes that the public consultative process for resolving mobile source emission reductions is appropriate to the unique facts of the South Coast attainment demonstration. The 1994 SIP submittal includes massive reductions achieved by combined State and local regulations and commitments, covering every significant source category. It is not clear what feasible measures could be adopted by the State and local agencies at this time to cover the entire emission reductions included in the ''Federal Assignments.'' The additional time which EPA is allowing for the evaluation and development of future Federal controls, revision to the SIP's attainment demonstration, and then adoption, if necessary, of any gap-filling measures, is justified by the magnitude and complexity of the issues involved in regulating sources that have never previously been subject to emission standards and sources that are critical components of interstate and, in some cases, international commerce.

Furthermore, for the larger emission reduction categories in the ''Federal Assignments,'' CARB has matched the national controls with its own measures to adopt and implement at least equivalent State controls under the State's unique CAA authorities to regulate mobile sources. The success of this enterprise to develop cooperative and consistent Federal-State mobile source emission standards would eliminate for manufacturers and users the costs of compliance with conflicting standards and test procedures.

d. Comments Specific to Source Categories. (1) Military Exemption.

The U.S. Navy and U.S. Coast Guard expressed concern about any reconsideration of the exempt status of military aircraft as part of the exploration of more stringent standards for aircraft engines, and both agencies expressed a desire to be involved in future discussions. EPA hopes that these agencies will participate fully in the public consultative process to help in Federal, State, and local cooperative efforts to identify viable strategies for achieving our air quality goals.

(2) Locomotives. The Association of American Railroads (AAR) commented that the consultative process should not be used as a route to develop any State or local regulations imposing locomotive controls for the purpose of reducing emissions. AAR expressed concern that SIP measure M14 indicates that CARB ''will also consider operational controls, such as reduced idling and use of California diesel fuel, if * * * additional emission reductions are needed.'' AAR argued that these types of state and local standards and requirements must be avoided in order to avert adverse effects on interstate commerce. AAR recommended that the consultative process be used to devise ways to maintain the competitiveness of railroads and improve their volume of intercity, long-haul freight, given the significant emissions advantages of rail transportation over trucks. AAR further requested that EPA work with the railroads and other stakeholders to design mechanisms to properly account

in the SIP for the NO_x benefits of rail transportation.

EPA trusts that the rail industry will raise these important issues in the public consultative process.

AAR also raised legal issues regarding the authority of States to adopt and implement any type of emission-related standard or other requirement for locomotives. These issues are more germane to EPA's forthcoming rulemaking to establish national locomotive regulations and to clarify the extent to which States are preempted from adopting or implementing locomotive controls.

(3) Ships and Shipping Channel. The U.S. Coast Guard reiterated its concerns expressed at the time of EPA's proposed Federal Implementation Plan for California areas regarding any operational controls on marine vessels, including international legal implications. The U.S. Navy supported EPA's position that recommendations regarding movement of the shipping channel should await the results of ongoing studies. The Navy opposed any strategy that would increase traffic in the Pt. Mugu Sea Test Range.

EPA welcomes the involvement of these agencies in the public consultative process. EPA will particularly appreciate the assistance of the Coast Guard in clarifying international issues as they affect potential controls on the emissions or operations of ocean-going vessels, and the continued constructive involvement of the Navy in studies to help assess the air quality benefits of moving the shipping channel.

e. EPA Action. EPA approves the State's commitments to revise the South Coast attainment demonstration and adopt appropriate measures following the conclusion of the public consultative process, and EPA finalizes its commitment to undertake rulemaking on any controls which are determined to be appropriate for EPA.

2. EPA Approval of Attainment Demonstrations that Rely, in Part, on Commitments. The Natural Resources Defense Council and the Coalition for Clean Air (NRDC/CCA), in a joint comment letter, contended that EPA cannot approve the California ozone SIP because the majority of emission reductions in the plan are in the form of commitments and not adopted rules as required by the CAA. NRDC/CCA also asserted that approval of such committal SIP provisions would lead to an inappropriate delay in the statutory SIP submittal deadline. To support these propositions, NRDC/CCA cite the holding of *Natural Resources Defense Council* v. *EPA*, 22 F.3d 1125 (D.C. Cir. 1994); the alleged effect of EPA's interpretation of the conditional approval provision of the CAA, section 110(k)(4); and the language of EPA's regulation at 40 CFR 51.281.[6]

In the *NRDC* case, the Court addressed the merits of EPA's interpretation, as set forth in various policy memoranda, that in certain circumstances section 110(k)(4) of the CAA allows conditional approval of commitments unaccompanied by regulatory measures.[7] In these policy memoranda, EPA provided that it would consider conditional approval of SIP submittals, which were meant to fulfill certain specific SIP requirements and which consisted entirely of a commitment letter to submit the required measure by a date certain, but no later than one year after conditional approval. In reviewing these policies, the Court concluded, based on the express language of section 110(k)(4), the CAA's general SIP approval scheme, and the legislative history of section 110(k)(4), that:

> * * * the conditional approval mechanism was intended to provide the EPA with an alternative to disapproving substantive, but not entirely satisfactory, SIPs submitted by the statutory deadlines and not, as the EPA has used it, a means of circumventing those deadlines. 22 F.3d at 1134–35.

The Court found that on its face the language of section 110(k)(4) ''seems to authorize conditional approval of a substantive SIP or SIP revision which, though not approvable in its present form, can be made so by adopting specific EPA-required changes within the prescribed conditional period.'' 22 F.3d at 1134. The Court also noted that the CAA requires EPA to make completeness determinations on required plan submittals and that such determinations could not reasonably be made unless the submittal contains ''something more than a mere promise to take appropriate but unidentified measures in the future.'' *Id.* Finally, the Court determined from the legislative history of section 110(k)(4) that the contemplated specific and enforceable measures are to be additional to some specific enforceable measures already in the SIP. *Id.*

NRDC/CCA apparently interpret the *NRDC* holding as precluding EPA from accepting in a SIP submittal *any* commitments to adopt rules at a future date, even where that submittal includes a significant quantity of emission reductions in adopted form. We believe that such an interpretation is far too broad a reading of the *NRDC* case and that the circumstances presented by today's action are readily distinguishable from those in the *NRDC* case.

First, and most importantly, EPA is not approving the California SIP commitments under section 110(k)(4), but rather under sections 301 and 110(k)(3), as discussed below. Thus the Court's analysis of the express language of section 110(k)(4) and its specific legislative history is not, as NRDC/CCA claim, applicable to EPA's action here. For the reasons set forth below, EPA's authority to approve *enforceable* commitments under sections 110(k)(3) and 301 is not constrained by section 110(k)(4).

Furthermore, to the extent that the *NRDC* case has any relevance to EPA's action under sections 110(k)(3) and 301, in the present case, EPA has not proposed to approve submittals that consist only of a commitment. The EPA policies at issue in *NRDC* permitted a state to initially satisfy an individual CAA requirement (e.g., an inspection and maintenance program) with only a commitment to adopt such a requirement in the future. In contrast, the SIP approved by EPA today contains in adopted, enforceable form a large percentage of the emission reductions that make up the required submittal, in this case, the attainment demonstrations.[8] In addition, the California ozone SIP, because of its many substantive, adopted rules, does not pose the barrier to a completeness determination that the Court in *NRDC* perceived where only a commitment existed.

NRDC/CCA claim that full approval of the commitments in the California ozone SIP (pursuant to sections 110(k)(3) and 301) would render section

[6] NRDC/CCA also claim that the SIP inappropriately relies on a September 1994 EPA memorandum, ''November 1994 Ozone SIP's—Rulemaking Policy,'' to support the inclusion of commitments in the plan. As NRDC/CCA correctly point out, this memorandum was rescinded in 1995. Because EPA is not relying on the 1994 memorandum to support its approval of California's SIP commitments, it is irrelevant to this rulemaking and is therefore not addressed further in this notice.

[7] Section 110(k)(4) of the CAA provides:

(4) Conditional approval—

The Administrator may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than 1 year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment.

[8] Because they include such major substantive components, the attainment demonstrations do not circumvent the submittal deadline in the CAA as NRDC/CCA claim. See, e.g, tables for each area on ROP Forecasts and Targets, Local Control Measures, and Attainment Demonstrations. These tables summarize far more expansive discussions and data in the actual SIP submittals, which for some areas amount to many volumes and thousands of pages of relevant information and analyses in support of the attainment demonstrations.

110(k)(4)'s conditional approval mechanism meaningless. We disagree with this conclusion. Historically, EPA has interpreted the CAA to allow states to submit enforceable commitments to adopt rules in the future. The enactment of section 110(k)(4) in 1990 provided a new type of approval for a limited set of commitments that, in general, could not be enforced under sections 113 and 304 of the Act[9]; there is no evidence that Congress intended this limited provision to replace EPA's well-established policy of using its general approval authority to approve enforceable commitments. In fact, other provisions in the statute belie that result. Finally, there continue to be strong policy considerations for interpreting the statute to allow for approvals under section 110(k)(3) of enforceable commitments.

EPA interpreted the pre-amended Act to allow for approval of attainment demonstrations that included, in part, enforceable commitments to adopt rules in the future. And courts have found these commitments to be enforceable by the public under the citizen suit provisions of the Act. See, e.g., *American Lung Association of New Jersey* v. *Kean,* 670 F.Supp. 1285 (D.N.J. 1987), affirmed, 871 F.2d 319 (3rd Cir. 1989); *NRDC* v. *N.Y. State Dept. of Environmental Conservation,* 668 F.Supp. 848 (S.D.N.Y. 1987); *Citizens for a Better Environment* v. *Deukmejian,* 731 F. Supp. 1448, reconsideration granted in part, 746 F.Supp. 976 (N.D. Cal. 1990); *Coalition* v. *City of New York,* 967 F.2d 764 (2d Cir. 1992); *Trustees for Alaska* v. Fink, 17 F.3d 1209 (9th Cir. 1994).[10]

In enacting section 110(k)(4), Congress enacted a much more limited type of approval of commitments. First, conditional approval under section 110(k)(4) is for a very limited duration—the commitment must provide a date certain for submittal that cannot exceed one year after conditional approval. Furthermore, in contrast to the enforceable commitments historically accepted by the Agency and the courts, section 110(k)(4) anticipates that the commitment made by the State will not be an enforceable commitment. Under the express language of section 110(k)(4), upon the State's failure to meet the commitment, the conditional approval must be converted to a disapproval. Once a SIP is disapproved, there is no longer any commitment left to enforce under section 113 or 304 of the Act.[11]

There is nothing in the legislative history of the 1990 CAA Amendments to suggest that Congress's addition of section 110(k)(4), which is much more limited in scope, was intended to preclude EPA's prior practice. Furthermore, other provisions of the amended Act indicate that Congress contemplated continued approval of enforceable commitments. For example, section 182(e)(5) of the CAA, which concerns attainment demonstrations for extreme ozone nonattainment areas, addresses the ''anticipate[d] development of new control technologies.'' This section provides that EPA may approve provisions relying on such technologies if, among other things, the state submits ''enforceable commitments to develop and adopt contingency measures to be implemented * * * if the anticipated technologies do not achieve planned reductions. These enforceable commitments would clearly need to extend well-beyond the maximum one-year period that may be granted for conditional approval under section 110(k)(4). Nothing in the language of section 182(e)(5) indicates that Congress authorized those enforceable commitments ''notwithstanding'' section 110(k)(4).

Nor does EPA agree with NRDC/CCA's assertion that approval of enforceable commitments constitutes an inappropriate delay in the statutory SIP submittal dates. Congress anticipated that section 110(k)(4) would result in submittal delays for some SIP measures beyond the initial submittal deadlines. EPA believes that the delays in submittal of final rules that would result in this action are permissible under section 110(k)(3) because the State has obligated itself to submit the rules by specified, short-term dates, and that obligation is enforceable by EPA and the public. Moreover, as noted above, the SIP submittal approved today contains major substantive components submitted as adopted regulations. As such, the California submittal is readily distinguishable from the submittals that were the subject of the *NRDC* case.

Finally, as matter of policy it is important to continue to read section 110 as allowing for full approval of SIP submittals containing some enforceable commitments. The conditional approval provision is most effectively used where a State makes a short term commitment to correct a problem or fill a gap in a SIP submission. If the State fails to meet the commitment, the conditional approval is converted to a disapproval and an 18-month clock for sanctions and a 2-year period for promulgation of a federal implementation plan (FIP) start. However, neither EPA nor citizens have authority under the CAA to take action to enforce those commitments that have been converted to a disapproval. While a disapproval may motivate a state to ultimately meet its commitments, through the potential for sanctions and a FIP, in some cases it may be more desirable to have an approved commitment that EPA or a citizen can enforce directly in court. Approval under section 110(k)(3) allows for enforcement action. Such a remedy is frequently preferable in promoting actual air quality improvements. Moreover, even with respect to an approved commitment, EPA may start the sanctions process through a finding of failure to implement if the state does not meet its enforceable commitment.

EDC commented, with apparent approval, on the vehicle of enforceable commitments. EDC maintained, however, that the Administrative Procedure Act and notions of fairness require that they be more fully articulated. EPA believes that the SIP commitments approved today are sufficiently specific to be enforceable by the Agency or the public. For example, the control measure commitments are for particular agencies to adopt and implement specific controls by definite dates to achieve precise emission reductions from identified source categories for each milestone year through attainment. In the case of the South Coast, the plan also provides detailed discussions of the source category, the regulatory history, proposed method of control (including descriptions of available control technologies and operational approaches), control efficiency assumptions, rule compliance approaches (e.g., reporting and recordkeeping requirements, source testing, certification programs, etc.), test methods, cost effectiveness calculations, and references to document assumptions and provide for further information. The rules to fulfill these commitments will be subject to notice-and-comment at the State level prior to

[9] In commenting on EPA's proposed SIP approval action, the Environmental Defense Center (EDC) suggested that EPA approve the SIP's commitments under section 110(k)(4) rather than section 110(k)(3) because of the important enforceability benefits of a conditional approval. As discussed below, commitments that are conditionally approved cannot be enforced.

[10] Courts have also upheld EPA's approval of SIPs that contain enforceable commitments. See, e.g., the cases cited below in the discussion of 40 CFR 51.281.

[11] A disapproved SIP—i.e., a plan rejected by EPA—is not considered to be federally enforceable. Both sections 113(a)(1) and 304(a) and (f)(3) provide for enforcement regarding a violation of only an ''applicable implementation plan,'' which CAA § 302(q) defines as a plan ''which has been ''approved'' or ''promulgated'' under section 110.

adoption and submittal to EPA; furthermore, EPA will approve or disapprove those measures through notice-and-comment rulemaking procedures.

Reading the statute as a whole, it is clear that Congress did not intend section 110(k)(4) to be the sole mechanism for approving submittals that contain at least some commitments. Furthermore, for the above reasons, enforceable commitments serve several distinct purposes not addressed by section 110(k)(4). Under these circumstances, EPA's interpretation of the statute is entitled to considerable deference. *Chevron U.S.A., Inc.* v. *NRDC,* 467 U.S. 837 (1984).[12]

NRDC/CCA also assert that EPA is precluded from approving the commitments in the California ozone SIP because EPA's regulation at 40 CFR 51.281 [13] requires SIPs to include adopted rules and regulations. EPA has long interpreted this regulation to require States, when submitting rules and regulations, to submit those regulations in adopted rather than proposed form.[14] EPA has not interpreted this regulation to require that every submittal must be in regulatory form.

EPA promulgated this regulation long before the enactment of the 1990 CAA Amendments. See 36 FR 22398 (Nov. 25, 1971), codified as 40 CFR 51.22; recodified as 40 CFR 51.281 with minor modifications at 51 FR 40674 (Nov. 7, 1986). As discussed above, EPA has historically accepted enforceable commitments in SIPs and courts have found these provisions to be enforceable by the public under section 304 of the CAA. In addition, in a number of cases, courts of appeals in some circuits, including the Ninth Circuit, have upheld EPA's approval of plans that included commitments to fill gaps. See *Kamp* v. *Hernandez,* 752 F.2d 1444, 1445 (9th Cir. 1985); *Connecticut Fund for the Environment* v. *EPA,* 672 F.2d 998 (2d Cir.), cert. denied 459 U.S. 1035 (1982); *Friends of the Earth* v. *EPA,* 499 F.2d 1118, 1124 (2d Cir. 1974).

The cited cases demonstrate that, over a long period of time, EPA has not interpreted 40 CFR 51.281 as limiting the permissible procedural vehicles for SIP measures to rules and regulations. Rather, the Agency has viewed the primary purpose of section 51.281 as ensuring that SIP submittals contain adopted, not proposed, emission limitations and other measures. The commitments at issue here are not merely proposed; they have been adopted by the various local air districts and ARB. Because EPA's interpretation of its regulation is a reasonable interpretation, it is entitled to deference. *Chevron,* 467 U.S. 837.

3. Additional Clean Air Act Issues

a. Attainment as Expeditiously as Practicable. The Environmental Defense Center commented that the SIPs should be disapproved because they fail to meet the CAA requirement of attaining the NAAQS as expeditiously as practicable. The commenter provided no further statutory interpretation or information relating to this CAA provision and defects in the SIPs relating to it. EPA continues to believe that the SIPs meet the progress requirements of the Act, as discussed in the proposal, and provide for expeditious attainment.

b. Contingency Measures. NRDC and CCA commented that only SCAQMD's measure CTY–01 meets the section 182(c)(9) CAA requirement for contingency measures that take effect without further action by the State or EPA upon a failure of the State to meet the applicable milestone. The commenters stated that EPA should require further definition and refinement of the contingency measures and the schedule, funding and enforcement responsibilities required for the measure to succeed.

EPA's proposal addressed only the following CAA requirements: section 181(a)(1) relating to emissions inventories; section 182(b)(1) relating to 15% ROP Plans; section 182(c)(2)(B) relating to Post-1996 ROP Plans; sections 182(b)(1)(A) and 182(c)(2) relating to modeling and attainment demonstrations, and sections 182(b)(4) and 182(c)(3) relating to I/M Programs. The remaining requirements of Part D of the Act, including the sections 172(c)(9) and 182(c)(9) requirements for contingency measures, will be acted upon in separate rulemakings.

c. Adequacy of SIP's Technical Foundations. (1) Modeling and Treatment of Transport. The Engine Manufacturers Association (EMA) submitted a comment that EPA has failed to provide all data and documentation relating to the modeling in the SIPs. Noting that EPA has admitted that problems in model performance and transport led to California's inability to follow EPA's modeling guidelines in its analyses, EMA asked that EPA not take final action on modeling but should require that appropriate adjustments be made in order to provide accurate modeling assumptions on which to base California's proposed measures.

EPA has not provided all data and documentation relating to the modeling analyses. For each area, modeling input and documentation include hundreds of thousands of data. This information is available from local air pollution agencies.

Again, EMA failed to provide specific information to support its general conclusion. EPA recognizes the opportunities to refine the modeling in each of the areas, including the data upon which the modeling is based. Major modeling projects or modeling refinements are underway in each area. EPA contributes technical and funding support to these projects, which may provide information helpful in enhancing the SIP strategies in the future. However, EPA believes that the current modeling in each area meets the requirements of the Act and provides a reasonable basis for estimating the emission reductions needed for attainment and the ambient impact of the control measures.

(2) Impact of Changes to the ZEV Program. The Environmental Defense Center commented that the state has already rescinded the Zero Emission Vehicle (ZEV) program, demonstrating immediately their willingness and intent to renege on the SIP's commitments. EDC stated that both the Sacramento and South Coast attainment demonstrations should be disapproved because CARB has rescinded the ZEV program. NRDC and the Coalition for Clean Air commented that EPA needs to quantify the increased emissions that will result from changes to the ZEV program and should demand compensating reductions.

At a public hearing on March 28 and 29, 1996, CARB approved revisions to the ZEV program in the California motor vehicle control regulations. These changes included elimination of the ZEV production requirement for the 1998 through 2002 model years. CARB retained the 10% ZEV requirement for

[12] As one court has observed: The need for flexibility in the administration of a statute whose provisions have been described as 'virtually swim[ming] before one's eyes,' * * * should not be underestimated. We have in the past been careful to defer to EPA's choice of methods to carry out its 'difficult and complex job' as long as that choice is reasonable and consistent with *the Act* * * *. *Connecticut Fund for the Environment, Inc.* v. *EPA,* 672 F.2d 998, 1006 (2d Cir.), cert. denied, 459 U.S. 1035 (1982).

[13] 40 CFR 51.281 provides, in pertinent part: Emissions limitations and other measures necessary for attainment and maintenance of any national standard * * * must be adopted as rules and regulations * * *. Submittal of a plan setting forth *proposed* rules and regulations will not satisfy the requirements of this section * * *. (Emphasis added.)

[14] In order to expedite SIP approval, EPA has occasionally proposed to approve a state's draft rules that have been fully developed but have not yet been adopted. An EPA approval using this ''parallel processing'' procedure, of course, cannot be finalized until the rules have been adopted and formally submitted to EPA as a SIP revision.

the 2003 and later model years. In order to offset the loss of emission reductions, CARB negotiated an enforceable contractual agreement with the vehicle manufacturers, committing them to produce cleaner 49-state cars in the 2001 through 2003 model years. CARB prepared a staff report demonstrating that the emission reductions achieved within the South Coast by the cleaner 49-state vehicles exceed the emission losses from delay of the ZEV program (See CARB Staff Report: Initial Statement of Rulemaking—PROPOSED AMENDMENTS TO THE ZERO–EMISSION VEHICLE REQUIREMENTS FOR PASSENGER CARS AND LIGHT–DUTY TRUCKS, February 9, 1996).

EPA shares the commenters' concerns that the SIP must be implemented fully and that substitute measures should immediately correct any SIP shortfalls. However, the State has argued that successful implementation of the ZEV program requires the March 1996 rule amendments, in order to ensure that concerns relating to battery technology and ZEV sales potential can be resolved and the ultimate sales mandate be fully accomplished. The State has also provided evidence that the loss in emissions from the elimination of the ZEV mandate for the first 5 years will be offset by provisions of CARB's enforceable contract with the automakers. EPA will carefully monitor implementation of the contractual agreement and the ZEV program and will require the State to revise the SIP to provide new emission reductions if needed to meet the progress and attainment requirements of the Act.

(3) Control Measures. NRDC and CCA commented that EPA cannot approve the South Coast SIP because it fails to include as measures all already adopted regulations and measures characterized as assumptions. The environmental groups argued that the CAA and EPA's regulations require quantification of reductions from each adopted regulation, and that these regulations themselves should be an enforceable part of the SIP.

With respect to the quantification of reductions from the various regulations that comprise the existing California motor vehicle program, the State has submitted reductions from the program as a whole, without a disaggregation by program element. In recent correspondence, the State has provided further detail, including an estimate of Statewide emission reductions from each severable component.[15]

The rate-of-progress and ozone attainment demonstrations for each area rely, in part, on emission reductions from regulations adopted by local air pollution control districts, since the impact of these regulations is factored into the projections of future year baseline emissions.[16] EPA has already approved the great majority of these local regulations and expects in the near future to complete final action on the remaining regulations. With respect to those few regulations which are relied upon in the SIP for rate-of-progress or attainment and which have not yet been approved as part of the SIP, EPA construes that reliance and the fact that the local agencies have adopted and the State has submitted the rules as SIP revisions to constitute an enforceable commitment by these agencies to implement the rules to achieve the reductions assumed in the rate-of-progress plans and the attainment demonstrations.

If the State withdraws (before EPA's final action) any of these regulations that have been submitted but not yet approved as part of the SIP, or if EPA's final action is a disapproval, or if EPA determines that the rule will achieve fewer emissions reductions than relied upon in the SIP, EPA will call upon the State to fulfill its commitment by submitting replacement measures on an expeditious schedule and the State will be obligated to provide such replacements.

EPA requires identification of emission reductions associated with each of the new measures that are incorporated in the plan's rate-of-progress and attainment demonstrations and that reduce emissions below the baseline inventory levels. The South Coast SIP fulfills this requirement, and EPA has included, in the tables of new measures, the specific credit assigned.

The Engine Manufacturers Association (EMA) stated that, based on the information provided in the NPRM, EPA and California have not established a reasonable, cost-effective basis for certain of the proposed regulatory measures. EMA provided no specific information to support the comment. EPA believes that the SIP control measures are, in fact, reasonable. Moreover, EPA does not find statutory authority for the Agency to require states to submit analyses demonstrating that proposed measures are reasonable, cost-effective and appropriate. Finally, due to the nature of the Federal/state relationship under the Act, EPA analysis of the cost-effectiveness of SIP measures would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

d. Consistency of Local Nonroad Measures with Clean Air Act Preemption. The Engine Manufacturers Association commented that EPA should not finalize approval of local measures without a determination that they have met CAA requirements respecting preemptions on a state's authority to regulate certain nonroad engines and applications. The commenter did not identify any State or local measure that was inconsistent with the Clean Air Act. EPA has not identified any measure, approved at this time, that violates the Act's preemptions. When regulations are adopted and submitted for SIP approval, EPA reviews the regulations to ensure that they fall within the authority of the State or local agency and that the regulations are otherwise consistent with statutory and regulatory requirements.

4. Future SIP Updates and Improvements

Western Riverside Council of Governments commented that the SIP should provide the flexibility to replace measures with local programs that are more sensitive to local political, economic and social conditions. EPA supports and encourages SIP flexibility that respects the superior ability of local agencies to reconcile environmental progress with other community goals.

The California Environmental Protection Agency (CEPA) commented that, as EPA recognized in the proposed approval, some of California's specific strategies may require adjustment as actual rules are developed. CEPA stated that ''we will retain the flexibility to revise the SIP as long as the emission reductions continue to provide for attainment.''

As stated in the NPRM, EPA supports the State's flexibility to revise the SIP, but cautions that EPA must review SIP revisions for approvability under Sections 110(l) and 193. Section 110(l) prevents EPA from approving a revision if it would interfere with any applicable

[15] Table 1 (''Adopted state regulations in the SIP baseline, with implementation dates in 1996 or later'') in a letter from Lynn Terry, Assistant Executive Officer, CARB, to Julia Barrow, Chief, Planning Office, Air & Radiation Division, USEPA, dated September 19, 1996. This correspondence is part of EPA's rulemaking docket.

[16] In a letter from Barry R. Wallerstein, Deputy Executive Officer, SCAQMD, to Dave Howekamp, Division Director, Air & Toxics Division, Region IX, dated September 18, 1996, the SCAQMD has provided a list of local measures and associated emission reductions assumed in the baseline of the South Coast SIP. This correspondence is part of EPA's rulemaking docket.

requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Section 193 prevents modification of control requirements ''in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990 in any area which is a nonattainment area for any air pollutant * * * unless the modification insures equivalent or greater emission reductions of such air pollutant.''

5. Overall Approvability of Plans

Almost all of the commenters supported EPA's proposed approvals of the plans for each area. However, comments opposing full approval of the plans at this time were received from the Engine Manufacturers Association, the Environmental Defense Center, the Natural Resources Defense Council, and the Coalition for Clean Air. These comments are addressed elsewhere in section I.B., or in discussions relating to individual areas.

6. Importance of SIP Implementation

Several commenters reflected on the critical importance of follow through at the local, State, and Federal levels if the SIPs are to achieve the air quality standards. EPA agrees that all parties, including local government and the general public, must work together to ensure that each responsible agency honors its commitments. Because these challenging SIPs are so important from the perspective of public health, the success of the SIPs requires widespread public participation and public support. EPA encourages California agencies to report frequently to the public on progress in implementing the plans and to involve the public in resolving implementation issues. Through the Public Consultative Process and other forums, EPA intends to inform and engage the public as the Agency proceeds to develop future mobile source controls.

C. SIP Submittals

1. SIP Submittals Before EPA's Proposal

On November 15, 1994, CARB submitted a revision to the ''State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards'' (ozone SIP)

The revision consists of: (a) The State's comprehensive ozone plan, including the State's own measures and the State's summaries of, and revisions to, the local plans; (b) the State's previously adopted regulations for consumer products and reformulated gasoline and diesel fuels; and (c) local plans addressing the ozone attainment demonstration and ROP requirements.

On August 21, 1995 (60 FR 43379), EPA approved the State's consumer products and reformulated gasoline and diesel fuels regulations. At the same time, EPA took interim approval action on CARB and SCAQMD New-Technology Measures, under the provisions of section 182(e)(5) of the CAA, which authorizes the Administrator to approve fully and credit as part of an extreme ozone area SIP conceptual measures dependent upon new control technologies or new control techniques. The new-technology measures approved at that time were: CARB's measures M2 (Improved Control Technology for Light-Duty Vehicles), M9 (Off-Road Diesel Equipment), CP–4 (Consumer Products Advanced Technology and Market Incentives), and Additional Measures; and SCAQMD measures ADV–CTS–01 (Coating Technologies), ADV–FUG (Fugitives), ADV–PRC (Process Related Emissions), ADV–UNSP (Unspecified, Stationary Sources), ADV–CTS–02 (Coatings Technologies).

On December 14, 1995 (60 FR 64126), EPA issued the final SIP approval of the State's mid-term control measures M3 (Accelerated Ultra-Low Emission Vehicle requirement for Medium-Duty Vehicles), M5 (Heavy-Duty Vehicle NO_X regulations), M8 (Heavy-Duty Gasoline Vehicles lower emissions standards), M11 (Industrial Equipment, Gas and LPG), and CP2 (Mid-Term Consumer Products).

The remaining portions of the ozone SIP submittal, upon which EPA is acting today, include the following separate documents:

1. ''The 1994 California State Implementation Plan for Ozone,'' volumes I–IV. The November 15, 1994, submittal letter refers to other submittals, described below, as completing the 1994 California Ozone SIP. Volume I provides an overview of the entire submittal; Volumes II and III include the State's measures for mobile sources, consumer products, and pesticides; and Volume IV treats the local plans.

On December 29, 1994 and February 7, 1995, the State submitted updates to these documents, incorporating changes made by CARB at the time of adoption, and providing other technical and editorial corrections.

2. ''1994 Ozone Attainment and Rate-of-Progress Plans for San Diego County.''

3. ''San Joaquin Valley Attainment and Rate-of-Progress Plans.'' On December 28, 1994, the State submitted the ''Rate-of-Progress and Attainment Demonstration Plans for the Kern County Air Pollution Control District,'' applicable to the Kern desert portion of the San Joaquin Valley nonattainment area.

4. ''Sacramento Area Proposed Attainment and Rate-of-Progress Plans.'' On December 29, 1994, the State replaced this with the ''Sacramento Area Attainment and Rate-of-Progress Plans.''

5. ''1994 Air Quality Management Plan for Ventura County.''

6. ''Rate-of Progress and Attainment Demonstration Plans for the Mojave Desert.''

7. ''1994 Air Quality Management Plan for South Coast Air Basin, Antelope Valley and Coachella/San Jacinto Planning Area.'' On December 29, 1994, the State submitted the ''Rate of-Progress Plan Revision: South Coast Air Basin & Antelope Valley & Coachella/San Jacinto Planning Area.'' [17]

8. On March 30, 1995, CARB submitted revised 1990 base year emission inventories for each of the California ozone nonattainment areas.

9. On June 30, 1995, CARB submitted desriptive materials relating to the State's motor vehicle inspection and maintenance program, adopted by the California Bureau of Automotive Repair. On January 22, 1996, CARB submitted the motor vehicle inspection and maintenance regulations adopted by the California Bureau of Automotive Repair.

2. SIP Submittals After EPA's Proposal

On April 4, 1996, CARB submitted a revision for the San Joaquin Valley, withdrawing an obsolete transportation control measure (Exclusive High Occupancy Vehicle Lanes on Freeway 41, included in the 1982 Air Quality Management Plan for Fresno).

On May 17, 1996, CARB submitted Executive Order G–96–031, the State's commitment to participate in the public consultative process, submit a revised attainment demonstration for the South Coast as appropriate after the consultative process, and submit control measures needed to achieve emission reductions determined to be appropriate.

On June 13, 1996, CARB submitted supplemental information regarding the 1994 California SIP, including

[17] Antelope Valley and Coachella-San Jacinto Planning Area are portions of the Southeast Desert Modified Air Quality Management Area which are currently under the jurisdiction of the South Coast Air Quality Management District. California has recently revised its air basin classifications, so that Antelope Valley is part of Mojave Desert Air Basin and the Coachella-San Jacinto Planning Area is part of Salton Sea Air Basin.

additional information on emission reductions from the State's measures (Letter from James D. Boyd to David Howekamp, with Attachments A, B, and C).

On July 10, 1996, CARB submitted updates to the South Coast rule adoption schedule (''Control Measure Adoption Schedule'').

On July 12, 1996, CARB submitted updates to the Ventura AQMP (''Ventura County 1995 Air Quality Management Plan Revision'' and ''Appendix E–95'') and an updated post-96 ROP for San Joaquin Valley (''Revised Post-1996 Rate-of-Progress Plan'').

3. EPA Completeness Findings

On January 30, 1995, EPA issued a finding of completeness under Section 110(k)(1) of the Act for the following portions of the California ozone SIP submittal: Diesel Fuel Regulations; Reformulated Gasoline Regulations; CARB Measures M2, M3, M5, M8, M9, M11, CP–2, CP–3, CP–4, Additional Measures; and SCAQMD Long Term Measures ADV–CTS–01/02, ADV–FUG, ADV–PRC, ADV–UNSP. These elements of the revision were found complete based on EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V.[18]

On April 18, 1995 the EPA issued a finding of completeness for the remaining portions of the November and December 1994 submittals with regard to: (1) attainment and post-1996 RFP requirements at section 182(c)(2) of the Act; (2) 15% ROP requirement of section 182(b)(1)(A); and (3) 1990 base year inventory requirements of section 182(a)(1). The CARB emission inventory submittal of March 30, 1995, was included in the completeness determination of April 18, 1995.

On June 30, 1995, and February 5, 1996, EPA issued a finding of completeness for the State's I/M program submittals.

On August 14, 1996, EPA issued a finding of completeness for updates to the San Joaquin Valley plan (submitted on April 4, 1996, and July 12, 1996); the South Coast plan (submitted on July 10, 1996); the Ventura plan (submitted on July 12, 1996); the State's commitment to participate in the public consultative process and revise the South Coast plan as appropriate (submitted on May 17, 1996); and technical information on State and local measures (submitted on June 13, 1996).

[18] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

4. Rationale for EPA Approval of Minor SIP Changes without Further Opportunity for Public Comment

The NPRM indicated that EPA intended to approve in the final action SIP updates if received before the Notice of Final Rulemaking (NFRM) was signed. The State, local agencies, and other commenters requested EPA to absorb these updates and corrections into the final plan action.

In the NFRM, EPA has also made numerous changes to the tables of control measures, in response to State and local agency requests for correction and clarification. These changes make minor adjustments to the measures, the arrangement of the measures in the table, the schedule of measure adoption and implementation, or the emission reductions associated with the measures. Since the changes are administrative or clerical in nature, or otherwise are not significant, and neither individually nor cumulatively affect ROP or attainment, EPA has incorporated the changes in this action without further opportunity for public comment.[19] Notice and comment are not required under the Administrative Procedures Act, ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b).

The State and involved local agencies in the San Joaquin Valley, South Coast, and Ventura all requested that the final notice clarify the original intent of the 1994 SIP submittal that, coincident with approving the new Transportation Control Measures (TCMs) in the current SIP, EPA would delete from the applicable SIP the prior TCMs, which are out-dated and not relied upon in the new ROP and attainment demonstrations. Because these rescissions were mistakenly omitted either from the original submittals or EPA's proposed action on the submittals, and because the rescissions are inconsequential and fully consistent with the 1994 SIP submittal respecting progress and attainment, EPA is finalizing the TCM replacement without further opportunity for public comment.

[19] The State's 15% ROP plans for each area do not rely on reductions from any of the measures (all reductions come from fully adopted regulations), and the changes do not reduce the amount of emission reductions from the measures in post-1996 ROP milestone years or the attainment years.

II. Review of the State Submittal, Response to Comments on Specific SIP Issues, and EPA Final Action

A. State Measures

1. General Comments

The California Environmental Protection Agency (CEPA) commented that EPA's proposal to approve the State's measures on a statewide basis (if, under State law, they apply throughout California) did not reflect the intent of the State, which was to limit the Federally enforceable State measures only to the serious, severe, and extreme nonattainment areas. EPA is so limiting the final approval action. Accordingly, under Federal law the statewide measures will not count toward attainment and maintenance of the NAAQS except in the ozone nonattainment areas classified as serious and above. As a result, the State must submit a SIP revision if it wishes in the future to extend the geographic applicability of the measures. Because EPA is accepting the State's request that Federal approval of the measures in the SIP apply narrowly to the ozone ROP and attainment needs in serious and above areas, the State must submit a SIP revision if, at any time in the future, the emission reductions associated with the measures in other areas are needed as components of attainment or maintenance SIPs for other areas.

CEPA also requested that EPA not approve the reductions shown for State measures M1, M2, M7, and M9 in the South Coast in the year 2007, because 2007 is not a milestone year for the South Coast. EPA is complying with the State's request in this final action. The year 2007 reductions in the South Coast may need to be resubmitted by the State if federally enforceable 2007 reductions from these measures in the upwind South Coast nonattainment area are needed for the 2007 attainment demonstration in the Southeast Desert.

Finally, CEPA asked that EPA not assign emission reduction credits from measures M3, M5, M8, and CP–2/CP–3 to San Diego, since the area did not use them for rate-of-progress or attainment. EPA is deleting this credit. If reductions from these measures are needed in San Diego in the future, the CARB must resubmit for SIP approval the State measures with associated San Diego emission reductions.

2. Mobile Source Measures

a. Review of Measures. The following is a brief description of the State's mobile source measures, or M Measures, identification of minor corrections and clarifications to the measures or their

associated emission reductions, summary of public comment on the measures and EPA's response, and EPA's final approval actions on the measures.

(i) M1—Accelerated Retirement of Light-Duty Vehicles. The SIP commits to secure a financing mechanism by the end of 1995, adopt the measure in 1996, undertake a demonstration program from 1996 through 1998, and implement the program fully from 1999 to 2010, through the annual retirement (scrappage or removal) of up to 75,000 older, high-emitting vehicles in the South Coast Air Basin. CARB has clarified in recent correspondence that the State's commitments for M–1 and for M–7, the other vehicle retirement program in the 1994 Ozone SIP, are for the specified emission reductions, rather than a particular number of vehicles to be retired.[20] While M1 is a commitment to implement an accelerated vehicle retirement program only in the South Coast, the SIP states that ''implementation of light-duty vehicle retirement programs in other non-attainment areas will be considered as a means of further reducing emissions'' (Vol. II, p. B–2).

The Environmental Defense Center commented that M1 is illusory until an adequate and enforceable funding source is identified. EPA considers the State's progress in implementing the measure to be acceptable at this time. During 1995, the California Legislature enacted SB501, which established a statewide scrappage program to work in concert with the scrap component of the I/M program. Current funding comes from legislation authorizing fees in lieu of smog check at first registration renewal. EPA believes that timely program implementation requires the State to develop an adequate long-term funding approach by the end of 1997.

EPA will continue to monitor M1. If the program does not mature on a schedule likely to deliver the reductions needed for progress and attainment, EPA will work with the State to correct implementation or substitute other measures that provide the needed emission reductions.

Under sections 110(k)(3) and 301(a) of the Act, EPA is taking final action to approve M1, its implementation schedule, and the emission reductions to be achieved in the South Coast, as displayed in the table below, labeled ''Reductions from California Mobile Source Measure M1.''

[20] Letter from Lynn Terry to Julia Barrow, dated September 20, 1996.

REDUCTIONS FROM CALIFORNIA MOBILE SOURCE MEASURE M1 SOUTH COAST AIR BASIN

[Tons per day]

	1999	2002	2005	2008	2010
ROG	5	8	11	13	14
NO_X	4	6	9	10	11

(ii) M2—Improved Control Technology for Light-Duty Vehicles. CARB commits to adopt this measure in 2000 and begin implementation in 2004–2005. This measure will achieve emission reductions from LDVs through the use of one or more market-based and/or technology-forcing approaches. Emission reductions associated with this measure are relied upon in the South Coast only.

The Western States Petroleum Association commented that the description of the measure in the NPRM appeared to limit the flexibility of the State. EPA's description, which was excerpted from the SIP, was not intended to prescribe the ways in which the measure could be implemented.

The Environmental Defense Center (EDC) noted that M2 relies on the ZEV program, which was recently revised to rescind the interim milestones. EDC also commented that M2 is highly speculative and unenforceable and inappropriate for SIP credit.

On August 21, 1995, EPA approved M2 and assigned it SIP credit in the South Coast under the provisions of section 182(e)(5) of the Act.

EPA will continue to work with CARB to ensure that the measure is developed on schedule. CARB has recently provided additional information regarding the development of this measure in a letter from Lynn Terry to Julia Barrow, dated September 19, 1996: ''We expect to begin developing this advanced technology measure following the 1998 biennial report to the ARB on the Low-Emission Vehicle Program. To meet our commitment for adoption in 2000, we would need to hold public workshops on the technical basis and regulatory concepts by 1999. However, as part of the on-going Low-Emission Vehicle Program review, staff continue to evaluate advanced control technologies that may contribute to post-2003 emission reduction strategies for this measure.'' The State has indicated that compliance options include advanced gasoline vehicles, alternative fueled vehicles, and fuel cell technologies.

Under sections 110(k)(3) and 301(a) of the Act, EPA is taking final action to approve the emission reductions to be achieved in the South Coast by milestone year in the table below, labeled ''Reductions from California Mobile Source Measure M2.''

REDUCTIONS FROM CALIFORNIA MOBILE SOURCE MEASURE M2 SOUTH COAST AIR BASIN

[Tons per day]

	1999	2002	2005	2008	2010
ROG	0	0	3	6	10
NO_X	0	0	5	9	15

(iii) M3—Accelerated Ultra-Low Emission Vehicle (ULEV) Requirement for Medium-Duty Vehicles (MDVs). CARB commits in the SIP to adopt regulations for this measure in 1997, with implementation occurring from 1998 to 2002. This measure commits to an increase in the fraction of MDV ULEVs from 10 percent of sales of new MDVs in the 1998 model year to 100 percent in the 2002 and later model years. This measure offers some flexibility by allowing other mixes of vehicles and technologies that generate equivalent emission reductions.

In their joint comments, the Natural Resources Defense Council and the Coalition for Clean Air noted that, at a public hearing in September 1995, CARB announced that it had made a calculation error which resulted in an overallocation of emission reductions to this measure. As a result, the regulations adopted at that time will achieve 2 tpd VOC and 23.9 tpd NO_X reduction, compared to M3's claimed credits of approximately 4 tpd VOC and 32 tpd NO_X in the South Coast in 2010. The environmental groups stated that EPA must require CARB to submit an additional measure to make up this shortfall before EPA can approve the SIP. Despite CARB's error, EPA expects and requires CARB to adhere to the State's enforceable commitment to adopt by 1997 regulations that achieve the full credit assigned to M3 for the milestone dates specified for each of the 5 areas where reductions are claimed.[21]

[21] The State has clarified its intentions in this regard (letter from Lynn Terry to Julia Barrow, dated September 19, 1996): ''The SIP binds the State to develop enforceable measures that deliver the emission reductions needed for rate-of-progress and attainment, as identified in the plan and subsequent technical transmittals. Volume I of the SIP says '* * * Once the SIP is approved by U.S. EPA, these enforceable commitments become mandatory and must be carried out * * *. [they] compel the State or local air districts to obtain the reductions or to substitute alternative measures by formal revision of the SIP.' Thus, if we discover that a rule to implement a plan measure will not generate the targeted emission reductions, we are obliged to find replacement reductions or to demonstrate that rate-of-progress and attainment

Continued

EPA approved M3 on December 14, 1995 (60 FR 64126). Under sections 110(k)(3) and 301(a) of the Act, EPA here takes final action to approve the emission reductions associated with the measure, as displayed by nonattainment area and milestone/attainment year in the table below, labeled ''Reductions from California Mobile Source Measure M3.''

REDUCTIONS FROM CALIFORNIA MOBILE SOURCE MEASURE M3

[Tons per day]

	1999		2002		2005		2008		2010	
	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X
So. Coast	0	.89	.78	9.51	1.85	21.1	2.31	26.7	3.37	33.16
SE Desert	0	.1	.1	1.4	.2	3.5	.....	.....	.....	.....
Ventura	0	0	0	.5	.1	1.0	.....	.....	.....	.....
Sacramento	.2	.2	0	1.7	.4	3.9	.....	.....	.....	.....
S. Joaquin	0	.4	.....	.....	.....	.....	.....	.....	.....	.....

(iv) M4—Heavy-Duty Diesel Vehicles (HDDV); Early Introduction of 2.0 g/bhp-hr NO_X engines. The SIP commits to implementation of this measure beginning in 1996. CARB and the Districts share responsibility for this measure. M4 is a commitment to increase the use of existing low-emission engines among on-road HDDVs through locally implemented demand-side programs and market incentives. This program is intended to result in a 5% sales penetration of 2.0 g/bhp-hr NO_X engines through the period 1996–1999, and a 10% sales penetration of these engines between 2000 and 2002. Other combinations of penetrations and emission levels that provide equivalent emission reductions could be implemented.

CEPA commented that the NPRM omits SIP credits for this measure outside of the South Coast. EPA agrees to include the State's M4 reductions for the remaining State areas. The credits for these areas are taken from tables provided by CARB in Attachment C to a June 13, 1996 letter from James D. Boyd to David Howekamp.

EPA approved M4 on December 14, 1995 (60 FR 64126). Under sections 110(k)(3) and 301(a) of the Act, EPA here takes final action to approve the emission reductions associated with the measure, as displayed by nonattainment area and milestone/attainment year in the table below, labeled ''Reductions from California Mobile Source Measure M4.''

REDUCTIONS FROM CALIFORNIA MOBILE SOURCE MEASURE M4

[Tons per day of NO_X]

	1999	2002	2005	2007	2008	2010
So. Coast	2.17	3.90	2.93	.....	2.34	1.36
SE Desert	0.31	0.57	0.39	0.35	.....	.....
Ventura	0.1	0.18	0.14	.....	.....	.....
Sacramento	0.28	0.49	0.36			
S. Joaquin	0.74	.....	.....	.....	.....	.....
Kern	0.04	.....	.....	.....	.....	.....

(v) M5—Heavy-Duty Diesel Vehicles (HDDVs); Additional NO_X Reductions. The SIP commits to adopt this measure in 1997 and begin implementation in 2002. CARB commits to achieve emission reductions through adoption of a 2.0 g/bhp-hr NO_X emissions standard for new HDDV engines sold in California beginning in 2002, or by implementation of alternative measures which achieve equivalent or greater reductions.

This measure is designed to achieve emission reductions prior to the introduction of a national HDDV standard in 2004. The 1994 California Ozone SIP (''Federal Measure'' M6) assigns to EPA responsibility for adopting such a national standard. See discussion in the NPRM (61 FR 10928–9). Since EPA's proposal, further progress toward fulfilling the M5 and M6 commitments has been made by CARB and EPA. On June 27, 1996 (61 FR 33421–33469), EPA published an NPRM proposing a national onroad heavy-duty engine standard giving manufacturers the flexibility to choose between two options: (1) A combined non-methane hydrocarbon (NMHC) plus NO_X standard of 2.4 g/bhp-hr and (2) a combined NMHC plus NO_X standard of 2.5 g/bhp-hr together with a NMHC cap of .5 g/bhp-hr. EPA and CARB expect that the combined standard will result in NO_X reductions comparable to those achieved with a 2.0 g/bhp-hr standard.

EPA approved M5 on December 14, 1995 (60 FR 64126). Under sections 110(k)(3) and 301(a) of the Act, EPA here takes final action to approve the emission reductions associated with the measure, as displayed by nonattainment area and milestone/attainment year in the table below, labeled ''Reductions from California Mobile Source Measure M5.'' Future SIP updates may need to redistribute the emissions assigned to the State (M5) and Federal (M6) measures.

requirements will still be met. Further, we recognize that any shortfall in emission reductions would have to be made up on an expedited basis because of the need for those reductions in the South Coast and other areas for rate-of-progress and attainment. ARB will be looking at any feasible alternatives proposed during the process of developing each measure into a regulation. This process includes several rounds of public review and a thorough consideration of the economic impacts on the affected industries.''

REDUCTIONS FROM CALIFORNIA MOBILE SOURCE MEASURE M5

[Tons per day]

	1999		2002		2005		2007		2008		2010	
	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X
So. Coast	0	0	0.2	1.7	1.8	22.0	.....	.....	3.1	37.6	4.8	56.2
SE Desert	0	0	0	0.2	0.2	3.9	0.4	5.1	.....	.....	.....	.....
Ventura	0	0	0	0.1	0.1	1.0	.....	.....	.....	.....	.....	.....
Sacramento	0	0	0	0.2	0.2	2.7	.....	.....	.....	.....	.....	.....
S. Joaquin	0	0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

(vi) M7—Accelerated Retirement of Heavy-Duty Vehicles. CARB commits to adopt this measure in 1996 and begin implementation in the same year. This measure involves the annual retirement (scrapping or removal) of about 1600 of the oldest, high emitting trucks in the South Coast Air Basin, beginning in 1999. A smaller number of trucks would be scrapped in 1996 to 1998 in order to gain experience with the program and determine the impacts on the used truck market. The SIP commits to secure a financing mechanism for this measure by the end of 1995. While the SIP commits only to implement this measure in the South Coast, the State indicates that consideration is being given to establishing a truck retirement program in Sacramento and other nonattainment areas.

The Environmental Defense Center notes that M7 relies on an enforceable funding mechanism to be secured by the end of 1995. EDC comments that it is capricious to fail to identify the secure, enforceable funding source for this speculative scrappage program. State funding legislation has been prepared to establish the Accelerated Vehicle Replacement Program, and the State is continuing to pursue viable funding options. EPA will monitor program implementation and ensure that the State and involved parties meet the SIP's schedule for program adoption and implementation in 1996.

CARB requested that the ROG emission reductions shown for the South Coast in the year 2002 be reduced from 1 to zero (0.21). EPA is doing so at this time.

Under sections 110(k)(3) and 301(a) of the Act, EPA is taking final action to approve M7, its implementation schedule, and the emission reductions to be achieved in the South Coast, as displayed in the table below, labeled ''Reductions from California Mobile Source Measure M7.''

REDUCTIONS FROM CALIFORNIA MOBILE SOURCE MEASURE M7—SOUTH COAST AIR BASIN

[Tons per day]

	1999	2002	2005	2007	2008	2010
ROG	0	0	1	1	1	1
NO_X	3	6	7	8	9	10

(vii) M8—Heavy-Duty Gasoline Vehicles (HDGVs), Lower Emission Standards. The SIP commits to adoption of this measure by 1997 and implementation beginning in 1998. This measure generates emission reductions through the adoption of a LEV/ULEV program for HDGV engines to obtain 50% reductions of NO_X and ROG emissions through the application of 3-way catalyst technology.

EPA approved M8 on December 14, 1995 (60 FR 64126). Under sections 110(k)(3) and 301(a) of the Act, EPA here takes final action to approve the emission reductions associated with the measure, as displayed by nonattainment area and milestone/attainment year in the table below, labeled ''Reductions from California Mobile Source Measure M8.''

REDUCTIONS FROM CALIFORNIA MOBILE SOURCE MEASURE M8

[Tons per day]

	1999		2002		2005		2007		2008		2010	
	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X
So. Coast	0	0	0	0.8	0.1	1.8	.....	.....	0.2	2.3	0.3	3.0
SE Desert	0	0	0	0.1	0	0.3	0	0.4	.....	.....	.....	.....
Ventura	0	0	0	0	0	0.1	.....	.....	.....	.....	.....	.....
Sacramento	0	0	0	0.2	0	0.4	.....	.....	.....	.....	.....	.....
S. Joaquin	0	0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

(viii) M9—Off-road Diesel Equipment; 2.5 g/bhp-hr NO_X Standard, California. CARB commits to adopt this measure in 2001 and begin implementation in 2005. The measure requires CARB to adopt a 2.5 g/bhp-hr NO_X standard effective in the 2005 model year for new off-road industrial equipment diesel engines that are not preempted from California authority. California is preempted from adopting or enforcing any standard or other requirement relating to the control of emissions from new construction and farm equipment or vehicles which are smaller than 175 hp (see section 209(e) of the Act).

CARB requested that the ROG emission reductions shown for the South Coast in the year 2005 be increased from zero to 0.5. EPA is doing so at this time.

On August 21, 1995, EPA approved M9 and assigned it SIP credit in the South Coast under the provisions of section 182(e)(5) of the Act. Under sections 110(k)(3) and 301(a) of the Act, EPA is taking final action to approve

the emission reductions to be achieved in the South Coast by milestone year in the table below, labeled ''Reductions from California Mobile Source Measure M9.''

REDUCTIONS FROM CALIFORNIA MOBILE SOURCE MEASURE M9—SOUTH COAST AIR BASIN

[tons per day]

	1999	2002	2005	2007	2008	2010
ROG	0	0	0.5	4	1	3
NO_X	0	0	4	35	14	34

(ix) M11—Industrial Equipment; Gas and LPG-California; 3-way catalyst technology. CARB commits to adopt this measure in 1997 and implement it beginning in 2000. The measure requires CARB to adopt emission standards for new gas and liquid petroleum gas (LPG) engines 25 to 175 horsepower that are not primarily used in construction or farm equipment. As noted above, California is preempted from regulating new farm and construction equipment smaller than 175 hp. The standards will be phased-in beginning in 2000, and are intended to reduce ROG emissions by 75% and NO_x by at least 50%.

CEPA commented that the NPRM omits SIP credits for this measure in Ventura, Sacramento, and the Southeast Desert. EPA agrees to include the State's M11 reductions for these areas. The credits for these areas are taken from tables provided by CARB in Attachment C to a June 13, 1996 letter from James D. Boyd to David Howekamp. Since the reductions in these areas are all considerably less than one ton per day and EPA's proposal showed credits only for whole number reductions in the South Coast, EPA is also amending the reductions for the South Coast by showing estimated reductions to the nearest tenth of a ton.

EPA approved M11 on December 14, 1995 (60 FR 64126). Under sections 110(k)(3) and 301(a) of the Act, EPA here takes final action to approve the emission reductions associated with the measure by milestone/attainment year for each area in the table below, labeled ''Reductions from California Mobile Source Measure M11.''

REDUCTIONS FROM CALIFORNIA MOBILE SOURCE MEASURE M11

[Tons per day]

	1999		2002		2005		2007		2008		2010	
	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X
So. Coast	0	0	4.2	2.0	8.8	4.4	.....	.....	15.1	7.7	23.0	11.6
SE Desert	0	0	0.1	0	0.2	0.1	0.2	0.1				
Ventura	0	0	0.1	0	0.1	0.1	.....	.....	.....	.....	.....	.....
Sacramento	0	0	0.1	0.1	0.2	0.1	.....	.....	.....	.....	.....	.....

(x) Additional New Control Technologies. In addition to the new control technologies described above in measures M2 and M9, CARB has committed to the implementation of additional innovative measures to achieve the emission reductions needed in the South Coast to reach attainment by 2010. CARB anticipates that these additional measures will include a combination of market-based and technology-based measures. CARB has committed to adoption of these measures no later than 2006 to ensure the needed emissions reductions (55 tpd of ROG and 20 tpd of NO_X) are achieved by 2009.

The Environmental Defense Center commented that these new-technology measures jeopardize the efficacy of the entire SIP. EDC stated that many of the State's example controls are unrealistic (speed controls) or illegal (episodic controls).

On August 21, 1995, EPA approved CARB's additional new control technologies measure under the provisions of section 182(e)(5), with 2010 emission reduction credits of 79 tpd ROG and 60 tpd NO_X in the South Coast. CARB has subsequently clarified that the emissions reductions associated with this measure are 55 tpd ROG and 20 tpd NO_X.

CARB has also furnished additional information regarding the State's approach to developing the control measure. A September 19, 1996 letter from Lynn Terry to Julia Barrow provides the following description of the State's proposed schedule: ''We anticipate kicking off development of this measure in 1997 with an international symposium on clean transportation to solicit ideas for new technologies and approaches. We intend to follow up with technical work (including any appropriate research contracts), meetings, and workshops on the most promising ideas through 2000. At that point, we expect to develop regulatory concepts for discussion in 2001–2003, followed by release of specific proposals in 2004–2005, and adoption of appropriate regulations by 2006.'' EPA remains eager to work with the State to ensure that progress is made to develop approvable mobile source controls as necessary in the South Coast to meet the SIP's progress and attainment goals.

c. EPA Action. As described above, EPA has already approved most of the State's M Measure commitments. On August 21, 1995, EPA approved the CARB new-technology measures M2, M9, and Additional New Technology Mobile Source Measures (described above), and assigned credit in the South Coast ozone attainment demonstration to the measures. At the same time, EPA proposed approval of the State's control measure commitments for M3, M5, M8, and M11. EPA issued final approval of the measures on December 14, 1995 (60 FR 64126). Because EPA was at that time not acting on the State's ROP and attainment demonstrations, EPA's approval of the State's commitments did not include assignment of specific emission reduction credits associated with the measures. EPA is here approving the ROP and attainment demonstrations of California ozone nonattainment area plans which rely, in part, on the M Measure commitments. Therefore, under sections 110(k)(3) and

301(a) of the Act, EPA now takes final action to assign credit to the State's enforceable commitments to achieve the specific emission reductions associated with M3, M5, M8, and M11, and displayed in the tables above for each measure.

EPA is also approving, under sections 110(a)(3) and 301(a) of the Act, and assigning credit to measures M1, M4, and M7 as part of the ROP and attainment demonstrations for appropriate nonattainment areas, as shown in the tables above. EPA believes that CARB is making significant progress toward the development and adoption of regulations to fulfill the M measure commitments. EPA therefore takes final action to approve and credit CARB's enforceable commitments to these M measures under sections 110(k)(3) and 301(a) of the Act, as part of the demonstrations of ROP and attainment in the California ozone nonattainment areas.

2. I/M

a. Review of Program. CARB initially submitted its motor vehicle inspection and maintenance (I/M) program, known as the Smog Check program, as a revision to its SIP on June 30, 1995. The submittal was made to fulfill EPA's requirements for basic and enhanced I/M programs as set forth in 40 CFR Part 51, Subpart S. EPA found the submittal complete on June 30, 1995. A revised and final revision was submitted by the State on January 22, 1996 and found complete on February 5, 1996. Section 348 of the National Highway System Designation Act (Public Law 104–59), hereafter referred to as the Highway Act, which was enacted on November 28, 1995, modified EPA's I/M regulation. In this notice EPA is finalizing approval of California's basic program as meeting the requirements of 40 CFR, Part 51, Subpart S as amended (see 60 FR 48029, September 18, 1995) and approval of California's enhanced I/M program as meeting the high enhanced performance standard requirements of 40 CFR Part 51, Subpart S, as amended and section 348(c) of the Highway Act.

The table labeled ''California I/M Program Coverage by County'' shows for every county in the State whether the I/M program is implemented as enhanced or basic, or is required only upon change of ownership. For many counties, the type of I/M program in effect varies depending upon air quality designations and whether the area is urbanized. The State has established these I/M program boundaries within counties based upon ZIP code. The reader may contact the Bureau of Automotive Repair (BAR) to obtain specific program applicability information by ZIP code.

CALIFORNIA I/M PROGRAM COVERAGE BY COUNTY

County	Enhanced	Basic	Change of ownership
Alameda		x	
Alpine			x
Amador			x
Butte		x	
Calaveras			x
Colusa		x	
Contra Costa		x	
Del Norte			x
El Dorado		x	x
Fresno	x	x	
Glenn		x	
Humboldt			x
Imperial			x
Inyo			x
Kern	x	x	
Kings		x	
Lake			x
Lassen			x
Los Angeles	x		
Madera		x	
Marin		x	
Mariposa			x
Mendocino			x
Merced		x	
Modoc			x
Mono			x
Monterey		x	
Napa		x	
Nevada		x	
Orange	x		
Placer	x	x	x
Plumas			x
Riverside	x	x	x
Sacramento	x	x	
San Benito		x	
San Bernardino	x	x	x
San Diego	x	x	x
San Francisco		x	
San Joaquin	x	x	
San Luis Obispo		x	
San Mateo		x	
Santa Barbara		x	
Santa Clara		x	
Santa Cruz		x	

CALIFORNIA I/M PROGRAM COVERAGE BY COUNTY—Continued

County	Enhanced	Basic	Change of ownership
Shasta		x	
Sierra			x
Siskiyou			x
Solano	x	x	
Sonoma		x	x
Stanislaus	x	x	
Sutter		x	
Tehama		x	
Trinity			x
Tulare		x	
Tuolumne			x
Ventura	x	x	
Yolo	x	x	
Yuba		x	

The SIP revision submitted to EPA by CARB includes the Laws and Regulations relating to California's I/M program which comprises pertinent sections of the California Business and Professions Code, the Health and Safety Code, the Vehicle Code, and the California Code of Regulations. Included in the supplemental submittal are final regulations for the mandatory exhaust emissions inspection standards and test procedures for the enhanced program and for the licensing of I/M stations and technicians which became legally effective on December 1, 1995 and December 5, 1995, respectively. Other documents in the submittal are: The Request for Conceptual Design for Test-only Networks and Referee Services; the BAR–90 Test Analyzer System Specifications (June 1995); the California Smog Check Inspection Manual; the Quality Assurance Operations Manual, Chapter 27 of the Department of Motor Vehicles Manual of Registration Procedures; the Smog Check Diagnostic and Repair Manual; the Request for Proposal for On-Road Emissions Measurement Systems Services, and the Radian Report entitled ''Evaluation of the California Pilot Inspection/Maintenance (I/M) Program.''

EPA's I/M regulation establishes minimum performance standards for basic and enhanced I/M programs as well as requirements for the following: Network type and program evaluation; adequate tools and resources; test frequency and convenience; vehicle coverage; test procedures and standards; test equipment; quality control; waivers and compliance via diagnostic inspection; motorist compliance enforcement program oversight; quality assurance; enforcement against contractors, stations and inspectors; data collection; data analysis and reporting; inspector training and licensing or certification; public information and consumer protection; improving repair effectiveness; compliance with recall notices; on-road testing; SIP revisions; and implementation deadlines. The performance standard for basic I/M programs remains the same as it has been since initial I/M policy was established in 1978, pursuant to the 1977 amendments to the Clean Air Act. The high performance standard for enhanced I/M programs is based on high-technology loaded mode exhaust testing for HC, CO, and NO_X and testing of the integrity and performance of the evaporative control system.

California's basic program is a test-and-repair program utilizing two-speed idle testing. California's enhanced program is a hybrid program in which 15% of the dirtiest vehicles, based upon high-emitter profile and remote sensing results as well as other factors, are targeted for test-only inspection. All vehicles in the enhanced areas will be subject to loaded mode testing. More stringent requirements apply to technicians licensed in the enhanced areas. The two programs are essentially the same in all other respects, excepting that frequency of enforcement related activities such as remote sensing will be much greater in the enhanced areas. (A more detailed discussion of how the elements of California's I/M programs address the requirements of EPA's I/M regulations is contained in the TSD for the NPRM.) The SIP submittal includes modeling which demonstrates that the program design for California's basic program will meet EPA's performance standard for basic programs. EPA is, therefore, approving this revision to California's SIP for the basic I/M program.

The Highway Act prohibits the Administrator from disapproving or applying an automatic discount of emission reduction credits to a SIP revision because the I/M program is decentralized or a test-and-repair program. The Highway Act directs the Administrator to propose approval of the program for the full credit proposed by the state if the proposed credits reflect good faith estimates by the state and the revision is otherwise in compliance with the Clean Air Act. The approval remains effective for up to 18 months after the date of final rulemaking. After the 18-month period, permanent approval of the SIP revision based on the credits proposed by the state shall be granted if the data collected on the operation of the program demonstrates that the credits are appropriate and the program is otherwise in compliance with the Act.

EPA issued guidance regarding approval of I/M plans under the Highway Act on December 12, 1995. The Highway Act is clear that approval under its provisions shall last for only 18 months, and that the program evaluation is due to EPA at the end of that period. Therefore, EPA believes Congress intended for these programs to start-up as soon as possible, which EPA believes should be at the latest, 12 months after the effective date of the approval, so that at least 6 months of operational program data can be collected to evaluate the performance of the program. ''Start-up'' is defined as a fully operational program which has begun regular, mandatory inspections and repairs, using the final test strategy and covering each of the state's required areas. If the state fails to start its program on this schedule, the approval granted under the provisions of the Highway Act will convert to a disapproval after a finding letter is sent to the state.

As mentioned above, the Highway Act specifies that EPA grant approval if good faith estimates of credits are made.

The Conference Report states that good faith estimates may be based on previous I/M program performance, remote sensing programs, or other evidence relevant to effectiveness of I/M programs. EPA has further suggested that good faith estimates could be based on innovative program designs.

The program evaluation to be used by the state during the 18-month period must be acceptable to EPA. EPA anticipates that such a program evaluation process will be developed by the Environmental Council of State (ECOS) group that is convening now and that was organized for this purpose. California is an active participant in the ECOS group. EPA further expects that in addition to the interim, short term evaluation to be conducted within 18 months, the state will conduct a long term, ongoing evaluation of its I/M program as required by the I/M Rule in sections 51.353 and 51.366.

At the end of the 18-month approval period, EPA will review the state's final I/M SIP revision, which will include the state's program evaluation, and take action to make the approval of the I/M program permanent, if the program evaluation data collected by the state demonstrates that the I/M program is achieving the emission reduction credits claimed in the SIP.

According to the schedule submitted by California test-only inspection began in Sacramento in August 1995. The program is expected to be fully operational in Fresno, Bakersfield and San Diego by the fall of 1996, and in the South Coast areas in early 1997. Although this schedule appears to be slipping, EPA anticipates that California will start its program within 12 months of this approval.

California has made a good faith estimate that its hybrid enhanced I/M program will meet EPA's high performance standard based on the California Pilot Program and innovative program features including an electronic transmission project with a trigger program used for enforcement, a high visibility remote sensing program, and stringent licensing and training requirements.

The pilot program conducted as part of the Memorandum of Agreement between EPA and California provided data on the effectiveness of targeting high emitting vehicles through the use of the high-emitter profile (HEP) and remote sensing combined with the HEP, and the use of Acceleration Simulation Mode (ASM) testing. The vehicles required to go to test-only facilities for inspection will comprise likely high-emitters as identified through use of the HEP and remote sensing, previously identified high emitters which must undergo annual testing for 2 to 5 years, high emitters identified by test-and-repair stations, high mileage fleet vehicles, vehicles for hire, a 2% random sample, and motorists voluntarily choosing to go to test-only stations.

California's program includes an electronic transmission program. A central Vehicle Information Database has been created and an electronic network enabling the test analyzer system units to connect automatically to the database has been established. The central database will be able to restrict the issuance of certificates under certain circumstances, e.g., if a test-only inspection is required, when the vehicle is identified as a high emitter, or when an enhanced test is required. The database will also furnish a real-time communications link to vehicle emissions data which will provide information to BAR enforcement teams to help immediately identify illicit activity. The database will also be used to develop a trigger program to identify shops that are performing improper inspections and to track the location and performance of licensed smog check technicians.

The State is also phasing in a high-visibility remote sensing program. California plans to identify as least 200,000 high emitting vehicles annually in the enhanced program areas. Data collected from the program will be used as a target parameter for the enforcement program. The program will also serve as a visible reminder to both motorists and test-and-repair stations that improper inspections and/or program avoidance may be detected. Stringent licensing and training requirements are being required for test-and-repair stations and repair technicians, respectively.

California has committed to performing quarterly evaluations of its program to determine if EPA's performance standard is being met and the credits taken for the program are being achieved. California plans to adjust the number of vehicles sent to test-only stations based on these evaluations.

b. Response to Comments. The Environmental Defense Center commented that the State's I/M program must be bolstered to return the emissions reduction necessary to meet attainment. California has committed to performing quarterly program evaluations to determine whether SIP emission reduction requirements and EPA's performance standard are being met. EPA's approval under section 348(c) of the Highway Act requires the State to collect data on the operation of the program to demonstrate with an 18 month period that the I/M credits are valid and the program is otherwise in compliance with the CAA. EPA will work with the State to help ensure that data are timely collected and that the program delivers SIP-required reductions or is promptly modified to do so.

c. Emissions Reductions. The emission reductions to be achieved by the measure are displayed by nonattainment area and milestone/attainment year in the table below, labeled ''Reductions from California Enhanced I/M Program.'' The table reflects the revisions to the estimated reductions shown in the NPRM. These changes were requested by CARB in Attachment A to a letter dated June 13, 1996 (James D. Boyd to David Howekamp). South Coast 2002 NO_X is changed from 35.5 to 35.6; Southeast Desert 2005 ROG is changed from 2.9 to 2.6; Southeast Desert 2007 NO_X is changed from 2.8 to 2.7; Sacramento 2005 ROG is changed from 5.1 to 5.2; and San Joaquin Valley 1999 NO_X is changed from 4.9 to 5.0. The emission reductions claimed for the San Joaquin Valley are based on implementation of the enhanced I/M program in Bakersfield, Fresno, Stockton, and Modesto.

REDUCTIONS FROM CALIFORNIA ENHANCED I/M PROGRAM

[Tons per day]

	1999		2002		2005		2007		2008		2010	
	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X
So. Coast	34.8	32.4	40.3	35.6	32.5	33.0	.....	.....	30.2	34.8	26.2	31.1
SE Desert	2.4	2.3	3.0	2.6	2.6	2.8	2.6	2.7				
Ventura ...	1.6	1.9	1.8	2.0	1.4	1.9						

REDUCTIONS FROM CALIFORNIA ENHANCED I/M PROGRAM—Continued

[Tons per day]

	1999		2002		2005		2007		2008		2010	
	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X	ROG	NO_X
Sacramento	5.4	5.7	6.3	6.5	5.2	6.4						
S. Joaquin	4.3	5.0										
S. Diego ..	0	0										

c. *EPA Action*. EPA is finalizing approval of the California I/M regulations submitted on January 22, 1996, under sections 110(k)(3) and 301(a) of the Act as strengthening the SIP and contributing specific emission reductions toward the progress, attainment, and maintenance requirements of the Act.

EPA is also finalizing, under sections 110(k)(3) and 301(a) of the Act, approval of the California I/M program and regulations submitted on January 22, 1996, as meeting the requirements of section 182(b)(4) of the Act for basic I/M in applicable areas of the State classified as moderate for ozone.[22] By mistake EPA's proposed approval was limited to ozone. In this final action EPA is also approving the California I/M program as meeting the requirements of section 187(a)(4) of the Act for basic I/M for the following areas of the State classified as moderate for CO with design values less than 12.7: Fresno, Sacramento, Modesto, Chico, Stockton and San Diego.

Under section 348(c) of the Highway Act, EPA is finalizing, for a period of 18 months, approval of the California I/M submittal of January 22, 1996, as meeting the requirements of section 182(c)(3) of the CAA for enhanced I/M in applicable areas of the State classified as serious and above for ozone. In addition, EPA is approving the I/M submittals as meeting the requirements of section 187(a)(6) of the Act for enhanced I/M for the South Coast which is classified as a serious nonattainment area for carbon monoxide; by mistake, this aspect of EPA's approval of the I/M program was also omitted from the NPRM. Finally, EPA is finalizing, for a period of 18 months, approval of the emission reductions to be achieved by the enhanced I/M program, as displayed in the table above, labeled ''Reductions from California Enhanced I/M Program.'' Section 348(c)(3) of the Highway Act provides that EPA will take regulatory action to make the approval permanent if, at the expiration of the 18-month period or at an earlier time, the data collected on the operation of the State program demonstrates that ''the credits are appropriate and the revision is otherwise in compliance with the Clean Air Act.''

If EPA finds that California has failed to start its program within 12 months from the effective date of this notice, or by February 9, 1998, and issues a letter so informing California, then this approval will convert to a disapproval as of the date of such letter. If the required State demonstration is not completed within 18 months and submitted to EPA as a SIP revision or does not show that the credits are appropriate and that the program is otherwise in compliance with the CAA, EPA will take regulatory action to disapprove the program for purposes of compliance with the enhanced I/M requirements of sections 182(c)(3) and 187(a)(6). After 18 months have elapsed, unless and until EPA approves a new SIP submittal, the SIP will no longer meet the specific requirements of the Act relating to enhanced I/M, but the State's regulations will continue in the SIP as contributing to progress, attainment, and maintenance of the NAAQS.

3. Consumer Products.

a. *Introduction*. As discussed in the NPRM, CARB classifies the emissions reductions resulting from regulations on consumer products regulations into 3 main categories: near-term, mid-term, and long-term with regard to date of promulgation and implementation.

CARB's near-term measures consist of rules adopted prior to May 1995. The existing consumer products regulations, antiperspirant and deodorant regulations, and the 1996 and 1999 VOC content standards of the recently adopted aerosol paints rule comprise the near-term measures.

CARB's mid-term measures consist of anticipated regulations from categories of consumer products for which regulations had not yet been adopted at the time of the submittal. These regulations are expected to be adopted by July 1, 1997 and implemented by the year 2005, and will cover various consumer product categories which are currently not regulated by the State of California. These mid-term measures are needed for attainment demonstrations in the Sacramento Metropolitan and Ventura County air basins. In the SIP, CARB asserts that these measures, like the near-term measures, rely on available or reasonably foreseeable technology. CARB has also committed to investigating the feasibility of incorporating reactivity considerations into the mid-term measures to reduce ozone-forming potential while providing additional flexibility at reduced costs to industry and consumers.

CARB has committed to obtaining further reductions (as compared to the near- and mid-term measures) from consumer products after 2000. These reductions may rely on available or in-the-pipeline technology, and may also rely on various combinations of traditional control strategies, technology-forcing standards, innovative market-based approaches, and consumer education programs. These long-term measures would be enforced on a statewide basis, but only the South Coast plan relies on the emissions reductions to demonstrate attainment.

CARB has further categorized their emission reduction commitments into 4 classifications, or ''measures'': CP–1, CP–2, CP–3, and CP–4. These measures are either adopted rules or commitments to adopt rules to reduce VOC emissions from consumer products and aerosol paints. A description of each of these measures follows.

b. *Review of Measures*. (1) Measure CP–1. Measure CP–1 includes two rules, both adopted prior to November 1994, that are designed to control VOC emissions from commercial products. One rule controls VOC emissions from antiperspirants and deodorants; the other rule controls emissions from household products, such as air fresheners, shaving cream, and hairsprays. Both rules were submitted to EPA on November 15, 1994. EPA

[22] The January 22, 1996 SIP submittal includes and supersedes materials contained in the State's earlier submittal of June 30, 1995.

approved these rules into the SIP on August 21, 1995 (see 60 FR 43379).

(2) Measure CP–3 (Aerosol Paints). Measure CP–3 is a near term commitment to adopt and implement VOC content standards in aerosol paints. Regulations meeting these commitments were adopted in mid-1995. These regulations limit the VOC content of aerosol paints by establishing sets of VOC content standards for various coating types. These standards establish the maximum percentage of VOC by weight allowed in the various types of aerosol coatings. The coating standards are divided into two phases. In the first phase, effective January 1, 1996, aerosol coatings' VOC content must comply with limits that range from 60 percent to 95 percent, depending on the coating.

In the second phase, currently due to take effect December 31, 1999, aerosol coatings' VOC content limits will range from 30 percent to 80 percent, depending on the type of coating. Before the second phase of content limits can be implemented, CARB must conduct a public hearing to determine if the limits are commercially and technologically feasible. If the Board determines that they are not feasible, the implementation of some or all of the limits may be postponed for up to 5 years. However, CARB must ensure that the 1999 limits do not become federally enforceable prior to the final effective date, including any extension, according to section 41712 (f)(3) of the California Health and Safety Code.

EPA approval action on both phases of the aerosol paint rules will be taken in separate rulemakings following SIP submittal of the rules.

(3) Mid-Term Committal Measure CP–2. Measure CP–2 is a mid-term commitment to adopt additional regulations in 1997 to further reduce VOC emissions from currently unregulated household, industrial and institutional, and commercial consumer products. These reductions are anticipated to result from the further regulation of new categories of consumer products through technology that is currently feasible and commercially viable. EPA approved CP–2 on December 14, 1995 (60 FR 64126).

(4) Long-Term Committal Measure CP–4. Measure CP–4 is a long-term measure to further reduce emissions after measures CP–1, CP–2, and CP–3 are implemented. On August 21, 1995, EPA approved CARB's Measure CP–4 as meeting the requirements of section 182(e)(5).

(5) Alternative Control Plans (ACPs). In order to provide industry with flexibility in meeting the VOC content limits, CARB has adopted regulations that will allow manufacturers to meet the VOC standards on an emissions average basis. The regulations, CARB's Alternative Control Plan (ACP) for consumer products and aerosol coatings, require that manufacturers carefully track sales and VOC content of all products being averaged together in order to determine total VOC emissions from their products and compliance with the rule. EPA will act on the ACP regulations following submittal by the State.

c. Emission Reductions. The following table, ''Reductions from California Consumer Products and Aerosol Paint Program,'' describes the ROG emission reductions in terms of tons per day, as identified in the SIP submittal. Credits for near-term consumer products (CP–1) are not included, since they were presumed in baseline emissions projections as adopted regulations. The table combines credits for consumer products and aerosol paints. Credit for CP–4 is claimed only for South Coast.

The ROP and attainment demonstrations for San Diego and San Joaquin Valley do not rely on reductions from the consumer products measures. The State has submitted for SIP approval no emissions reductions for these areas associated with consumer products and aerosol paints measures, although real reductions will occur in those areas. San Joaquin Valley Unified APCD requested that EPA identify a 1.1 tpd VOC emissions reduction in the San Joaquin Valley area from these measures. Since the State does not wish to claim SIP credit for these measures in the San Joaquin Valley, EPA is not assigning the credits to San Joaquin Valley.

REDUCTIONS FROM CALIFORNIA CONSUMER PRODUCTS AND AEROSOL PAINT PROGRAM [REDUCTIONS BEYOND THOSE ACHIEVED BY CP–1]

[Tons per day of ROG]

	1999	2002	2005	2007	2008	2010
South Coast	0	8	39.2	.....	42.2	89.2
SE Desert	0	0.6	3.5	3.9	.....	.....
Ventura	0	0.4	2.2	.....	.....	.....
Sacramento	0	1.1	5.6	.....	.....	.....
San Joaquin	0	.....	.....	.....	.....	.....
San Diego	0	.....	.....	.....	.....	.....

d. EPA Action. As discussed above, EPA has already fully approved all of the State's consumer products rules and committal measures with the exception of CP–3 (Aerosol Paints). EPA is now approving CP–3 under sections 110(k)(3) and 301(a) of the Act, and assigning credit to this measure, as well as to the previously approved consumer products measures, as part of the ROP and attainment demonstrations for appropriate nonattainment areas. EPA will take regulatory action on the recently adopted ACP and Aerosol Paints regulations themselves in separate rulemakings.

4. Pesticides

a. Review of Measure. California's 1994 SIP submittal includes a commitment to reduce VOC emissions from the application of agricultural and structural pesticides. The submittal describes relevant authority in Section 6220 of Title 3 of the California Code of Regulations that has been granted to the California Department of Pesticide Regulation (DPR).

b. Response to Comments. The Environmental Defense Center (EDC) questioned whether the pesticides measure should be granted credit. EDC stated that pest management research alone will not create any reductions and the SIP is entirely vague as to how these air quality benefits will be accomplished. While the NPRM refers to a June 1997 date for promulgation of regulations should the voluntary measures fail, the SIP itself recites a possible, not obligatory, 1998 date. Finally, EDC recommends that the pesticides rule that was included in EPA's 1995 Federal Implementation

Plan (or some comparable rule) must be included in the SIP.

On May 11, 1995, CARB submitted a clarification by the California Department of Pesticide Regulation (Memo from James W. Wells to James D. Boyd) to the pesticide element of the SIP, submitted on November 15, 1994. This SIP clarification, which was cited in the NPRM, states, in part, that ''The Department of Pesticide Regulation commits to adopt and submit to U.S. EPA by June 15, 1997, any regulations necessary to reduce volatile organic compound emissions from agricultural and commercial structural pesticides by specific percentages of the 1990 base year emissions, by specific years, and in specific nonattainment areas * * * as listed in the following table * * *.'' California assigns to the pesticides measure less emission reductions than were associated with EPA's proposed FIP rule but the SIP reductions are sufficient to meet progress and attainment requirements in each area for this control category.

c. Emission Reductions As described in the SIP, California has committed to adopt and submit to U.S. EPA by June 15, 1997, any regulations necessary to reduce VOC emissions from agricultural and commercial structural pesticides by 20 percent of the 1990 base year emissions in the attainment years for Sacramento, Ventura, Southeast Desert, and the South Coast, and by 12 percent in 1999 for the San Joaquin Valley. The table labeled ''Reductions from Pesticides Measure'' shows reductions counted toward attainment in each area. EPA has revised the table to reflect CEPA's request that emission reductions for interim years be excluded from the SIP, since CARB elects not to assign credit to the pesticides measure except for purposes of attainment. If reductions from the measure are, in the future, needed to meet ROP milestones, CARB must resubmit the measure and interim reduction estimates as an SIP revision.

REDUCTIONS FROM PESTICIDES MEASURE

[Tons per day of ROG]

	1999	2002	2005	2007	2008	2010
South Coast	0	0	0	0	0	1.7
Southeast Desert	0	0	0	1.5		
Ventura	0	0	2.4			
Sacramento	0	0	2.8			
San Joaquin	13					

d. EPA Action. EPA is approving the Pesticides measure under sections 110(k)(3) and 301(a) of the Act, and assigning credit to the measure as part of the attainment demonstrations for appropriate nonattainment areas. EPA will take regulatory action on the State's Pesticides regulations, if any regulations are required and are submitted, in separate rulemakings.

B. Local ROP and Attainment Plans and Measures

1. Emission Inventories

a. Response to Comments. The Engine Manufacturers Association (EMA) commented that EPA has not provided all of the data or documented all of the assumptions that were part of California's inventory and modeling analyses. EMA added that it has serious concerns that the baseline emissions inventories include potentially significant overestimates of growth in VMT, trips, and vehicle and equipment sales and usage. EMA indicated that these estimates do not accurately reflect the emissions reductions that will result from the imposition of current and future national and state regulations. Finally, EMA noted that EPA acknowledged that its baseline and projected emissions are uncertain, and EMA requested that EPA should not take final action on the proposed inventories but should require that appropriate adjustments be made in order to provide accurate and reasonable inventory calculations on which to base California's proposed measures.

EPA does not believe that it is necessary or practical for the Agency to set forth the complete emission inventory data and documentation. This information is available from the State and local agencies, and amounts to thousands of pages of emissions and activity data, emissions factors, calculations, and quality assurance programs.

The commenter provided no specific information relating to inaccuracies in the SIP emission inventories. EPA recognizes that, in general, the accuracy of inventories for any area can be improved. If EMA has specific corrections to suggest, they should be provided to the State, EPA, and local agencies for review and possible inclusion in future SIP revisions. However, EPA has determined that the existing inventories meet applicable SIP requirements and provide reasonable foundations for the SIP.

The City of Los Angeles commented that the South Coast is preparing a 1997 AQMP update, which will improve the inventory. EPA recognizes that the improved inventory in progress may allow for SIP refinement. If and when inventory updates and improvements are submitted as SIP revisions for any of the nonattainment areas, EPA will consider them.

b. EPA Action. EPA is finalizing approval of the emission inventories for each of the nonattainment areas as meeting the requirements of section 182(a)(1) of the Act.

2. San Diego

a. SIP Control Measures. Only one comment was received on the San Diego plan. As discussed above in Section II.A.1, CEPA asked EPA to exclude from the San Diego SIP those emission reductions that will result from implementation of State measures M3, M5, M8, and CP–2/CP–3, since these reductions are not needed for purposes of progress or attainment. EPA is deleting these credits from the emission reduction tables for State measures in Section II.A.

EPA is not approving any new State or local measures as part of the San Diego ozone SIP, since none were included in the State's submittal. The State demonstrated that the ROP and attainment demonstration provisions of the Act could be met with pre-existing regulations.

b. ROP Provisions. EPA is finalizing approval of the ROP plan as meeting the 15% ROP requirements of section 182(b)(1) and the post-1996 ROP requirements of section 182(c)(2) of the Act. The ROP VOC targets, projected VOC emissions, and creditable VOC and NO_X reductions are shown below in the table labeled ''San Diego ROP Forecasts and Targets.''

SAN DIEGO ROP FORECASTS AND TARGETS

[Tons per summer day]

Milestone Year	1996	1999
1990 Base Year VOC Inventory	312.6	312.6
VOC Projections (Adopted Measures)	236.1	232.0
ROP VOC Target	241.2	212.2
VOC Shortfall	0	19.8
NO_X Substitution in VOC Equivalents	0	19.8

c. Modeling and Attainment Demonstration. EPA is approving the State's modeling analysis and attainment demonstration under section 182(c)(2)(A) of the Act. A summary of the emission reductions needed to attain the standard and reductions projected from the SIP control strategy is provided below in the table labeled ''San Diego Attainment Demonstration.''

SAN DIEGO ATTAINMENT DEMONSTRATION

[Tons per summer day]

	VOC	NO_X
1990 Baseline Emissions Inventory	313	238
Carrying Capacity	232	175
Reductions Needed	81	63
Reductions from Adopted Measures	81	63

SAN DIEGO ATTAINMENT DEMONSTRATION—Continued

[Tons per summer day]

	VOC	NO_X
Reductions from Committed Local Measures	0	0
Reductions from Committed State Measures	1	1
Total SIP Reductions	82	64
Remaining Emissions in 1999	231	174

d. Overall EPA Action. EPA approves the San Diego ozone SIP with respect to the Act's requirements for emission inventories, control measures, modeling, and demonstrations of 15% ROP, post-1996 ROP, and attainment.

3. San Joaquin Valley

a. Control Measures. The San Joaquin Valley Unified APCD commented that no reductions are tied to any of the transportation control measures (TCMs) individually, but rather to the overall TCM package, since the overall emission reductions target is expected to be achieved but it is not anticipated that all of the measures would be implemented. EPA's table of control measures is consistent with the APCD's position in both the proposal and final action.

On April 4, 1996, CARB submitted a SIP revision (letter from James D. Boyd to Felicia Marcus, attaching CARB Executive Order G–125–203). This submittal requests EPA to delete from the existing SIP an obsolete TCM that was originally adopted by the Fresno County APCD as part of a 1982 ozone SIP. (The Fresno County APCD has since been absorbed into the San Joaquin Valley Unified APCD). The 1994 San Joaquin Valley AQMP does not assume emission reductions from this TCM, but rather substitutes a TCM package listed among the local measures in the table labeled ''San Joaquin Local Control Measures.'' In this document, EPA is taking final action to delete the obsolete measure, which is entitled ''Exclusive High Occupancy Vehicle Lanes on Freeway 41.''

The table labeled ''San Joaquin Local Control Measures'' indicates the dates of rule adoption and implementation and the emission reductions presumed to occur by 1999, the applicable attainment deadline. These measures are relied upon in meeting the attainment requirements of the Act. Accordingly, and because the measures strengthen the SIP, EPA is approving, under sections 110(k)(3) and 301(a) of the Act, the enforceable commitments to adopt and implement the control measures by the dates specified to achieve the emission reductions shown. EPA also is assigning credit to the measures for purposes of attainment. EPA approval of the adopted regulations will be completed in separate rulemakings in the future.

SAN JOAQUIN LOCAL CONTROL MEASURES

Rule No.	Control Measure Title	Implementing Agency	Adoption Date	Implementation Date	Reductions	
					VOC	NO_X
1999 Emission Reductions						
4403 (VOC).	Components Serving Gas Production	SJVUAPCD	2Q/91	2Q/91	4.55	
4703	Stationary Gas Turbine Engines	SJVUAPCD	3Q/94	3Q/2000		11.92
4653	Adhesives	SJVUAPCD	1Q/94	1Q/95	1.3	
4623	Organic Liquid Storage	SJVUAPCD	2Q/91	2Q/96	13.2	
	TCMs		Ongoing	Ongoing	1.8	1.5
4601	Architectural Coatings	SJVUAPCD	1Q/96	1Q/98	1.51	
4692	Commercial Charbroiling	SJVUAPCD	2Q/96	2Q/98	0.39	
4354	Glass Melting Furnaces	SJVUAPCD	1Q/96	4Q/99		2.87
4607	Graphic Arts	SJVUAPCD	4Q/95	4Q/97	0.84	
4642	Landfill Gas Control	SJVUAPCD	1Q/95	4Q/99	1.41	
4412	Oil Workover Rigs	SJVUAPCD	2Q/96	2Q/98		0.87
4623	Organic Liquid Storage	SJVUAPCD	3Q/95	3Q/98	3.0	
4662	Organic Solvent Degreasing	SJVUAPCD	1Q/96	1Q/98	2.44	
4663	Organic Solvent Waste	SJVUAPCD	2Q/96	2Q/98	0.19	
4306	Small Boilers, Process Heaters and Steam Generators.	SJVUAPCD	3Q/95	3Q/99		7.6
4611	Smaller Printer Operations	SJVUAPCD	4Q/95	4Q/97	0.30	
4702	Stationary IC Engines	SJVUAPCD	2Q/95	4Q/99		12.44
4621 and 4622.	Stationary Storage Tanks/Fuel Transfer into Vehicle Tanks.	SJVUAPCD	2Q/96	2Q/98	0.41	
	Waste Burning	ND	ND	ND		
4411	Well Cellars	SJVUAPCD	2Q/96	2Q/98	0.56	

b. ROP Provisions. On July 12, 1996, CARB submitted a revised post-1996 ROP plan for San Joaquin Valley (letter from James D. Boyd to Felicia Marcus, attaching CARB Executive Order G–125–200). The revised ROP, which was adopted on September 20, 1995, excludes NO_X reductions from specified controls at facilities located west of Interstate 5 in Fresno, Kings, and Kern Counties. This change is consistent with the 1994 San Joaquin Valley Ozone Attainment Demonstration Plan. EPA is taking final action on this substitute plan, as requested by CARB and by the San Joaquin Valley APCD (letter from David L. Crow to Regional Administrator, dated May 2, 1996).

EPA is finalizing approval of the ROP plans (the original 1994 submittal for 15% ROP requirements and the Kern District portion of the San Joaquin Valley, and the 1996 substitute submittal for post-1996 requirements) as meeting the 15% ROP requirements of section 182(b)(1) and the post-1996 ROP requirements of section 182(c)(2) of the Act. The ROP VOC targets, projected VOC emissions, and creditable VOC and NO_X reductions are shown below in the tables labeled ''San Joaquin Valley ROP Forecasts and Targets'' and ''San Joaquin Valley (Kern District) ROP Forecasts and Targets.''

SAN JOAQUIN VALLEY ROP FORECASTS AND TARGETS

[Tons per summer day]

Milestone Year	1996	1999
VOC Emissions to Meet ROP Target	433	383
VOC Emissions with Plan Reductions	430	430
NO_X Substitution in VOC Equivalents	0	47

SAN JOAQUIN VALLEY (KERN DISTRICT) ROP FORECASTS AND TARGETS

[Tons per summer day]

Milestone Year	1996	1999
VOC Emissions to Meet ROP Target	13.2	11.7
VOC Emissions with Plan Reductions	13.2	13.3
NO_X Substitution in VOC Equivalents	0	1.6

c. Modeling and Attainment Demonstration. San Joaquin Valley Unified APCD commented that the area was modeled as a single domain, with 3 areas of special study modeled on a finer scale. The APCD further stated that the air basin is not separated into subregions, and the carrying capacities referenced should not be considered separable targets in lieu of properly constructed modeling analyses. EPA's tables should not be divided into subregions. All references to carrying capacity should be deleted since the concept is not effective or accurate for a domain as large as the San Joaquin Valley and carrying capacities fail to account for the influence of spatial location of reductions or transport from one area to another. Finally, the APCD commented that the reductions in the attainment demonstration table do not add up and do not correspond to those in the District's adopted plan. The APCD stated that CARB would make the needed changes.

EPA agrees that the State's tables in the 1994 California Ozone SIP that display carrying capacities for the 3 subregions may be less accurate than reliance on basinwide modeling information, but there are also benefits, from a planning perspective, in dividing the area into subregions. The State has not employed a single, unified attainment analysis summary, and EPA is, in the final action, continuing to use the subregion information contained in the State's SIP summary document (1994 California Ozone SIP, Volume IV, Tables G–1, G–3, and G–5). EPA believes that the data included in the ''San Joaquin Valley Attainment and Rate-of-Progress Plans'' is also helpful in characterizing, from both a subregional and basinwide perspective, the attainment requirements for, and emission reduction contributions from, each area.

The San Joaquin Valley Transportation Planning Agencies Directors Association commented that the San Joaquin Valley motor vehicle emission and activity projections are outdated. The Association asked EPA to approve them but state that conformity demonstrations be allowed to be made with models or assumptions consistent with those used in the plan. The Association asked EPA to commit to rapidly expediting development of a SIP revision to reflect the new information for the development of the emission budget.

EPA will continue to work with the agencies involved in the update and refinement of the activity, emissions, and modeling data used in the SIP. EPA agrees that models and assumptions consistent with the plan should be used, in the interim, for purposes of conformity determinations. Improvements to the technical foundations of the plan's attainment demonstration are underway and should be substituted in the SIP when they are completed. Nevertheless, EPA believes that the existing plan adequately addresses applicable Clean Air Act requirements relating to emission inventories, projected inventories, and modeling analyses.

EPA is therefore taking final action to approve the State's modeling analysis and attainment demonstration under section 182(c)(2)(A) of the Act. A summary of the emission reductions needed to attain the standard and reductions projected from the SIP control strategy is provided below in the table labeled ''San Joaquin Valley Attainment Demonstration.''

SAN JOAQUIN VALLEY ATTAINMENT DEMONSTRATION

[Tons per summer day]

	North		Central		South	
	ROG	NO_X	ROG	NO_X	ROG	NO_X
1990 Baseline Emissions Inventory	129	124	126	115	217	367
Carrying Capacity	>129	>124	88	90	145	165
Reductions Needed	0	0	38	25	72	202
Adopted measures	15	8	27	9	58	164
Committed Local Measures	5	5	8	6	22	20
Committed State Measures	8	2	4	2	3	1
Total Reductions	28	15	39	17	83	185
Remaining Emissions	101	109	87	98	134	182

For purposes of the attainment demonstration, the Kern District portion of the San Joaquin Valley was not separately modeled, under the assumption that attainment in this area should result primarily from upwind reductions achieved in the South San Joaquin sub-region.

d. Overall EPA Action. EPA approves the San Joaquin Valley ozone SIP with respect to the Act's requirements for emission inventories, control measures, modeling, and demonstrations of 15% ROP and post-1996 ROP and attainment. EPA also approves SJVAPCD's commitments to adopt and implement the listed control measures to achieve the specified emissions reductions.

4. Sacramento

a. Control Measures. CEPA commented that EPA's proposal listed a measure that was not in the SIP submittal: Placer County's Woodwaste Boilers measure. EPA is deleting the measure in this final approval action. CARB provided minor corrections to the list of adoption and implementation dates. All of these changes have been incorporated in the final action.

The table labeled ''Sacramento Local Control Measures'' indicates the dates of rule adoption and implementation and the emission reductions presumed to occur by the 1999 and 2002 milestone years and by 2005, the applicable attainment deadline. The proposal contained a typographical error, in labeling as ''1996'' the column for 1999 emission reductions.

These measures are relied upon in meeting the attainment and post-1996 ROP requirements of the Act. Accordingly, and because the measures strengthen the SIP, EPA is approving, under sections 110(k)(3) and 301(a) of the Act, the enforceable commitments to adopt and implement the control measures by the dates specified to achieve the emission reductions shown. EPA also is assigning credit to the measures for purposes of ROP and attainment. EPA approval of the adopted regulations will be completed in separate rulemakings in the future.

SACRAMENTO LOCAL CONTROL MEASURES

[Tons per day]

VOC control measure title	Implementing agency	Adoption date	Implementation date	Emission reductions		
				1999	2002	2005
ROG Control Measures						
Adhesives	ECAPCD	2/95	1996	1.2	1.3	1.4
	PCAPCD	2/95.				
	SMAQMD	5/95.				
	YSAPCD	Adopted '94.				
Architectural Coatings	ECAPCD	Adopted 4/95	1996	0.9	1.3	1.6
	PCAPCD	Adopted 3/95.				
	Amendment to existing rule SMAQMD YSAPCD.	Adopted 3/95.				
Auto Refinishing	ECAPCD	Adopted '94	1996	2.1	2.6	3.2
	PCAPCD	Adopted '94.				
	SMAQMD	5/95.				
	YSAPCD	Adopted '94.				
Fugitive HC Emissions	ECAPCD	4/95	1999	1.4	1.4	1.4
	PCAPCD	Adopted.				
	SMAQMD	Adopted.				
	YSAPCD	Adopted 4/94.				
Graphic Arts	ECAPCD	Adopted 9/94	June 1995	0.4	0.5	0.5
	PCAPCD	11/94.				
	SMAQMD	'81, '93.				
	YSAPCD	Adopted 5/94.				
Landfill Gas Control	ECAPCD	11/95	1996	1.2	1.2	1.2
	PCAPCD	Adopted	1996.			
	SMAQMD	2/95	1997.			
	YSAPCD	Adopted	1996.			
Pleasure Craft Coating Operations.	ECAPCD	4/96	1996–1999	0.2	0.2	0.2
	PCAPCD	12/94.				

SACRAMENTO LOCAL CONTROL MEASURES—Continued

[Tons per day]

VOC control measure title	Implementing agency	Adoption date	Implementation date	Emission reductions		
				1999	2002	2005
	SMAQMD	1998.				
	YSAPCD	4/95.				
Pleasure Craft Refueling	ECAPCD	1998	1999	0.1	0.1	0.2
	PCAPCD	1998.				
	SMAQMD	1998.				
	YSAPCD	1998.				
Polyester Resin Operations	ECAPCD	2/96	1997	0.2	0.2	
	PCAPCD	1/96	1997.			
	SMAQMD	1998	1999.			
	YSAPCD	Adopted '93.				
Semiconductor Mfg.	PCAPCD others?	2/95	1996	0.1	0.2	0.2
SOCMI Distillation/Reactors	SMAQMD others?	9/95	1997	1.4	1.5	1.6
Surface Preparation & Cleanup.	ECAPCD	2/95	1996	3.0	3.3	3.6
	PCAPCD	2/95.				
	SMAQMD	2/95.				
	YSAPCD	Adopted 5/94.				
Vents on Underground Gasoline Storage Tanks.	SMAQMD	2/95	1996	0.1	0.2	0.2
	YSAPCD (both amend current rules).	1/95.				
Wood Products Coatings	ECAPCD	4/95	1996	0.5	0.5	0.5
	PCAPCD	Adopted 11/94	1996.			
	SMAQMD	2/95	1996.			
	YSAPCD	2/95.				
Regional NO_X Control Measures						
Boilers & Steam Generators.	ECAPCD	Adopted '94	1996–1997	0.8	0.9	1.0
	PCAPCD	Adopted '94.				
	SMAQMD	2/95.				
	YSAPCD	Adopted '94.				
Gas Turbines	PCAPCD	Adopted 10/94	1997	0.2	0.3	0.3
	SMAQMD	2/95.				
	YSAPCD	Adopted 7/94.				
Internal Combustion Engines.	ECAPCD	Adopted '94	Phased in 1997.	0.3	0.4	0.5
	PCAPCD	12/95.				
	SMAQMD	2/95.				
	YSAPCD	Adopted '94.				
Residential Water Heaters	ECAPCD	1996	1995–1997	0.3	0.4	0.5
	PCAPCD	12/95.				
	SMAQMD	1996.				
	YSAPCD	Adopted 11/94.				
Mobile NO_X Measures 1. Off-Road Heavy Duty Vehicles 2. On-Road Heavy Duty Vehicles.	All	12/95	1/97	2.0	3.0	5.0

b. ROP Provisions. EPA is finalizing approval of Sacramento area's post-1996 ROP plan under section 182(b)(2) of the Act. EPA will act on Sacramento's 15% ROP Plan in separate rulemaking. The ROP VOC targets, projected VOC emissions, and creditable VOC and NO_X reductions are shown in the table below labeled ''Sacramento ROP Forecasts and Targets.''

SACRAMENTO ROP FORECASTS AND TARGETS

[Tons per summer day]

Milestone Year	1996	1999	2002	2005
1990 Base Year VOC Inventory	211	211	211	211
VOC Inventory Projection	175	167	163	159
ROP VOC Target	162	142	124	107
Preliminary VOC Shortfall	13	25	39	52
VOC Reductions from Committal Measures	0	19	23	14

SACRAMENTO ROP FORECASTS AND TARGETS—Continued

[Tons per summer day]

Milestone Year	1996	1999	2002	2005
Total VOC Shortfall	13	6	16	38
NO_X Substitution in VOC Equivalents	13	6	16	38

c. Modeling and Attainment Demonstration. The Environmental Defense Center commented that Sacramento's attainment demonstration must be disapproved because CARB has rescinded the ZEV program, which was relied upon to produce emissions reductions necessary to demonstrate Sacramento's timely attainment. As discussed in Section I.B.3.c.(3) above, EPA strongly supports the State's ZEV program and, while CARB's March 1996 amendments to the ZEV mandate eliminates the ZEV production requirements for the 1998 through 2002 model years, the State's 10% production requirement for 2003 and later years remains in place and some new compensating reductions are expected from the national LEV program. EPA does not have information to support the commenter's contention that the ZEV amendments invalidate Sacramento's attainment demonstration.

EPA is taking final action to approve the modeling analysis and attainment demonstration under section 182(c)(2)(A) of the Act. A summary of the emission reductions needed to attain the standard and reductions projected from the SIP control strategy is provided below in the table labeled ''Sacramento Attainment Demonstration.''

Sacramento attainment demonstration (tons per summer day)	VOC	NO_X
1990 Baseline Emissions Inventory	222	164
Attainment Inventory	137	98
Reductions Needed	85	66
From Adopted Measures	55	40
From Committed Local Measures	17	7
From Committed State Measures	15	14
From National Measures [1]	1.6	4.3
Total	88.6	65.3
Remaining Emissions	133.4	98.7

[1] Credit shown is EPA's estimate of reductions from statutorily-mandated national rules.

d. Overall EPA Action. EPA approves the Sacramento ozone SIP with respect to the Act's requirements for emission inventories, control measures, modeling, and demonstrations of post-1996 ROP and attainment. EPA also approves the local agencies' commitments to adopt and implement the listed control measures to achieve the specified emissions reductions by the dates shown.

5. Ventura.

a. 1995 AQMP Update. Ventura's 1994 Air Quality Management Plan (AQMP), adopted on November 8, 1994, was submitted as part of the 1994 California Ozone SIP. On December 19, 1995, Ventura adopted a 1995 AQMP revision, with slightly revised emission inventories, control measures, modeling analyses, and attainment demonstration. At the time of the proposed action, CARB had not yet submitted this updated plan as a replacement for the 1994 AQMP, but the State indicated that it would do so in the near future and requested EPA to act upon portions of the 1995 AQMP in the final approval action. On July 12, 1996, CARB submitted the previously agreed upon portions of the 1995 AQMP intended to replace portions of the 1994 AQMP.

EPA's proposal addressed much of the new information from the 1995 AQMP, and EPA is now finalizing approval of the 1994 AQMP as modified by portions of the 1995 AQMP. The specific modifications submitted by CARB are the ''Revised Rule Adoption and Implementation Schedule'' (Table 4–2) and Appendix E–95 (revised emissions from architectural coatings in Tables E–43 and E–45) from the 1995 AQMP.

In their comment letters, the District and Environmental Defense Center (EDC) requested that EPA rulemaking reflect the 1995 AQMP revision. EPA is not acting on the entire 1995 AQMP revision at this time because the entire revision has not been submitted by the State. EPA is only acting on the portions of the 1995 AQMP which have been submitted by the State. In their SIP submittal, the State indicated that the remaining updates ''will be submitted at a later date after revisions to CARB's mobile source inventory are incorporated by the District.'' After the remaining portions of the 1995 AQMP are submitted, EPA intends to act expeditiously to take action on the submittal.

b. 1990 Base Year Inventories. Ventura County APCD requested in their comment letter that the Ventura County SIP emissions inventory used in the NPRM be revised by excluding OCS emissions, since these OCS emissions are outside the District's nonattainment area. EPA is not proposing to change the inventory estimates because CARB has not requested this change, and the totals are consistent with their SIP submittal. EPA will continue to work with the District and CARB regarding the District's comment.

1990 VENTURA SIP INVENTORIES

[Tons per summer day]

Category	ROG	NO_X
Stationary	44	17
Mobile	41	56
Outer Continental Shelf	2	8
Total	87	81

c. Control Measures. EPA's proposal addressed the 1995 AQMP updates to the control measures, with slightly revised adoption dates, implementation dates, and reductions for numerous district measures already contained in the 1994 SIP. After EPA's proposal, Ventura adopted very minor further revisions to the rule adoption schedule for 5 measures (N–102, R–317, R–410, R–421, and R–425). No change was made to the implementation dates for the measures. Ventura adopted these minor changes on January 9, 1996. If the changes are submitted as a further revision to the SIP rule adoption schedule, EPA intends to approve them since they do not adversely affect rate-of-progress or attainment. Because the changes have not been submitted at the time of this action, however, EPA is finalizing approval of the schedule as revised by Ventura on December 19, 1995, and submitted by CARB on July 12, 1996.

Also subsequent to EPA's proposal, the State and Ventura County APCD indicated that measures R–303, Architectural Coatings, and R–700/N–700, Transportation Control Measures, should be included in the list of control measures. The addition of these two measures and minor adjustments to the adoption and implementation schedules and estimates of emission reductions for some of the control measures are reflected in the table of measures below, labeled ''Ventura Local Control Measures.'' EPA's proposed approval

stated: ''If a SIP revision with the revised reduction estimates and measure R–303 is submitted before EPA's final action, EPA proposes to approve it without further opportunity for public comment.'' EPA's proposal also indicated the following finding: ''Overall, the revised reduction estimates do not negatively impact ROP or attainment.''

The State and Ventura County APCD both requested that EPA approve in the final action measure R–700/N–700, Transportation Control Measures, and delete from the existing SIP prior transportation measures. Measure R–700/N–700 was included in the 1994 Ventura AQMP but mistakenly omitted by the State from the list of measures in the State's SIP. No emission reductions from any prior transportation measures were assumed in the 1994 or 1995 Ventura AQMP. In this document, EPA is taking final action to approve measure R–700/N–700, Transportation Control Measures, and rescind from the existing SIP all prior transportation control measures.

The table labeled ''Ventura Local Control Measures'' indicates the dates of rule adoption and implementation and the emission reductions presumed to occur by each ROP milestone year and by 2005, the applicable attainment deadline. At the request of CARB and the District, EPA has deleted from this table the 1996 column of reductions, since no reductions from new local measures were used to demonstrate compliance with the 1996 ROP target.

The Environmental Defense Center commented that Ventura's measures are not fully articulated, that this violates the Administrative Procedures Act, and that the measures should be disapproved or conditionally approved. EPA disagrees with the commenter's characterization of the Ventura control measures. The commenter does not give any examples of what it perceives as ambiguities or vagueness. The measures are set forward with sufficient detail to understand the control category, the type of emission standard expected to be adopted, likely compliance options, scheduled adoption and implementation dates, base year emissions for the category, and expected emission reductions from the measure by milestone year. As discussed in section I.B.2., EPA also disagrees with the commenter's conclusion that EPA may not fully approve specific enforceable commitments to adopt control measures.

The Ventura control measures are relied upon in meeting the post-1996 ROP and attainment requirements of the Act. Accordingly, and because the measures strengthen the SIP, EPA is approving, under sections 110(k)(3) and 301(a) of the Act, the enforceable commitments to adopt and implement the control measures by the dates specified to achieve the emission reductions shown. EPA also is assigning credit to the measures for purposes of post-1996 ROP and attainment.

Some of the measures have been adopted in regulatory form. These include N–101, adopted 3/14/95; R–105, adopted 12/13/94; R–403, adopted 5/9/95; R–419, adopted 11/8/94; R–424, adopted 5/9/95; and R–606, adopted 10/10/95. EPA has already approved R–105, and EPA approval of the remaining regulations will be completed in separate rulemakings in the future.

VENTURA LOCAL CONTROL MEASURES

[tons per day]

Rule No.	Control measure	Adoption date	Implementation date	1999	2002	2005
N–101	Gas Turbines	3/95	4/97	0.45	0.47	0.49
N–102	Boilers, Steam generators, Heaters, <1 mmbtu	12/96	1/97	0.05	0.06	0.06
R–105	Glycol Dehydrators	12/94	7/96	0.73	0.65	0.57
R–303	AIM Architectural Coatings	12/96	12/97	0.0	0.0	0.89
R–317	Clean-up Solvents and Solvent Wastes	6/96	7/96	1.57	1.67	1.76
R–322	Painter Certification Program	6/97	12/97–12/98	0.48	0.51	0.53
R–324	Screen Printing Operations	6/96	7/97	0.29	0.30	0.31
R–327	Electronic Component Manufacture	6/96	7/97	0.07	0.07	0.08
R–403	Vehicle Gas Dispensing—Phase II	5/95	1/96	0.22	0.22	0.23
R–410	Marine Tanker Loading	9/96	7/97	0.0	0.0	0.0
R–419	Tank Degassing Operations	11/94	3/95	0.03	0.03	0.02
R–420	Pleasure Craft Fuel Transfer	6/97	7/98	0.08	0.08	0.08
R–421	Utility Engine Refueling Operations	12/96	9/97	0.19	0.20	0.20
R–424	Gasoline Transfer/Dispensing	5/95	1/96	0.03	0.04	0.04
R–425	Enhanced Fugitive I/M Program	9/96	5/97	1.21	1.07	0.95
R–606	Soil Decontamination	10/95	4/96	0.10	0.10	0.11
R–700	Transportation	96–05	1996–2005	0.0	0.0	0.58
N–700	Control Measures	.....	.....	0.0	0.0	0.50

[1] ''R'' refers to ROG control measures, ''N'' refers to NO_X control measures.

d. ROP Provisions. CARB and the District commented that the Ventura ROP Forecasts and Targets table in the NPRM contained erroneous information in the line titled ''VOC Inventory Including Committals.'' EPA concurs and has deleted the line from the table below labeled ''Ventura ROP Forecasts and Targets.''

EPA is finalizing approval of Ventura's ROP plan as meeting the 15% ROP requirements of section 182(b)(1) and the post-1996 ROP requirements of section 182(c)(2) of the Act. The ROP VOC targets, projected VOC emissions, and creditable VOC and NO_X reductions are shown in the table below labeled ''Ventura ROP Forecasts and Targets.''

VENTURA ROP FORECASTS AND TARGETS

[Tons per summer day]

Milestone Year	1996	1999	2002	2005
1990 Base Year VOC Inventory	85	85	85	85
VOC Inventory after Adopted Measures	64	60	57	55
ROP VOC Target	68	60	53	45
VOC Shortfall	0	0	4	10
NO_X Substitution in VOC Equivalents	0	0	4	10

e. Modeling and Attainment Demonstration. EPA's proposal reflected the additional modeling refinements and technical clarifications made in the 1995 AQMP, as requested by the State and Ventura County APCD.

The Environmental Defense Center (EDC) commented that, ''Assuming the competence of the Ventura County model, EDC is concerned that the 2005 prediction of a .12 ppm peak ozone concentration provides virtually no buffer or room for error. Any relaxation, slippage or difficulties in adopting each of the control measures, local, state and federal jeopardizes Ventura County's timely attainment. Already CARB has rescinded the bulk of the ZEV program, thereby impairing Ventura County's prospects for attainment.'' The Act does not require SIPs to overcontrol and, under the current ozone NAAQS, a .12 ppm ozone concentration is not treated as a violation. With respect to CARB's amendments to the ZEV program, see the discussion in section I.B.3.c.(2).

EDC also commented that ''EDC does not believe that the Ventura County AQMP and attendant state and national control measures are sufficient to provide for timely attainment of the ozone NAAQS in Ventura County. EDC questions the validity of the model, including its assumptions.'' The commenter provided no new information or rationale for its assertions, and EPA continues to conclude that the attainment demonstration is approvable.

On June 13, 1996, CARB provided supplemental information to EPA which clarified the ROG reductions needed for attainment in Ventura. EPA has incorporated this minor change in the attainment demonstration shown below. This minor change affects ROG reductions from ''Committed Local Measures'' (increased from 5 tpd to 6 tpd) and the ROG ''TOTAL'' column (increased from 42 tpd to 43 tpd ROG).

VENTURA ATTAINMENT DEMONSTRATION

[In tons per summer day]

	ROG	NO_X
1990 Baseline Emissions Inventory	87	81
Carrying Capacity	45	52
Reductions Needed	42	29
Reductions from Adopted Measures	30	24
Committed Local Measures	6	1
Committed State Measures	6	4
Reductions from National Measures[1]	1	1
Total	43	30

[1] Credit shown is EPA's estimate of reductions from statutorily-mandated national rules.

f. Overall EPA Action. EPA approves the Ventura ozone SIP with respect to the Act's requirements for emission inventories, control measures, modeling, and demonstrations of 15% ROP and post-1996 ROP and attainment. EPA also approves the Ventura County APCD's commitments to adopt and implement the listed control measures to achieve the specified emissions reductions by the dates shown.

7. South Coast

a. SIP Control Measures. (1) Updated Rule Adoption Schedule. EPA's proposal discussed the failure of the SCAQMD to adopt regulations on the schedule contained in the 1994 Ozone SIP, and asked the SCAQMD to adopt and submit a revised schedule that is ''reasonable and aggressive.'' EPA indicated its intention to approve substitute dates if the revision would not interfere with any applicable requirement of the Act.

On April 12, 1996, the SCAQMD adopted an updated rule schedule for the South Coast. On July 10, 1996, CARB submitted the schedule as a SIP revision. In submitting the revision, CARB summarized the State's findings regarding impacts of the delayed adoption dates:

As stated in the Notice, the 1990–1996 rate-of-progress requirement for the South Coast was met with previously adopted state and local rules and regulations. Although the revised schedule may delay by a year or two the implementation dates of a few control measures and the associated emission reductions, all of the planned emission reductions will be on track by the year 2000. This will not affect compliance with the Act's progress requirement since the 1994 Ozone SIP currently accounts for 68 tons per day of volatile organic compound emission reductions above and beyond the minimum progress requirement through 1999. Finally, because the 2010 emission reductions from the control measures remain unchanged, the attainment demonstration will not be affected by this revised schedule.

EPA concludes that the revision would not violate applicable provisions of the Act, including ROP and attainment, assuming that the SCAQMD adheres to the new schedule. EPA therefore takes final action to approve the revised adoption dates as listed in the table labeled ''South Coast Local Control Measures.''

(2) TCM Substitution. The State and the Southern California Association of Governments both requested that EPA's final approval of the South Coast TCMs and Indirect Source control measures be accompanied by deletion of prior TCMs approved as part of previous SIPs and replaced by these new measures. The previously approved TCMs have become outdated, and were not assumed in the current attainment demonstration. The request for TCM deletion was included in the 1994 SIP submittal as one of the elements of the SCAQMD's resolution of adoption of the 1994 AQMP. In this document, EPA is taking final action to rescind from the applicable SIP all previously approved TCMs—an action which was mistakenly omitted from the proposal.

(3) Near-Term Control Measures. The State submitted comments making minor adjustments to the dates and emission reductions associated with the control measures. EPA is making those changes in this final action, as reflected in revisions to the table labeled ''South Coast Local Control Measures.''

The State also requested several adjustments to the table of measures. First, EPA's proposal included 12 SCAQMD measures which the State did not intend to submit as part of the ozone

SIP on the grounds that they are not needed for ozone attainment: CMB–01A, CMB–01B, CMB–01C, CMB–01D, CMB–01E, CMB–02A, CMB–02B, CMB–02C, CMB–06, CMB–10, CMB–11, and MON–07. The State requested deletion of the measures in the final action. EPA is correcting the mistake in the NPRM and eliminating these measures from the table.

Second, the State requested that EPA amend the table of measures to substitute for VOC RECLAIM the ''Substitute Measures for CTS–01 VOC RECLAIM'' listed in Table A–10 of Volume IV of the 1994 California Ozone SIP, along with the reductions originally associated with the VOC RECLAIM program. After submittal of the 1994 SIP, the SCAQMD decided not to adopt the VOC RECLAIM program, but to pursue instead these alternative sources of equivalent reductions. To correct the mistake in the proposal, EPA has revised the table to incorporate this list of substitute measures from the 1994 submittal, along with the reductions originally assigned to VOC RECLAIM.

Third, the State requested that EPA amend the table to list the South Coast transportation control measures (TCM–01, ATT–01, ATT–02, ATT–03, ATT–04, and ATT–05) under measure RME–01, which was intended to subsume them. In the final action, EPA has rearranged the table to display more accurately this relationship.

Fourth, the State asked EPA to clarify that the South Coast's market-based measures (MKT–01, MKT–02, and MKT–03 [23]) are intended as possible alternatives to the 7 indirect source (ISR) measures in the SIP. In the final action, EPA has added a footnote and rearranged the table to place the 3 market-based measures under the ISR measures as potential replacements for them.

Finally, the State requested that EPA not make part of the SIP any emission reductions from new local measures for the 1996 ROP milestone year, since the 15% ROP plan assumes reductions only from adopted State and local rules. In the final action, EPA has deleted the 1996 column from the table of local measures.

Environmental groups commented on EPA's proposed approval of the control measures portion of the plan. NRDC and the Coalition for Clean Air commented extensively on the issue of whether EPA should approve the South Coast commitments to adopt control measures and a SIP that is based on those commitments rather than fully adopted rules. EPA has responded to these comments in section I.B.2.

The Environmental Defense Center (EDC) stated that the South Coast plan lacks potentially applicable controls and fails the ''as expeditiously as practicable'' standard. The commenter provided no examples of controls that were either not included in the South Coast SIP or were not scheduled for expeditious adoption and implementation. EPA believes that the SCAQMD and CARB adopted control measures and enforceable schedules for adoption and implementation of additional measures together represent a thorough list of control measures in light of currently available control technologies and control techniques. EPA further believes that the schedules for developing and adopting measures in the future reflects expeditious progress. CARB's adopted and scheduled mobile source, consumer product, and pesticides measures all go beyond (in many cases, they go considerably beyond) existing control requirements applicable elsewhere in the Country. SCAQMD's existing regulations generally represent the most complete and stringent controls for each subject source category in the Country.

EPA believes that SCAQMD's schedule for adopting rules meets any reasonable test for expeditious action, given the complexity of most of the pending regulations and the fact that most of the controls are for source categories previously unregulated or never yet controlled to the extent contemplated. SCAQMD's rate-of-progress demonstration exceeds the Clean Air Act 3% per year requirement. Finally, both SCAQMD and CARB supplemented their comprehensive lists of near-term measures with new-technology measures. The SCAQMD's advanced control technology research and development activities attract worldwide interest as the most significant air pollution control technology development program of any local air pollution control agency, and CARB's programs for investigating new technologies and fuels, particularly for motor vehicle emission reductions, receives similar acclaim.

(4) New-Technology Measures. NRDC and the Coalition for Clean Air (CCA) had extensive comments on EPA's proposed approval of the new-technology measures submitted by CARB and the SCAQMD for inclusion in the SIP under provisions of section 182(e)(5) of the Act. As discussed in the proposal, this CAA section authorizes EPA to approve conceptual measures that rely on new technologies or new control techniques as part of the attainment demonstration for the South Coast, the only ''extreme'' ozone nonattainment area. The Act requires that the measures not be needed to meet progress requirements for the first 10 years and that the submittal be accompanied by a commitment to adopt contingency measures 3 years before the new-technology measures are scheduled for implementation. EPA approved the CARB and SCAQMD new-technology measures on August 21, 1995 (60 FR 43379).[24]

NRDC and CCA asked that EPA include adoption dates for all section 182(e)(5) measures in the table of South Coast Local Control Measures. EPA agrees and has inserted the applicable dates, which were inadvertently omitted from the proposal.

NRDC and CCA commented that the SIP does not include adequate schedules and resource commitments for the measures. Both CARB and the SCAQMD have provided further information as updates to and elaboration on the development approach for the new-technology measures.[25]

Joint NRDC-CCA comments argued that the SIP does not include an adequate commitment from the State to adopt contingency measures at least 3 years before proposed implementation of the measures, as required by section 182(e)(5)(B). In a letter from Lynn Terry to Julia Barrow dated September 19, 1996, CARB has clarified that the State's ''commitment in the SIP with respect to the contingency measure requirement is intended to provide the commitment required by the Clean Air Act.''

NRDC and CCA argued that the South Coast SIP cannot be approved because it over-relies on speculative section 182(e)(5) new technologies, which the SIP fails to define adequately. EPA does not believe that the Act provides a quantitative limit on the extent to which the attainment demonstration may rely on new-technology measures. Moreover, the majority of needed reductions in the South Coast attainment demonstration (roughly 75% of the required VOC and

[23] Measure M–3, Congestion Pricing, was inadvertently omitted from the proposal.

[24] Under section 307(b)(1) of the CAA, petitions for review of EPA's action in approving the measures would need to have been properly filed within 60 days of this final action. Since new information has been provided relating to the section 182(e)(5) new-technology measures, however, EPA is addressing most of the comments that apply to EPA's prior approval action.

[25] Letter from Lynn Terry, Assistant Executive Officer, CARB, to Julia Barrow, Chief, Planning Office, Air & Radiation Division, USEPA, dated September 19, 1996; letter from Barry Wallerstein, Deputy Executive Officer, SCAQMD, to Dave Howekamp, Division Director, Air & Toxics Division, Region IX USEPA, dated September 18, 1996. This correspondence is part of EPA's rulemaking docket.

NO_X reductions) derive from currently adopted rules or enforceable commitments to adopt rules in the near future.

Nevertheless, EPA agrees with the commenters that all the responsible parties should work together to reduce the size of the new-technology component of the SIP by expeditiously converting these measures first into carefully defined control development projects and then into feasible regulations. EPA commits to do its share to support the needed research and development activities of CARB and the SCAQMD.

Measures which the 1994 South Coast Ozone SIP scheduled for near-term adoption and implementation, or any portion of the emissions reductions scheduled to be achieved as a result of implementation of those near-term measures, may not be converted, at some future time, into section 182(e)(5) new-technology measures or moved into emissions reductions associated with section 182(e)(5) new technology measures, without a convincing showing in a SIP revision that the technologies relied upon in the near-term rules have been found to be technologically infeasible or ineffective in achieving emissions reductions in the near-term. The near-term measures in the 1994 SIP have not been determined to ''anticipate development of new control techniques or improvement of existing control technologies'' (section 182(e)(5)). On the contrary, they were evidently determined by the SCAQMD and CARB to be both available and necessary for expeditious progress in reducing emissions in the near term in the South Coast. Should either CARB or the SCAQMD determine that new information requires a reconsideration of the near-term feasibility of the 1994 SIP near-term measures, the agencies must submit a SIP revision demonstrating convincingly that the standard defined in this paragraph above for conversion of near-term measures to section 182(e)(5) new technology measures has been met. Absent such a convincing showing, a SIP revision will not be approved by EPA.

In view of continuing progress in the development and successful application of control technologies and control techniques, the amount and relative proportion of reductions from measures scheduled for long-term adoption under section 182(e)(5), as compared to measures already adopted in regulatory form or scheduled for near-term adoption, should clearly decrease in any future SIP update. EPA will not approve a SIP revision that contains an increase in the amount and relative proportion of reductions scheduled for long-term adoption under section 182(e)(5) that is inconsistent with the standard defined in the preceding paragraph. Further, to the extent new modeling performed in any subsequent SIP revision demonstrates that there is an increase in the year 2010 carrying capacity for ROG and NO_X, this change shall not be used to decrease the amount of emissions reductions scheduled to be achieved by any near-term measure from the 1994 SIP unless CARB or the SCAQMD make the convincing showing required by the preceding paragraph.

EPA also agrees with the commenters that, as part of California's 1997 SIP revision, the SCAQMD should provide greater specificity in the description of the South Coast Air Basin long-term control measures. In order to help ensure that the measures are successfully developed and adopted pursuant to the requirements of section 182(e)(5), the 1997 SIP and a summary from publicly available budget documents submitted to EPA must define the long-term measures more precisely with respect to the affected source categories, expected reductions from each category (or as many categories as may be feasible), the most likely control technologies and control techniques to be employed, the agency's working schedule for each phase in the development and adoption of the control measures, evidence of adequate resources committed to the activities, and opportunities for the public to be informed and involved in the process. Furthermore, to ensure approvability of the 1997 SIP, the revision must contain a level of specificity for the non-budgetary items noted above at least containing the level of detail in the clarification to draft Appendix IV to the 1997 Air Quality Management Plan, which further defines the section 182(e)(5) measures, attached as Attachment 2 to the letter from Barry Wallerstein to Dave Howekamp, dated September 18, 1996. The level of specificity in the Long-Term Control Measure for Miscellaneous VOC Sources should be enhanced as additional information becomes available. EPA understands that this clarification to draft Appendix IV is being made available for public review and will be formally considered for adoption by the SCAQMD Governing Board.

(5) EPA Action. EPA concludes that the control measures should be approved in the final action. The South Coast control measures are relied upon in meeting the post-1996 ROP and attainment requirements of the Act. Accordingly, and because the measures strengthen the SIP, EPA is approving, under sections 110(k)(3) and 301(a) of the Act, the enforceable commitments to adopt and implement the near-term control measures by the dates specified to achieve the emission reductions shown. EPA also is assigning credit to the near-term and new-technology measures for purposes of post-1996 ROP and attainment.

SOUTH COAST LOCAL CONTROL MEASURES

[Tons per day of VOC/NO_X]

Control measure No.	Control measure title	Implementing agency	Adoption date	Implementation dates	1999	2002	2005	2008	2010
CTS–01	Substitute Measures for VOC RECLAIM (12 rules listed immediately below).	SCAQMD		1998–2010	22.5/0	29.9/0	37.4/0	44.9/0	49.9/0
CTS–A	Electronic Components	SCAQMD	1996						
CTS–B	Petroleum Cold Cleaning	SCAQMD	1996						
CTS–C	Solvent Cleaning Operations	SCAQMD	7/96						
CTS–D	Marine/Pleasure Craft Coatings	SCAQMD	1996						
CTS–E	Adhesives	SCAQMD	1996						
CTS–F	Motor Vehicle Non-Assembly Coating.	SCAQMD	12/96						
CTS–G	Paper/Fabric/Film Coatings	SCAQMD	9/96						
CTS–H	Metal Parts/Products Coatings	SCAQMD	10/96						
CTS–I	Graphic Arts/Screen Printing	SCAQMD	1996						
CTS–J	Wood Products Coatings	SCAQMD	6/96						
CTS–K	Aerospace/Component Coatings	SCAQMD	11/96						

SOUTH COAST LOCAL CONTROL MEASURES—Continued

[Tons per day of VOC/NO_X]

Control measure No.	Control measure title	Implementing agency	Adoption date	Implementation dates	1999	2002	2005	2008	2010
CTS–L	Automotive Assembly Operations.	SCAQMD	1997						
CTS–02	Emission Reductions from Solvents and Coatings at Non-RECLAIM Sources.	SCAQMD	1997	1998–2005	25.0/0	58.1/0	80.9/0	88.3/0	92.8/0
CTS–03	Consumer Product Labeling Program.	SCAQMD		1998–2005	0/0	0/0	0/0	0/0	0/0
CTS–04	Public Awareness/Education Programs—Area Sources.	SCAQMD		1997–1997	0/0	0/0	0/0	0/0	0/0
CTS–05	Further Emission Reductions from Perchloroethylene Dry Cleaning Operations.	SCAQMD	1994	1996–1996	2.49/0	2.73/0	2.9/0	2.99/0	2.99/0
CTS–07	Further Emission Reductions from Architectural Coatings (Rule 1113).	SCAQMD	8/96	2001–2006	0/0	27.49/0	40.5/0	60.65/0	62.26/0
FUG–01	Emission Reductions from Organic Liquid Transfer.	SCAQMD	1995	1996–1996	4.96/0	5.11/0	5.01/0	4.98/0	4.98/0
FUG–02	Emission Reductions from Active Draining of Liquid Products.	SCAQMD	7/96	1996–1996	5.52/0	5.73/0	5.49/0	5.05/0	4.76/0
FUG–03	Further Emission Reductions from Floating Roof Tanks.	SCAQMD	1996	1998–1998	0/0	0/0	0/0	0/0	0/0
FUG–04	Further Emission Reductions of Fugitive Emissions.	SCAQMD	10/96	2000–2010	0/0	.75/0	.75/0	.75/0	.75/0
RFL–01	Emission Reductions from Utility Engine Refueling Operations.	SCAQMD	1997	2000–2010	0/0	.04/0	.04/0	.05/0	.06/0
RFL–02	Further Emission Reductions from Gasoline Dispensing Facilities.	SCAQMD	1995	1996–2000	4.94/0	5.06/0	5.2/0	5.44/0	5.58/0
RFL–03	Emission Reductions from Pleasure Boat Fueling Operations.	SCAQMD	1996	1996–1996	.77/0	.80/0	.83	.86/0	.88/0
CMB–02F	Further Controls of Emissions from Internal Combustion Engines.	SCAQMD	11/96	1998–2008	1.52/6.83	1.74/6.62	1.99/5.43	2.19/3.67	2.29/2.20
CMB–03	Area Source Credits for Commercial and Residential Combustion Equipment.	SCAQMD	11/96	1997–2000	0/0	0/0	0/0	0/0	0/0
CMB–04	Area Source Credits for Energy Conservation.	SCAQMD	11/96	1997–2000	0/0	0/0	0/0	0/0	0/0
CMB–05	Clean Stationary Fuels	SCAQMD	1996	1996–2008	1.22/1.01	2.27/1.76	3.53/2.84	3.99/2.71	4.09/2.41
CMB–07	Emission Reductions from Petroleum Refinery Flares.	SCAQMD	1997	1999–1999	0/0	0/0	0/0	0/0	0/0
MSC–01	Promotion of Lighter Color Roofing and Road Materials and Tree Planting.	SCAQMD/local govts.		1996–1998	0/0	0/0	0/0	0/0	0/0
MSC–02	In-Use Compliance Program for Air Pollution Control Equipment.	SCAQMD	12/96	1997–1997	0/0	0/0	0/0	0/0	0/0
PRC–02	Further Emission Reductions from Bakeries.	SCAQMD	1996	1998–2001	.24/0	.64/0	.68/0	.72/0	.75/0
PRC–03	Emission Reductions from Restaurant Operations.	SCAQMD	10/96	1996–2001	8.55/0	10.77/0	11.14/0	11.49/0	11.7/0
PRC–04	Emission Reductions from Rubber Products Manufacturing.	SCAQMD	1996	1997–1997	.13/0	.13/0	.13/0	.13/0	.13/0
PRC–05	Emission Reductions from Malt Beverage Production Facilities and Wine or Brandy Making Facilities.	SCAQMD	1996	1997–1997	0/0	0/0	0/0	0/0	0/0
SIP–01	SIP Amendments—for Miscellaneous Sources.	SCAQMD	Various	1998–1998	.06/0	.06/0	.06/0	.05/0	.05/0
WST–01	Emission Reductions from Livestock Waste.	SCAQMD	12/96	1996–2003	8.39/0	8.86/0	9.31/0	9.77/0	10.07/0
WST–02	Emission Reductions from Composting of Dewatered Sewage Sludge.	SCAQMD	1997	1998–2000	0/0	0/0	0/0	0/0	0/0
WST–03	Waste Burning	SCAQMD	1996	1998–1998	.07/0	.07/0	.06/0	.06/0	.06/0
WST–04	Disposal of Materials Containing Volatile Organic Compounds.	SCAQMD	1996	1998–2001	.8/0	2.12/0	2.21/0	2.31/0	2.37/0
RME–01	Regional Mobility Adjustment (subsumes next 6 measures in table).				11.3/1.15	15.98/6.58	18.5/13.74	20.64/21.77	22.26/27.67
TCM–01	Transportation Improvements	SCAG	1997	2000–2010	0/0	0/0	0/0	0/0	0/0
ATT–01	Telecommunications	SCAQMD/SCAG/local govts.		1995–2010	0/0	0/0	0/0	0/0	0/0
ATT–02	Advanced Shuttle Transit	SCAQMD/SCAG/local govts.		1995–2010	0/0	0/0	0/0	0/0	0/0

SOUTH COAST LOCAL CONTROL MEASURES—Continued

[Tons per day of VOC/NO_X]

Control measure No.	Control measure title	Implementing agency	Adoption date	Implementation dates	1999	2002	2005	2008	2010
ATT–03	Zero Emission Vehicles/Infrastructure.	Partnership		1995–2010	0/0	0/0	0/0	0/0	0/0
ATT–04	Alternative Fuel Vehicles/Infrastructure.	Partnership		1995–2010	0/0	0/0	0/0	0/0	0/0
ATT–05	Intelligent Vehicle Highway Systems.	SCAQMD/SCAG/local govts.		1995–2010	0/0	0/0	0/0	0/0	0/0
ISR–01	Special Event Centers (SCAG Measure TCM #10).	SCAQMD/local govts.	1996	1997–2010	.77/.84	1.4/1.67	1.07/1.43	.81/1.26	1.33/2.2
ISR–02	Shopping Centers (SCAG Measure TCM #11).	SCAQMD/local govts.	1996	1997–2010	1.36/1.5	2.3/2.73	1.75/2.35	1.34/2.07	1.69/2.89
ISR–03	Registration and Commercial Vehicles (SCAG Measure TCM #12).	SCAQMD	1996	1997–2010	0/0	0/0	0/0	0/0	0/0
ISR–04	Airport Ground Access (SCAG Measure TCM #13).	SCAQMD/local govts.	1996	1997–2010	.38/.42	.77/.92	.59/.79	.45/.7	.38/.65
ISR–05	Trip Reduction for Schools (SCAG Measure TCM #14).	SCAQMD/local govts.	1996	1997–2010	.21/.24.	.47/.63	.46/.72	.35/.64	.38/.74
ISR–06	Enhanced Rule 1501 (SCAG Measure TCM #15).	SCAQMD/local govts.	1996	1997–2010	2.86/3.15	3.01/3.59	2.30/3.08	1.75/2.72	1.48/2.51
ISR–07	Parking Cash-Out (SCAG Measure TCM #16).	SCAQMD/local govts.	1995	1997–2010	.17/.17	.13/.14	.10/.12	.08/.11	.06/.1
MKT–01	Emission/VMT	SCAG	*	2000–2010	*	*	*	*	*
MKT–02	At-the-Pump Fee	SCAG	*	2000–2010	*	*	*	*	*
MKT–03	Congestion Pricing	SCAG	*	2000–2010	*	*	*	*	*
MON–01	Emission Reduction Credits for Low-Emission Retrofit Fleet Vehicles.	SCAQMD/CARB.	1996	1996–2010	0/0	0/0	0/0	0/0	0/0
MON–02	Eliminate Excessive Car Dealership Vehicle Starts; Educational.	SCAQMD/local govts.	1996		0/0	0/0	0/0	0/0	0/0
MON–04	Eliminate Excessive Curb Idling; Educational.	SCAQMD/local govts.	1996		0/0	0/0	0/0	0/0	0/0
MON–05	Emissions Reduction Credit for Heavy-Duty Buses.	SCAQMD	1995	1995–2010	0/0	0/0	.12/.65	.11/.65	.11/.65
MON–06	Emissions Reduction Credit for Heavy-Duty Trucks.	SCAQMD	1995		0/0	0/0	0/0	0/0	0/0
MOF–03	Emission Reduction Credits for Leaf Blowers.	SCAQMD/local govts.	5/96	1996–2010	0/0	0/0	0/0	0/0	0/0
MOF–04	Off-Road Mobile Source Emission Reduction Credit Programs.	SCAQMD	1995	1996–2010	0/0	0/0	0/0	0/0	0/0
FSS–01	Stage I Episode Plans	SCAQMD		2005–2010	0/0	0/0	0/0	0/0	0/0
ADV–CTS–01	Advanced Technology—Coating Technologies.	SCAQMD	2003–2005	2006–2010	0/0	0/0	0/0	14.35/0	23.88/0
ADV–FUG	Advanced Technology—Fugitive Emission Controls.	SCAQMD	2003–5	2006–2010	0/0	0/0	0/0	14.13/0	23.11/0
ADV–PRC	Advanced Technology—Process Related Emissions.	SCAQMD	2003–5	2006–2010	0/0	0/0	0/0	7.55/0	12.27/0
ADV–UNSP	Advanced Technology—Unspecified Stationary Source Controls.	SCAQMD	2003–5	2006–2010	0/0	0/0	0/0	39.45/0	66.97/0
ADV–CTS–02	Advanced Technology—Coating Technologies.	SCAQMD	1996–2000	1997–2010	0/0	20.44/0	32.37/0	45.38/0	54.69/0

* Alternative to ISR measures above.

c. ROP Provisions. EPA is finalizing approval of the South Coast ROP plan as meeting the 15% ROP requirements of section 182(b)(1) and the post-1996 ROP requirements of section 182(c)(2) of the Act. The ROP VOC targets, projected VOC emissions, and creditable VOC and NO_X reductions are shown in the table below labeled ''South Coast ROP Forecasts and Targets.'' The table reflects CARB's request that the State's ROP forecasts be substituted for the SCAQMD plan forecasts, which EPA erroneously displayed in the proposal.

SOUTH COAST ROP FORECASTS

[In tons per summer day]

	1996	1999	2002	2005	2008	2010
VOC emissions to meet ROP target	1181	1019	890	767	647	568
VOC emissions with plan reductions	1144	951	818	686	530	323

e. Modeling and Attainment Demonstration. The Environmental Defense Center (EDC) commented that EPA should reject the South Coast's attainment demonstration because CARB has abandoned the ZEV program.

EPA does not have information to support the commenter's contention that the ZEV amendments invalidate the attainment demonstration. See discussion in section I.B.3.c.(2).

As discussed above in the proposal and in section I.B.1., EPA's proposed approval of the South Coast attainment demonstration was based, in part, on the State's submission of an enforceable SIP commitment to adopt and submit as a SIP revision:

(a) a revised attainment demonstration for the South Coast as appropriate after a consultative process on future mobile source controls. This SIP revision would be due December 31, 1997; and

(b) enforceable emission limitations and other control measures needed to achieve the emission reductions which are determined to be appropriate for the State. This SIP revision would be due no later than December 31, 1999.

On May 17, 1996, CARB submitted this commitment in the form of Executive Order G–96–03, attached to a letter from John D. Dunlap, III, to Felicia Marcus. The Executive Order includes the following language:

Now, Therefore, it is Ordered that pursuant to Board Resolution 94–60, ARB hereby commits to participate in the consultative process described above, and to adopt and submit as a SIP revision: (a) By December 31, 1997, a revised attainment demonstration for the South Coast Air Basin as appropriate after the consultative process, and (b) by December 31, 1999, control measures needed to achieve any additional emission reductions which are determined to be appropriate.

EPA is taking final action to approve this commitment under sections 110(k)(3) and 301(a), and the modeling analysis and attainment demonstration under section 182(c)(2)(A) of the Act. A summary of the emission reductions needed to attain the standard and reductions projected from the SIP control strategy is provided below in the table labeled ''South Coast Attainment Demonstration.''

SOUTH COAST ATTAINMENT DEMONSTRATION

[Tons per summer day]

	VOC	NO_X
1990 Baseline Emissions Inventory	1517	1361
Carrying Capacity	323	553
Reductions Needed	1194	808
Reductions from Adopted measures	463	429
Committed Local measures	453	43
Committed State measures	231	227
''Federal Assignments''	47	109
Total	1194	808

The South Coast attainment demonstration relies, in part, on reductions from a fully-enhanced I/M program. As discussed in EPA's proposed approval of California's enhanced I/M program and above in section II.A.3., credits associated with this control measure will become permanent following the State's submission of the required analysis demonstrating that the enhanced I/M program is achieving the emission reductions claimed in the attainment demonstration. At that point, EPA's approval of the South Coast attainment demonstration will also become permanent.

f. Overall EPA Action. EPA approves the South Coast ozone SIP with respect to the Act's requirements for emission inventories, control measures, modeling, and demonstrations of 15% ROP, post-1996 ROP, and attainment. EPA approves SCAQMD's commitments to adopt and implement the near-term control measures to achieve the specified emission reductions by the dates shown. EPA also approves CARB's commitments relating to the public consultative process and future SIP revisions.

7. Southeast Desert

(a) Control Measures. As discussed in EPA's proposal, the Southeast Desert Modified Air Quality Maintenance Area (''Southeast Desert'') covers the Victor Valley/Barstow region in San Bernardino County (''Mojave''), the Coachella Valley/San Jacinto region in Riverside County (''Coachella''), and the Antelope Valley region in Los Angeles County (''Antelope'').[26] The first of these areas is the responsibility of the Mojave Desert Air Quality Management District (MDAQMD). The second and third areas are currently the responsibility of the SCAQMD. Separate control measures, ROP and attainment demonstrations were prepared for each of the areas.

The SCAQMD's existing rules and committal measures apply not only throughout the South Coast Air Basin but also in the SCAQMD's portions of the Southeast Desert. The SIP includes the State measures and a subset of the SCAQMD measures approved above in sections II.A. and II.B.6., but does not add to that list any unique State or local controls for the Coachella and Antelope regions.

The MDAQMD included in the Mojave Plan 7 measures, all of which have now been adopted in regulatory form. Three of the rules have been approved as part of the SIP: 461 Gasoline Transfer Dispensing, 1103 Asphalt Paving, and 1160 Internal Combustion Engines. The table labeled ''Mojave SIP Control Measures and VOC/NO_X Reductions lists the rules that have not yet been approved. This table includes Rules 1157, 1158, and 1159, which were mistakenly omitted from the proposal.

The MDAQMD control measures are relied upon in meeting the attainment requirements of the Act. Accordingly, and because the measures strengthen the SIP, EPA is approving, under sections 110(k)(3) and 301(a) of the Act, the enforceable commitments to adopt and implement the control measures to achieve the emission reductions shown. EPA also is assigning credit to the measures for purposes of attainment.

MOJAVE SIP CONTROL MEASURES AND VOC/NO_X REDUCTIONS

[In Tons/Day for 1996]

MDAQMD Measure	VOC	NO_X
Rule 1113 Architectural Coatings	0.92	0
Rule 1157 Boilers/Process Heaters	0	0.04
Rule 1158 Electric Power Generation	0	0.13
Rule 1159 Gas Turbines	0	0.13

b. ROP Provisions. EPA will take action on the ROP provisions for the Southeast Desert in separate rulemakings.

c. Modeling and Attainment Demonstration. As discussed in the proposal, the SIP includes modeling information, based on the South Coast UAM analysis, demonstrating that reductions from the South Coast SIP (along with SIP reductions within the area) will bring the Southeast Desert into attainment by the statutory deadline. EPA therefore proposes to approve the Southeast Desert modeling and attainment demonstration under section 182(c)(2) of the Act.

d. Overall EPA Action. EPA approves the Southeast Desert ozone SIP with

[26] The State has recently changed the names of the respective air basins. Under State law, the Coachella-San Jacinto Planning Area is now part of the Salton Sea Air Basin, and Antelope Valley is part of the Mojave Desert Air Basin. In its 1996 session, the California State Legislature passed legislation that would establish a new air agency to have the responsibility for local air pollution plans and measures in the Antelope Valley area.

respect to the Act's requirements for emission inventories, control measures, modeling, and demonstration of attainment. EPA also approves MDAQMD's commitments to adopt and implement the listed control measures to achieve the specified emissions reductions. EPA will take action on the 15% ROP and the post-1996 ROP plan elements for the three Southeast Desert subregions in separate rulemakings.

III. Summary of EPA Actions

EPA approves the following elements of the 1994 California Ozone SIP for the listed areas, as meeting applicable CAA requirements:

(1) Emission Inventories for San Diego, San Joaquin, Sacramento, Ventura, South Coast, and Southeast Desert, under section 182(a)(1) of the CAA.

(2) 15% ROP Plans for San Diego, San Joaquin, Ventura, and South Coast, under section 182(b)(1).

(3) Post-1996 ROP Plans for San Diego, San Joaquin, Sacramento, Ventura, and South Coast, under section 182(c)(2)(B) of the CAA.

(4) Modeling and Attainment Demonstrations for San Diego, San Joaquin, Sacramento, Ventura, Southeast Desert, and South Coast, under section 182(c)(2) of the CAA.

(5) All of the local control measures listed above in section II.B., for each of the nonattainment areas, including the specific emissions reductions for each milestone year, under sections 110(k)(3) and 301(a) of the CAA.

(6) All of the State's control measures contained in the 1994 California Ozone SIP that EPA has not previously approved: M1—Accelerated Retirement of LDVs, M4—Early Introduction of 2g/bhp-hr Heavy-Duty Diesel Vehicles, M7—Accelerated Retirement of HDVs, CP3— Aerosol Paints, and Pesticides, under sections 110(k)(3) and 301(a). EPA approval includes assignment of specific emissions reductions by nonattainment area and milestone year (as displayed in the tables in section II.A.) for all of the State control measures, including those previously approved under sections 110(k)(3), 182(e)(5), and 301(a) of the CAA. Under sections 110(k)(3) and 301(a) of the Act, EPA approves CARB's commitments to revise the South Coast attainment demonstration and adopt appropriate measures following the conclusion of the public consultative process. Under section 301 of the Act, EPA issues the Agency's commitment to undertake rulemaking to promulgate additional Federal measures determined to be appropriate.

EPA approves California's I/M regulations under sections 110(k)(3) and 301(a). EPA also approves the State's basic I/M program under sections 182(b)(4) and 187(a)(4) of the CAA and the enhanced I/M program, including the assignment of specific emissions reductions identified in section II.A.3. above, under sections 182(c)(3) and 187(a)(6) of the CAA and section 348(c) of the Highway Act.

In final action, EPA deletes from the applicable SIP all transportation control measures included in prior SIPs for Ventura and the South Coast, and Fresno measure ''Exclusive High Occupancy Vehicle Lanes on Freeway 41.''

EPA will take separate regulatory action on the 15% ROP Plans for Sacramento and the Southeast Desert and the post-1996 ROP Plan for the Southeast Desert.

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.

IV. Regulatory Process

A. Executive Order 12886

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. 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 business, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the Clean Air Act, do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal/state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 10, 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).)

Appendix A: Current Status of EPA's Activities Relating to the ''Federal Assignments'' in the California SIP Submittal

Note: The 1994 California Ozone SIP includes ''Federal'' mobile source assignments (SIP Measures M6, M10, M12, M13, M14, M15, and M16). In so doing, the State not only asked EPA to complete statutorily mandated responsibilities but also to undertake discretionary regulations to achieve specific mobile source emission reductions needed for the California attainment demonstrations, particularly for the South Coast. This fact sheet summarizes the current status of Federal activities relating to the source categories covered by each of the State's ''Federal Assignments.''

Heavy Duty Diesel Vehicles

Measure M6 of the 1994 California Ozone State Implementation Plan (''the SIP'') provides for adoption by EPA of a Federal oxides of nitrogen (NO_X) standard for new heavy-duty diesel on-highway vehicles. The NO_X standard called for in the SIP is 2.0 grams per brake horsepower-hour (g/bhp-hr), to be implemented beginning in 2004. A Federal standard would help reduce emissions from the large number of out-of-state trucks which operate in California.

EPA is fulfilling its commitment to propose tighter NO_X emission standards for Federal on-highway heavy-duty vehicles as part of the NO_X/PM (particulate matter) Initiative. On July 11, 1995, EPA, the California Air Resources Board (CARB), and the leading manufacturers of heavy-duty engines signed a Statement of Principles (SOP) that established a consensus plan to substantially reduce emissions from future trucks and buses on a nationwide basis. The goal of the SOP is to ensure cleaner air in a manner which is both realistic for the heavy-duty engine industry and responds to environmental needs as well. As a result of the SOP, EPA published an Advanced Notice of Proposed Rulemaking (ANPRM) on August 31, 1995. The ANPRM announced plans to propose a choice of standards for combined non-methane hydrocarbon (NMHC) plus NO_X: 2.4 g/bhp-hr, or 2.5 g/bhp-hr with an NMHC cap of 0.5 g/bhp-hr. Engines meeting these future standards are expected to be over 80 percent cleaner than pre-control engines. EPA formally proposed these standards and related provisions in a Notice of Proposed Rulemaking (NPRM) published on June 27, 1996 (61 FR 33421–33469). The Final Rule has a target publication date of winter 1996–1997. The new standards would be implemented beginning in 2004 and would apply to all on-highway heavy-duty engines.

CARB played a very important role in the achievement of the Statement of Principles (SOP). In addition, CARB has given EPA tremendous support in the development of the ANPRM and the NPRM. As a result of the SOP and rulemaking processes, EPA and CARB will have harmonized programs for new heavy-duty engines, an advantage for engine manufacturers.

Off-Road Industrial Equipment (Diesel)

Measure M10 of the SIP provides for adoption by EPA of a Federal NO_X standard for, at a minimum, new farm and construction equipment with diesel engines rated at less than 175 hp (130 kw). These are the engines which California is preempted from regulating under the 1990 Clean Air Act Amendments. The NO_X standard called for in the SIP is 2.5 g/bhp-hr (3.3 g/kw-hr), to be implemented beginning in 2005.

In its 1991 Nonroad Study, EPA determined that nonroad diesel engines rated at 37 kw and more, including those covered in SIP measure M10, emit a substantial portion of the nation's NO_X inventory. In response, EPA set a 9.2 g/kw-hr NO_X standard for these engines in 1994, to be phased-in beginning in 1996. The Agency also expressed its intent to undertake a second tier of standard setting to further control these emissions. The Clean Air Act provides for this as a discretionary effort and contains no requirements or guidance regarding the level or timing of the standards.

Initial work on this second tier of standard setting is currently underway as part of the NO_X/PM Initiative. The NO_X/PM Initiative has been a joint program of both EPA and CARB. EPA and CARB recognize that harmonizing Federal and California standards would help to achieve air quality goals in all states by eliminating the potential for equipment with higher-emitting engines being transported across state borders. Harmonized standards would also have obvious advantages for manufacturers. The participation of CARB staff on this initiative has been invaluable.

EPA, CARB, and all key nonroad diesel engine and equipment manufacturers signed an SOP on September 13, 1996, similar in many ways to the SOP signed in 1995 relating to highway heavy-duty engines. EPA expects to propose standards for diesel engines used in most land-based nonroad equipment and in some marine applications. The proposed standards will represent second and third tiers of control for larger engines and will also include Tier 1 and Tier 2 standards for small diesel engines. These standards are expected to result in major reductions in this very large class of emission sources, with NO_X reductions ranging from 40–75%, depending on engine size. Also based on the SOP, EPA expects to propose special provisions which provide implementation flexibility to manufacturers of the nonroad equipment in which these engines are used to account for engine modifications which the engine manufacturers may choose to make. In addition to resulting in a common set of standards for this category for EPA and CARB, these standards will essentially achieve harmonization of standards between the U.S. and Europe.

Gas and LPG Equipment 25–175 Horsepower

Measure M12 of the SIP provides for adoption by EPA of a Federal program that will implement three-way catalyst technology on new nonroad equipment powered by gasoline or liquefied petroleum gas (LPG) engines rated at between 25 hp (18 kw) and 175 hp (130 kw). The goal of this measure it to reduce NO_X emissions by at least 50 percent and hydrocarbon emissions by 75 percent. This is a complementary measure to measure M10 and much of the discussion of that measure applies here as well.

EPA does not currently have any emission standards for gasoline or LPG engines in this category. However, under a consent decree signed by EPA with the Sierra Club on June 10, 1993, EPA agreed to determine by November 30, 1996 whether or not to regulate large gasoline nonroad engines and, if so, by what schedule. At this time, the Agency is considering setting standards for these engines as part of the NO_X/PM Initiative and has begun discussions about a possible SOP. Although substantial emission reductions may be pursued, there is no assurance that setting standards as low as those sought by CARB would be the most appropriate approach nationwide.

Marine Vessels

Measure M13 of the SIP assumes that the U.S. EPA and International Maritime Organization (IMO) will adopt emission standards that will reduce NO_X emissions from new marine diesel engines by 30 percent. M13 also assumes that EPA will issue standards for new marine diesel engines used in vessels operated primarily in domestic waters that will reduce NO_X emissions by at least 65 percent.

The IMO, a special agency of the United Nations, is developing regulations for the reduction of NO_X and sulfur oxides (SO_X) from ships. These regulations are part of a new Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), which addresses the control of air pollution from ships. An IMO committee, the Marine Environmental Protection Committee (MEPC) is scheduled to finalize the draft Annex in March 1997. A diplomatic conference will be held in September 1997 to review and adopt the Annex. After adoption, each signatory country will consider the Annex for ratification and, after the ratification requirements specified in the Annex are met, it will go into effect. Before the Annex can be enforced within U.S. waters, Congress will have to ratify it and provide appropriate authority to a government agency to implement it.

The emission requirements set out in the Annex will apply only to engines larger than

130 kW (175 hp) installed on ships constructed on or after January 1, 2000; engines installed on ships constructed before that date are exempt. However, the standards will apply to any replacement engine installed on any ship beginning January 1, 2000, as well as to engines that undergo ''substantial modification'' or whose power is increased by 10 percent. Because existing engines are not covered by the standards, achieving the target 30 percent reduction will require considerable time (turnover of ships is estimated to be about 30 years). Also, it will be necessary for the annex to achieve full implementation by flag states.

Only one-third of the commercial marine fleet will have turned over by 2010; therefore, the full 30 percent emission reduction from marine vessels will not be realized. To achieve greater reductions more quickly, it will be necessary to explore operational controls on ocean-going commercial marine vessels that operate off California's coasts, particularly in the South Coast region. Three studies are underway to investigate issues relating to the contribution of these marine vessels to air quality in the South Coast area and along the Santa Barbara channel. Collectively, these studies will help EPA and other interested parties understand and explore potential operational control strategies needed for further emissions reductions from marine sources. EPA is involved in all of these efforts, along with the United States Navy, the United States Coast Guard, the South Coast Air Quality Management District, and CARB.

The largest of these studies is sponsored by the United States Navy. This goal of this study is to better characterize ship traffic and its impact on ozone exceedances in Ventura County. It will investigate air trajectory and transport mechanisms, clarify ship traffic patterns, collect ozone measurement data, and collect weather parameters for modeling. This on-going study is not complete at this time. A second study, sponsored by SCAQMD, will measure the marine vessel emission inventory and explore potential control strategies. The SCAQMD study should be completed by June 1996. A third study, the Southern California Transport Study, led by CARB, will examine air pollution transport in Southern California. This study will provide an enhanced air quality and meteorological database for Southern California, which will provide the basis for improved modeling. Data will be collected at the surface and aloft, as well as over water.

As originally drafted, the standards set out in MARPOL Annex VI would apply to any engine larger than 130 kW installed on a vessel that operates in the ''marine environment.'' This means that the Annex would apply to vessels operating in domestic as well as international waters. To preserve the ability to set more stringent standards for engines installed on vessels that operate in U.S. domestic waters, the U.S. sought to limit the application of the Annex. Specifically, at the July 1996 MEPC meeting, the U.S. succeeded in obtaining an exemption to the Annex for high speed engines installed on vessels that are not engaged in international voyages. This exemption gives EPA the ability to pursue more stringent national emission control for high speed diesel marine engines on vessels that operate primarily in domestic waters. EPA is currently preparing an NPRM to set standards for these engines.

Locomotives

In Measure M14, CARB assumed locomotive emission reductions from two EPA programs. The first of these programs was the statutorily required EPA national regulation for locomotives and locomotive engines, (national locomotive regulation). EPA expects that the planned national locomotive regulation will provide all of the CARB SIP credits with the exception of the 67% reduction in NO_X emissions in the South Coast by 2010.

To address the South Coast's need for further emission reductions EPA has considered a special locomotive program for the South Coast. This program would ensure that all locomotives operating in the South Coast achieve on average, an emission level equal to EPA national locomotive regulation tier 2 standards. Since these standards are technology forcing, the practical requirement would be to require an accelerated fleet turnover in the South Coast such that only the newest engines meeting the EPA tier 2 standards would operate in the South Coast. This program would provide an approximately two-thirds reduction in locomotive NO_X emissions in the South Coast by 2010 and result in a NO_X emission level of 12 tons/day in the South Coast. The railroads that operate in the South Coast have indicated support for this program. EPA is continuing to explore innovative approaches to establish the South Coast clean locomotive fleet program as part of the SIP.

Aircraft

Measure M15 calls for U.S. EPA to adopt standards to effect a 30 percent reduction in reactive organic gases (ROG) and NO_X emissions beginning in 2000. M15 apparently applies to new commercial aircraft engines, but also suggests reconsideration of the exempt status of military aircraft.

The federal Clean Air Act authorizes EPA to establish emission standards for aircraft engines. In recognition of this preemptive authority, the SIP assigns new nationwide emission standards for commercial aircraft engines to EPA that would reduce ROG and NO_X emissions from this source by 30 percent beginning in 2000. The SIP also correctly acknowledges that military aircraft engines are currently exempt from emission standards, which otherwise apply to commercial aircraft engines. In this regard, the SIP recommends that the exempt status of these aircraft be reconsidered.

The International Civil Aviation Organization (ICAO) is the most appropriate forum for establishing commercial aircraft engine emission standards due to the international nature of the aviation industry. EPA is currently preparing a direct final rule to formally adopt the existing ICAO NO_X and CO standards.

EPA has actively participated in considering more stringent NO_X standards as part of ICAO's Committee on Aviation Environmental Protection (CAEP) in the intervening period since the FIP. In December 1995, CAEP recommended a 16 percent increase in stringency for the NO_X standard that applies to medium and large turbine engines used on commercial aircraft. The revised standard would affect newly certified engines (i.e., engine models produced for the first time) beginning in 2000, and all newly manufactured engines (i.e., engines already being produced) in 2008. The revised standard would not affect engines already in air service. No revision of the hydrocarbon emission standard was considered by CAEP at the time, principally because modern turbine engines are considered very ''clean'' in this regard.

The CAEP recommendation will now move through the ICAO hierarchy for consideration. Initially, the ICAO Council will act on the recommendation. If the Council finds it acceptable, the revision moves to the full ICAO Assembly for final action. This process may not be complete until the spring of 1998.

The emission benefits of any new NO_X standard will occur worldwide. These benefits, however, will gradually accrue over an extended period of time. More specifically, the full benefits of the revised standard will not occur until well after 2010, because of the 2008 date for full implementation of the standard and the slow fleet turnover to new, cleaner engines (e.g., aircraft last about 25 years in active service.) Therefore, very few of the potential benefits will be realized by the SIP's attainment date.

Turning to the exemption for military engines, EPA agrees with the SIP recommendation that such a blanket exemption should be reconsidered in the consultative process. EPA hopes to address the feasibility of applying emission standards to military engines in the public consultative process.

EPA has also continued to explore other ways to reduce the environmental effects of air travel in California and throughout the nation in the intervening period since the FIP. More specifically, the Agency and the Federal Aviation Administration (FAA) are working cooperatively to encourage continuing progress in reducing emissions from ground service equipment and aircraft auxiliary power units. EPA has sponsored additional work to compile technical data and emission inventory methods. This information will be used by the Federal Aviation Administration to develop an Advisory Circular for use by airlines and airport authorities interested in reducing the emissions from these sources.

Pleasurecraft

Measure M16 assumes that U.S. EPA finalizes proposed national ROG and NO_X standards for various categories of new engines used in watercraft.

EPA has finalized its proposed emission standards for spark-ignition marine engines. The final rule is expected to reduce by about 75% the HC emissions from outboard motors, personal watercraft, and jet boats beginning in model year 1998. EPA has issued guidance to states on the amount of credit that will be allowed due to this rulemaking. There is no second phase rulemaking planned.

EPA has not yet finalized the proposed emission standards for compression-ignition marine engines. The court ordered deadline for completion of this action is December 1996. EPA has not yet issued guidance to states on the amount of credit that will be allowed due to this rulemaking.

Appendix B: Schedule for Public Consultative Process

Background: The Need to Achieve Our Public Health Goals

Air pollution remains a significant public health concern in many parts of the country, including many areas of California. The Clean Air Act requires states to develop state implementation plans (SIPs) that lay out how areas will reduce pollution and attain the health-based air quality standards for a number of pollutants including ground level ozone—smog.

Despite the dramatic progress that aggressive air quality regulations have made in reducing smog levels, residents of the South Coast continue to experience by far the worst air pollution in the United States. The 1994 ozone SIP for the South Coast shows the need for massive additional reductions to reach target emission levels of VOC and NO_X—volatile organic compounds and nitrogen oxides, the pollutants that react with sunlight to form ozone.

The South Coast SIP includes federal, state and local regulations and commitments to achieve the emission reductions needed to attain the national ozone health standard by 2010. U.S. EPA has already issued or is in the process of issuing stringent national controls on most categories of mobile sources, including heavy-duty trucks and buses; construction, farm, and lawn and garden equipment; pleasure craft; some categories of marine vessels; and locomotives.

Purpose of the Public Consultative Process on Future Mobile Source Controls

Through a public process, we hope together to identify the best options for achieving further emission reductions from mobile source controls, at least to the extent they are needed for attainment of the ozone health standard in the South Coast, and to ensure that appropriate parties accept responsibility for adopting and implementing the controls expeditiously.

Schedule

July 19, 1996—Los Angeles public meeting to introduce to the general public the consultative process and to allow California stakeholders an opportunity to provide input to the proposed national truck and bus rules during the public comment period.

November 1996—Los Angeles public meeting to discuss pending national and international ship controls, possible reductions from port measures, pending national and international aircraft controls, and possible reductions from airport measures.

November 1996 to May 1997—Los Angeles informal workshops to provide further input on desirable control measures for airports/aircraft and (separately) ports/ships.

February 1997—Los Angeles public meeting to continue discussions of opportunities for reductions from future mobile source measures and to allow California stakeholders to provide informal input to the proposed national nonroad rules during the public comment period.

June 1997—Los Angeles public meeting or public hearing to summarize findings during the consultative process, identifying SIP reductions from specific new measures and setting out an approach for dealing with the remaining shortfall (if any).

Future Updates to the Schedule

Information on the date and location of public meetings will be placed on EPA Region 9's site on the Internet's World Wide Web at http://www.epa.gov/region09 (go to Air Programs). Those wishing to be placed on EPA's mailing list for public consultative process meeting announcements should write or phone Julia Barrow (see the Addresses portion of this document).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 25, 1996.

Felicia Marcus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(204)(i)(A)(*6*), (c)(204)(i)(B)(*2*), (c)(204)(i)(C) through (F), (c)(205)(i)(A), (c)(213), and (c)(233) through (238) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(204) * * *

(i) * * *

(A) * * *

(*6*) State control measures: Accelerated Retirement of LDV's (Measure M1), Early Introduction of 2g/bhp-hr Heavy Duty Diesel Vehicles (Measure M4), Accelerated Retirement of Heavy-Duty Vehicles (Measure M7), Aerosol Paints (Measure CP3), and California Department of Pesticide Regulation's Pesticide Plan, as contained in ''The California State Implementation Plan for Ozone, Volume II: The Air Resources Board's Mobile Source and Consumer Products Elements,'' adopted on November 15, 1994, and tables of local agency control measures and revisions to local Rate-of-Progress plan elements as contained in ''The California State Implementation Plan for Ozone, Volume IV: ''Local Plans,'' adopted on November 15, 1994.

(B) * * *

(*2*) Control measures, emissions inventory, modeling, and ozone attainment demonstration, as contained in ''1994 Air Quality Management Plan,'' adopted on September 9, 1994.

(C) San Diego Air Pollution Control District.

(*1*) Emissions inventory, 15% Rate-of-Progress plan, Post-1996 Rate-of-Progress plan, modeling, and ozone attainment demonstration, as contained in ''1994 Ozone Attainment and Rate-of-Progress Plans for San Diego County,'' adopted on November 1, 1994.

(D) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Control measures, emissions inventory, 15% Rate-of-Progress plan, Post-1996 Rate-of-Progress plan, modeling, and ozone attainment demonstration, as contained in ''San Joaquin Valley Attainment and Rate-of-Progress Plans,'' adopted on November 14, 1994.

(E) Ventura County Air Pollution Control District.

(*1*) Control measures, emissions inventory, 15% Rate-of-Progress plan, Post-1996 Rate-of-Progress plan, modeling, and ozone attainment demonstration, as contained in ''1994 Air Quality Management Plan for Ventura County,'' adopted on November 8, 1994.

(F) Mojave Desert Air Quality Management District.

(*1*) Control measures, emissions inventory, modeling, and ozone attainment demonstration, as contained in ''Rate-of-Progress and Attainment Demonstration Plans for the Mojave Desert,'' adopted on October 26, 1994.

(205) * * *

(i) * * *

(A) Kern County Air Pollution Control District.

(*1*) Emissions inventory, modeling, and ozone attainment demonstration, as contained in ''Rate-of-Progress and Attainment Demonstration Plans for the Kern County Air Pollution Control District,'' adopted on December 1, 1994.

* * * * *

(213) California Statewide Emission Inventory submitted on March 30, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(*1*) 1990 Base-Year Emission Inventory for Ozone Nonattainment Areas in California.

(*i*) Sacramento, San Diego, San Joaquin Valley, South Coast, Southeast Desert, Ventura.

* * * * *

(233) New and amended plans for the following agencies were submitted on December 29, 1994, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) 15% Rate-of-Progress plan and Post-1996 Rate-of-Progress plan for the Los Angeles-South Coast Air Basin Area, as contained in the ''Rate-of-Progress Plan Revision: South Coast Air Basin & Antelope Valley & Coachella/San Jacinto Planning Area,'' adopted on December 9, 1994.

(B) Sacramento Metropolitan Air Quality Management District.

(*1*) Emissions inventory, Post-1996 Rate-of-Progress plan, modeling, and ozone attainment demonstration, as contained in ''Sacramento Area Attainment and Rate-of-Progress Plans,'' adopted by Sacramento Metropolitan Air Quality Management District on December 1, 1994; by Feather River Air Quality Management District on December 12, 1994; by El Dorado County Air Pollution Control District on December 13, 1994; by Yolo-Solano Air Pollution Control District on December 14, 1994; and by Placer County Air Pollution Control District on December 20, 1994.

(234) The California Vehicle Inspection and Maintenance Program was submitted on January 22, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(*1*) Motor Vehicle Inspection and Maintenance Program adopted on January 22, 1996.

(*i*) Health and Safety Code: Division 26, Part 5 § 39032.5; Chapter 5. Motor Vehicle Inspection Program, Article 1, Article 2, Article 3, Article 4, Article 5, Article 6, Article 7, Article 8, Article 9.

(*ii*) Business and Professions Code, Chapter 20.3, Automotive Repair, Article 4, § 9886, § 9886.1, § 9886.2, § 9886.4.

(*iii*) Vehicle Code § 4000.1, § 4000.2, § 4000.3, § 4000.6.

(*iv*) Title 16, California Code or Regulations, Division 33, Bureau of Automotive Repair, Article 5.5, Motor Vehicle Inspection Program, § 3340.1, § 3340.5, § 3340.6, § 3340.10, § 3340.15, § 3340.16, § 3340.16.5, § 3340.16.6, § 3340.17, § 3340.18, § 3340.22, § 3340.22.1, § 3340.22.2, § 3340.22.3, § 3340.23, § 3340.24, § 3340.28, § 3340.29, § 3340.30, § 3340.31, § 3340.32, § 3340.32.1, § 3340.33, § 3340.33.1, § 3340.35, § 3340.35, § 3340.36, § 3340.41, § 3340.41.3, § 3340.41.5, § 3340.42, § 3340.42.1., § 3340.50, § 3340.50.1, § 3340.50.3, § 3340.50.4, § 3340.50.5.

(235) New and amended plans for the following agencies were submitted on May 17, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(*1*) Executive Order G–96–031, dated May 17, 1996, State commitment to participate in public consultative process, submit a revised attainment demonstration for the South Coast as appropriate by December 31, 1997, and submit control measures to achieve emission reductions determined to be appropriate, if any, by December 31, 1999.

(236) New and amended plans for the following agencies were submitted on June 13, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(*1*) Letter dated June 13, 1996, from James D. Boyd to David Howekamp, including ''Corrections to State and Local Measures'' (Attachment A) and ''Summary Emission Reduction Spreadsheets'' (Attachment C).

(237) New and amended plans for the following agencies were submitted on July 10, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Revised rule adoption schedule, adopted on April 12, 1996.

(238) New and amended plans for the following agencies were submitted on July 12, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) Ventura County Air Pollution Control District.

(*1*) ''Revised Rule Adoption and Implementation Schedule'' (Table 4–2) and ''Architectural Coatings'' (Appendix E–95, Tables E–43 and E–45) contained in ''Ventura County 1995 Air Quality Management Plan Revision,'' adopted on December 19, 1995.

(B) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Post-1996 Rate-of-Progress plan, as contained in ''San Joaquin Valley Revised Post-1996 Rate-of-Progress Plans,'' adopted on September 20, 1995.

3. 40 CFR part 52 is amended by adding a new section 52.238 to read as follows:

§ 52.238 Commitment to undertake rulemaking.

(a) The Administrator shall undertake rulemaking, after the South Coast mobile source public consultative process, to promulgate any VOC and NO_X mobile source controls which are determined to be appropriate for EPA and needed for ozone attainment in the Los Angeles-South Coast Air Basin Area.

4. 40 CFR part 52 is amended by adding a new section 52.241 to read as follows:

§ 52.241 Interim approval of enhanced inspection and maintenance program.

(a) Under section 348(c) of the National Highway Systems Designation Act (Pub. L. 104–59), the California SIP is approved as meeting the provisions of section 182(c)(3) for applicable ozone areas and section 187(a)(6) for applicable carbon monoxide areas with respect to the requirements for enhanced motor vehicle inspection and maintenance. This approval expires on August 7, 1998, or earlier if by such earlier date the State has submitted as a SIP revision the required demonstration that the credits are appropriate and that the program is otherwise in compliance with the Clean Air Act and EPA takes final action approving that revision.

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[FR Doc. 97–144 Filed 1–7–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[CA114–0025; FRL–5665–9]

Approval and Promulgation of Implementation Plans; California; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the California State Implementation Plan (SIP) for ozone for Santa Barbara County. Specifically, EPA is approving the emissions inventory, control measures, and 15% rate-of-progress plan. The California Air Resources Board (CARB) submitted this SIP revision to EPA on November 14, 1994.

EPA is approving this revision to the California SIP under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals for nonattainment areas.

EFFECTIVE DATE: This approval is effective on February 7, 1997.

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No.

A–96–13, which is available for viewing during normal business hours at the following location: Air Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP materials are also available for inspection at the addresses listed below:

Environmental Protection Agency, Air Docket (6102), 401 M Street, S.W., Washington, DC.

California Air Resources Board, 2020 L Street, Sacramento, California.

In addition, copies of the relevant local plan, the State plan (1994 California Ozone SIP), public comments, and EPA's technical support documents for this rulemaking are available at the following location: Santa Barbara Air Pollution Control District, 26 Castilian Drive B–23, Goleta, California.

Electronic Availability

This document and related materials are available at Region 9's site on the World Wide Web at http://www.epa.gov/region09 (please look under Air Programs). The Federal Register is also available on the Internet by pointing a web browser at: http://www.access.gpo.gov/su__docs/ or by telnet to swais.access.gpo.gov.

FOR FURTHER INFORMATION CONTACT: Julia Barrow, Chief, Office of Planning, Air Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1230.

SUPPLEMENTARY INFORMATION

I. Background.

A. Summary

EPA is finalizing approval of the emissions inventory, control measures, and 15% rate-of-progress (ROP) plan for the Santa Barbara County ozone nonattainment area, as included in the 1994 California Ozone SIP.[1] This action was proposed on March 18, 1996, as part of action on the 1994 California Ozone SIP (61 FR 10920–10962). EPA has separately finalized approval of all elements proposed for approval in that document, with the exception of Santa Barbara plan elements. The reader is referred to the notice of proposed rulemaking for additional detail on the SIP submittal (including State measures and analyses), as well as a summary of relevant Clean Air Act requirements and EPA interpretations of those requirements.

Santa Barbara is currently classified as a moderate nonattainment area for ozone (40 CFR 81.305). As a result, the SIP must contain adequate control measures and commitments to demonstrate attainment of the ozone national ambient air quality standards (NAAQS) by 1996, in accordance with sections 181(a)(1) and 172(c)(6) of the CAA.

The 1994 SIP employed an urban airshed modeling analysis to demonstrate that the control strategy will result in NAAQS attainment by the deadline. After the 1994 SIP had been prepared, exceedances of the ozone NAAQS were recorded during both 1994 and 1995. This precluded Santa Barbara from achieving the ozone standard by 1996.[2]

Section 181(a)(5) of the Act, however, authorizes EPA to grant a one-year extension of the attainment date upon request by the State, if an area has complied with all requirements in the SIP and records no more than one exceedance during the attainment year. Based on this provision, EPA proposed to approve Santa Barbara's plan as meeting the attainment demonstration requirements of section 182(b)(1)(A) of the Act, assuming that the area experienced no more than one exceedance during the 1996 ozone season.

After the proposed approval of the Santa Barbara plan was issued in March 1996, several locations in Santa Barbara recorded exceedances of the ozone standard. These exceedances now disqualify the area from receiving a one-year attainment deadline extension. Therefore, there is no longer a basis for EPA's proposed approval of the attainment demonstration and the supporting modeling analysis. For this reason, CARB has withdrawn the attainment demonstration portion of the SIP.[3]

Because the State has withdrawn this SIP element, EPA is not responding in this document to extensive Environmental Defense Center comments on EPA's proposed approval of Santa Barbara's modeling and attainment demonstration. EPA encourages the State and local agencies to address those comments, to the extent that they remain relevant, in the preparation of attainment demonstrations in the future.

B. SIP Submittals

On November 15, 1994, CARB adopted and submitted a revision to the ''State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards'' (ozone SIP). The revision consists of: (a) The State's comprehensive ozone plan, including the State's own measures and the State's summaries of, and revisions to, the local plans; (b) the State's previously adopted regulations for consumer products and reformulated gasoline and diesel fuels; and (c) local plans addressing the ozone attainment demonstration and ROP requirements. EPA has previously finalized approval of all of the State's measures and most of the elements of the local plans, with the exception of the plan for Santa Barbara.

EPA is today approving elements from the following ozone SIP submittals:

1. ''1994 Clean Air Plan for Santa Barbara County,'' adopted by the Board of the Santa Barbara County Air Pollution Control District on November 2, 1994. The November 14, 1994, submittal letter for this plan is from James Boyd, Executive Officer of CARB, to EPA Regional Administrator Felicia Marcus.

2. On March 30, 1995, CARB submitted revised 1990 base year emission inventories for each of the California ozone nonattainment areas. EPA is approving in this document the Santa Barbara portion of the State's submittal.

C. EPA Completeness Findings

On April 18, 1995 the EPA issued a finding of completeness, pursuant to 40 CFR Part 51, Appendix V, for the Santa Barbara plan portion of the November 1994 and March 1995 submittals with regard to: (1) 15% ROP requirement of section 182(b)(1)(A); and (2) 1990 base year inventory requirements of section 182(a)(1).[4]

[1] The Federal ozone nonattainment area is the ''Santa Barbara-Santa Maria-Lompoc Area,'' which comprises the entire County of Santa Barbara (see 40 CFR 81.305).

[2] Attainment of the ozone NAAQS is achieved when the number of exceedances at each monitoring site within the area, averaged over the past 3 calendar years, is less than or equal to 1. An exceedance is a daily maximum hourly average ozone concentration that is greater than the 0.12 ppm standard. (40 CFR 50, App. H)

[3] November 6, 1996 letter from Michael P. Kenny, Executive Officer, CARB, to Felicia Marcus, Regional Administrator, EPA, withdrawing the Santa Barbara ozone attainment demonstration. The letter also encloses an October 18, 1996 letter from Douglas W. Allard (SBCAPCD) to Michael P. Kenny, requesting withdrawal of the attainment demonstration. Allard's letter notes that, on October 17, 1996, ''the Air Pollution Control Board directed me to request that the Air Resources Board withdraw the attainment demonstration element from the 1994 Clean Air Plan (CAP), a component of the State Implementation Plan.''

[4] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

II. Review of the SIP Submittal, Response to Comments on Specific SIP Issues, and EPA Final Action

A. Emissions Inventory

The Environmental Defense Center (EDC) provided two comments on the emissions inventory. First, EDC stated that significant amounts of emissions from variances and violations, construction activities, and small source exemptions are excluded from the inventory. Second, EDC stated that the 1996 inventory misstates emissions by not removing from the inventory those emissions associated with the shutdown of the Battles Gas plant in July 1995, thus allowing banking of these emissions.

The emission inventories for Santa Barbara were developed in accordance with EPA guidance, using the most accurate data available.[5] The SIP's base year and projected inventories include the District's best estimations of emissions from construction activities and, to the extent data are available, emissions from unpermitted sources. The 1990 baseline inventories and the projected inventories also address variances and violations through use of control factors that reflect general estimations of rule effectiveness.

The Battles Gas Plant was not shut down but under permit and in operation when the Clean Air Plan was adopted. EPA's emissions inventory guidelines and 15% rate-of-progress guidelines do not require that projected inventories eliminate emissions from sources that may be shut down in the future.[6]

EPA is finalizing approval of the Santa Barbara emission inventories as meeting the requirements of section 182(a)(1) of the Act.

B. Control Measures

EDC objected to the SBCAPCD's wholesale deletion of 1982 control measures, including measures which required development of rules incorporating the relative ozone formation potential of various emissions.

In general, the 1994 SIP does not delete the 1982 SIP measures but rather updates them. EPA does not believe that the CAA requires the District to retain its prior commitments to develop reactivity-based rules, which are neither specifically mandated by the CAA nor associated with particular emission reductions or ambient air quality benefits in the 1982 SIP.

EDC stated that the inadequacy of the SIP control measures is apparent, given Santa Barbara's violations of the ozone NAAQS. EPA interprets the comment as meaning that EDC does not believe that the control measures achieve sufficient emission reductions to attain the ozone NAAQS by 1996. The Agency is not addressing this issue because, as noted above, the State has withdrawn the attainment demonstration portion of the Santa Barbara plan. EPA is, however, approving the individual control measures in the SIP (1994 Clean Air Plan, Tables 4–2 and 5–1) under the provisions of CAA sections 110(k)(3) and 301(a), because they strengthen the SIP.

Table 5–1 of Santa Barbara's plan describes the area's transportation control measures (TCMs), which supersede the TCM list in the previously approved 1982 SIP. On May 1, 1995, EPA took direct final action to approve TCM–5, and to delete the Goleta Transit Center from the 1982 SIP (60 FR 21045). The 1994 Clean Air Plan shows that all of the 1982 TCMs have either been fully implemented or replaced by 1994 TCMs.

All non-transportation related control measures identified in the Santa Barbara Clean Air Plan have been fully adopted in regulatory form. If any of these regulations, which are assumed in the baseline of the Clean Air Plan, are relaxed or in practice achieve fewer emission reductions than relied upon in the SIP, the District must submit replacement rules on an expeditious schedule.

Under sections 110(k)(3) and 301(a) of the Clean Air Act, EPA takes final action to approve the SIP control measures, including contingency measure T–21, because these measures strengthen the SIP.

C. ROP Provisions

EPA is finalizing approval of the ROP plan as meeting the 15% ROP requirements of section 182(b)(1) of the Act. The ROP ROG targets, projected ROG emissions, and creditable ROG reductions are shown below in the table labeled ''Santa Barbara ROP Forecasts and Targets.'' Creditable emission reductions from fully adopted regulations reduce emissions below the ROP target level for 1996.

SANTA BARBARA ROP FORECASTS AND TARGETS

[In tons of ROG per summer day; excludes OCS emissions]

1990 Base Year Inventory	57
1996 Projections (Adopted Measures)	41
1996 ROP Target	42

III. Summary of EPA Actions

EPA approves the following elements of the 1994 California Ozone SIP for Santa Barbara, as meeting applicable CAA requirements:

(1) Emission Inventories for Santa Barbara under section 182(a)(1) of the CAA.

(2) 15% ROP Plan for Santa Barbara under section 182(b)(1).

(3) Santa Barbara's control measures, including contingency measure T–21, under sections 110(k)(3) and 301(a) of the CAA.

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.

IV. Regulatory Process

A. Executive Order 12886

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. 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 business, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the Clean Air Act, do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the

[5] See the list of SIP inventory guidance documents in the supplement to EPA's General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, issued on April 28, 1992 (57 FR 18070–18071).

[6] Indeed, Rate-of-Progress projected inventories generally should be based on allowable levels. See EPA's Emission Inventory Requirements for Ozone State Implementation Plans (EPA–450/4–91–010), March 1991, pp. 36–7. Until permits are surrendered, sources should be assumed to be in operation.

Federal SIP approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal/state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended 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 section 804(2) of the APA as amended.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 10, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 7, 1996.

Felicia Marcus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(211)(i)(A)(*2*), and (c)(213)(i)(A)(*1*)(*i*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(211) * * *

(i) * * *

(A) * * *

(*2*) Emissions inventory, 15% Rate-of-Progress plan, and control measures, as contained in ''1994 Clean Air Plan for Santa Barbara County,'' adopted on November 2, 1994.

* * * * *

(213) * * *

(i) * * *

(A) * * *

(*1*) * * *

(*i*) Santa Barbara.

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federal register

Wednesday
January 8, 1997

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91, et al.

Special Flight Rules in the Vicinity of the Rocky Mountain National Park; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 119, 121, and 135

RIN 2120–AG11

[Docket No. 28577; Amendment Nos. 91–254, 119–3, 121–263, 135–67 Special Federal Aviation Regulation (SFAR) No. 78]

Special Flight Rules in the Vicinity of the Rocky Mountain National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a temporary Special Federal Aviation Regulation (SFAR) at Rocky Mountain National Park (RMNP) to preserve the natural enjoyment of visitors to RMNP by preventing any potential adverse noise impact from aircraft-based sightseeing overflights. This action temporarily bans commercial air tour operations over RMNP while the FAA develops a broader rule that will apply to RMNP as well as other units of the National Park system. The final rule will expire as soon as a general rule on such overflights is adopted.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Neil Saunders, Airspace and Rules Division, ATA–400, Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; Telephone: 202–267–8783. For the Final Environmental Assessment and Finding of No Significant Impact, contact Mr. William J. Marx, Manager, Environmental Programs Division, ATA–300, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION:

Availability of the Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW, Washington, DC 20591, or by calling 202–267–9677. Communications must identify the amendment number of this final rule.

Background

The designation of an area as a National Park is one of the highest recognition given to any area in the country for its natural beauty and the importance of its protection. In view of the significance of this designation, Congress requires that National Parks by managed consistently with the ''high public value and integrity of the National Park System and [such management] shall not be exercised in derogation of the values and purposes for which these areas have been established to conserve the scenery and the nature and the historic objects and the wildlife therein, and to leave them unimpaired for future generations.'' Organic Act, 16 U.S.C. § 1a–1; 16 U.S.C. 273–273d, 273f. The National Park Service (''NPS'') and the Federal Aviation Administration (''FAA'') recognize that noise from aircraft may interfere with the natural park experience for visitors on the ground and with efforts to preserve these and other park values.

On December 22, 1993,the Department of the Interior and the Department of Transportation joined to form an interagency working group (''IWG'') with the objective of protecting National Parks from the adverse effects due to excessive aircraft noise. The IWG's tasks included reviewing the environmental and safety concerns caused by park overflights, and working towards resolution of impacts on specific parks.

The FAA's role in the IWG is to ensure the maintenance of aviation safety and provide for the safe and efficient use of airspace, while working with the Department of the Interior to achieve its role in the IWG to protect public land resources in the national park system, preserve environmental values for those areas, and provide for the public enjoyment of those areas.

On April 22, 1996, President Clinton issued a memorandum for Heads of Executive Departments and Agencies, in which he announced his Earth Day initiative, Parks for Tomorrow. Included in that initiative was the directive to the Secretary of Transportation, in consultation with other appropriate officials, to consider a rulemaking to address the potential adverse impact on Rocky Mountain National Park and its visitors of overflights by sightseeing aircraft. The President's announcement also directed that the value of natural quiet and the natural experience of the park be factors in any rulemaking action, along with protection of public health and safety.

FAA Statutory Authority

The FAA has broad authority and responsibility to regulate the operation of aircraft and the use of the navigable airspace and to establish safety standards for and regulate the certification of airmen, aircraft, and air carriers. 49 U.S.C. 40104, et seq., 49 U.S.C. 40103(b). Subtitle VII of Title 49 U.S.C. provides guidance to the Administrator in carrying out this responsibility. However, the FAA's authority is not limited to regulation for aviation safety and efficiency.

The FAA has authority to manage the navigable airspace to protect persons and property on the ground. The Administrator is authorized to ''prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for * * *. (B) protecting individuals and property on the ground'' 49 USC 40103(b)(2). In addition, under 49 USC Section 44715(a) the Administrator of the FAA, in consultation with the Environmental Protection Agency, is directed to issue such regulations as the FAA may find necessary to control and abate aircraft noise and sonic boom to ''relieve and protect the public health and welfare.''

The FAA construes these provisions, taken together, to authorize the adoption of this regulation, which is intended to minimize the limit the adverse effects of aircraft noise to protect visitor enjoyment of RMNP. The FAA finds that the regulation of the navigable airspace, as authorized under 49 U.S.C. 40103(b)(2), is necessary, on a temporary, limited basis, as discussed below, to control and abate aircraft noise at RMNP under 49 U.S.C. 44715. Current policies support the exercise of FAA authority to protect the RMNP in these unique circumstances, at least as an interim step while the FAA proceeds to complete a rulemaking that will address the larger issue of protecting national parks. See generally, Section 101 of the National Environmental Policy Act of 1969, as amended 42 U.S.C. 4321 and Executive Order 11514, as amended by Executive Order 11991.

Rocky Mountain National Park

RMNP receives approximately three million visitors a year, making it the sixth most visited national park in the United States, despite its relatively small size (for a major Western national park) of 265,727 acres. RMNP is located approximately 40 miles outside the city limits of Denver, Colorado, and approximately 50 miles from the Denver International Airport. The topography of the park is characterized by steep mountains, narrow valleys, and high elevations (8,000 to 14,250 ft). Seventy percent of park terrain is above 10,000 feet. In fact, excluding Hawaii and Alaska, RMNP has the highest percentage of mountainous elevations above 10,000 feet, compared to any other national park.

RMNP presents pilots with a challenging flying environment. It has high winds, often in excess of 100 mph. The Park's high altitudes diminish engine performance and propeller efficiency, making it more difficult for an aircraft to perform in high winds. The rugged terrain limits maneuverability, and the rapidly changing weather can unexpectedly envelop an aircraft. Perhaps in part for these reasons, the use of the airspace over RMNP for commercial air tour operations has so far not been extensive. Unlike many other national parks, there are currently no air tour operators overflying the park or operating in the surrounding airspace. However, other aviation users do operate in the airspace above RMNP. Due to the Park's proximity to the Denver International Airport, aircraft operating to or from the airport overfly RMNP. Arrival and departure routes above the Park are necessary to ensure the safe and efficient handling of air traffic into the airport. Traffic into the airport operates at minimum altitudes of 19,000 feet above mean sea level (MSL) for jets and 16,000 feet above MSL for turboprop aircraft. Non-commercial general aviation aircraft also overfly the Park. While these non-commercial aircraft have not themselves created any noise problem, their presence establishes the feasibility of relatively low-level overflights within the park of operators of commercial sightseeing tours with comparable equipment.

The Park provides for automobile access within its boundaries from which there are numerous opportunities for viewing the park's vistas. Park officials estimate that 54 percent of the park can be seen from points along the 149 miles of roads.

Ninety-two percent of the park is proposed for inclusion in the National Wilderness Preservation System and is required by law to be managed by the National Park Service as a de facto wilderness until action is taken by Congress. This means that, among other things, most motorized vehicles must be contained within the existing roadway system, and future development is limited.

The Governor of Colorado, members of the Colorado Congressional delegation, and other officials have requested the Department of Transportation to place a preemptive ban on commercial air tour operations at RMNP. Even though there are no commercial air tour operations at the Park currently, some operators have expressed an interest in starting commercial air tours to officials of Estes Park, Colorado and to the NPS. The government officials who have requested regulatory action are concerned that an influx of commercial air tour operations at RMNP would undermine the enjoyment of the Park by visitors on the ground.

The FAA wishes to be responsive to concerns about the effects of overflights on the national park system. Although the FAA is still developing nationwide standards for overflights of national parks, a relatively unusual set of circumstances has occurred at RMNP. Judging from the requests received by the FAA, there is broad support to protect the park environment by a ban on overflights among local leaders, even in the absence of current commercial air tour overflights. In addition, the FAA acknowledges the value in being able to take the initiative now, before any commercial overflights occur. At this point, there has been no environmental loss from commercial air tour overflights, and a temporary ban on such flights will cause no economic loss to any incumbent operator.

This temporary Special Federal Aviation Regulation will expire as soon as a general rule on overflights over the national park system is adopted. The FAA and DOI will be collecting quantitative data in conjunction with the development of this broader rule that will apply to all units of the National Park System.

Within 24 months of the effective date of this temporary ban, the FAA, in conjunction with the NPS, will complete a review of this temporary ban on commercial air tour operations over RMNP and publish its findings in the Federal Register. The FAA will determine whether the ban continues to be necessary to meet the objectives of the FAA and NPS. This review will consider any data collected during the development of the broader rule, as well as any other additional data that could be relevant to the temporary ban. The FAA also will consider any new issues relevant to RMNP that may have arisen, the effect of the temporary ban on the benefits of the park experience, including natural quiet, and any unanticipated burden the ban may have imposed on the air tour industry.

Discussion of Comments

A. Introduction

On May 15, 1996 (61 FR 24582), the FAA published an NPRM proposing several alternative methods of preserving the natural park experience of Rocky Mountain National Park by imposing restrictions on commercial aircraft-based sightseeing overflights. Commenters were invited to address three alternatives: (1) A total ban; (2) limits on operations, and (3) a voluntary agreement. As of September 1, 1996, the FAA received 4,527 comments from individuals, air tour operators from other geographic locations, environmental and civic organizations, state and local governments, and groups representing the interests of various segments of aviation. The overwhelming majority of these commenters favor Alternative One, a ban on overflights of RMNP, while a minority of commenters, virtually all representing aviation interests (e.g., National Air Transport Association (NATA), Airline Owners and Pilots Association (AOPA), and Helicopter Association International (HAI)) state opposition to any regulation of overflights at RMNP. Specifically, 4,479 or 98.94 percent of the commenters favor Alternative One; 14 or .30 percent favor Alternative Two; and 7 or .15 percent favor Alternative Three. Opposition to the NPRM and to any regulation of RMNP overflights is expressed by 27 or .60 percent of the commenters.

The vast majority of the comments that opposed sightseeing overflights are from private citizens who appear to have been informed about the NPRM by newsletters and other publications distributed by organizations such as the National Parks and Conservation Association (NPCA). In addition, the public was informed of this proposed action through public involvement activities at Rocky Mountain National Park.

A summary of the views presented by the commenters follows. First, the general issues raised by the commenters are discussed. Second, the three alternatives included in the NPRM are explained and commenters' arguments supporting and opposing each alternative are summarized.

B. General Issues Raised by Commenters

1. FAA Authority and Procedural Rules

Helicopter Association International (HAI) (comment 4357) states that this NPRM does not cite a statutory basis for the proposed action, but if the basis is 49 U.S.C. 44715, the FAA failed to consult the Environmental Protection Agency (EPA). HAI also states that the NPRM exceeds the mandate of Congress as stated in Public Law 100–91 to ''provide for the substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight in the Grand Canyon National Park.'' The primary concern of HAI is that there is no Congressional mandate to restore the

natural quiet in the RMNP. Additionally, HAI claims that the NPRM is not in compliance with the Administrative Procedure Act, in that the NPRM is not informative enough to allow a concerned party the opportunity to comment appropriately, is not promulgated on the basis of safety, but on the unsubstantiated and subjective environmental impacts of future overflights, and is not in compliance with the FAA's own procedural requirements in Title 14 of the Code of Federal Regulations (14 CFR § 11.65. HAI also cites the lack of an Environmental Impact Statement (EIS).

National Air Transport Association (NATA) (comment 4229) states that this NPRM allows federal land management agencies like the NPS to ''effectively usurp FAA jurisdiction over air traffic and airspace itself'' which is contrary to the Federal Aviation Act of 1958 that'' * * * specifically charge[d] the FAA with assuring safety and fostering the development of air commerce.'' NATA and HAI state that this NPRM represents an undue threat to the public right of transit through the navigable airspace of the U.S. as provided for in Section 104 of the Federal Aviation Act. For the FAA to propose such a rulemaking would be to remove its authority to promote air commerce and safety, which would be ''an incomprehensible dereliction of responsibility,'' in NATA's opinion.

The United States Air Tour Association (USATA) (comment 4563) states that the FAA fails to cite the statutory authority for the rulemaking, which it suggests is a tacit indication that the FAA does not have the requisite statutory authority to enact the rules put forth in the NPRM.

The Colorado Pilots Association, Inc. (comment 4429) states that the proposed ban would act as an unreasonable interference with interstate and intrastate commerce.

The National Association of State Aviation Officials (NASAO) (comment 4433) points out in a resolution issued at its Washington conference on March 10, 1996, that the proposed rule would give the NPS authority to direct the FAA in the use of the national airspace, which would be interfering with the FAA's mandate under Federal law.

Southwest Safaris (comment 4583) comments that the FAA does not have the regulatory power, as determined by Congress, to regulate that which does not exist. This commenter adds that the FAA was mandated by Congress to foster and promote the growth of commercial aviation, not to ''regulate it out of existence'' and that if the NPRM is implemented, commercial aviation would be discouraged instead of constructively regulated on behalf of the general public's interests.

The Northern California Airspace Users Worker Group (NCAUWG) (comment 4424), claims that the NPRM is inconsistent with the NPS Organic Act, unduly discriminatory against aviation, and would establish an undesirable precedent that could be used in other areas to affect negatively the safe and efficient use of airspace. This commenter states that the NPS was created by Congress to ''promote and regulate the use of Federal areas known as national parks * * * [so as to] conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations'' (16 U.S.C. 1). This commenter contends that regulating overflights over the RMNP does nothing to maintain the objectives listed above.

In contrasts, the Sierra Club/Grand Canyon Chapter (comment 2035) and the Citizens for Aircraft Noise Abatement/Sedona (CANA/S) (comment 4227) contend that natural quiet has been identified by the Park Service as a resource, citing the National Park Service Organic Act, as amended by the Redwoods Act of 1978, that defines resource preservation as the primary goal of the national parks. In addition, these commenters cite the Wilderness Act of 1964, which was enacted to protect the ''primeval character'' of designated lands and to provide ''outstanding opportunities for solitude.''

The Utah Air Travel Commission (comment 1113) oppose the NPRM because it questions the thoroughness and completeness of the scientific basis of the NPS's Report to Congress, in which aircraft noise alone was singled out as obtrusive, making this report both incomplete and biased. This commenter believes a new study is required, complete with the identification of all obtrusive noise source, before further regulation of park airspace is enacted. In addition, this operations of national parks may violate the Americans with Disabilities Act. This commenter is also concerned with the unconditional restriction imposed on aircraft due to noise, and asks if silent engines of the future will still be restricted.

The Utah Air Travel Commission also cites the conclusion of a study, Tour Passenger Survey Results, that the NPS considered biased because it was a survey of air tour passengers. The Commission believes that while the study may be incomplete, it does not recommend the elimination of park overflights; rather, it identifies the major value of overflights. This, in the commenter's opinion, indicates that no further regulation of overflights is warranted or needed.

2. Lack of Safety Justification of Any Rulemaking

The HAI (comment 4357) opposed the NPRM because there are no studies stating that the proposed rules will promote aviation safety or protect the environment and there has been no research conducted stating that health issues will be advanced.

The Montana Department of Transportation (comment 4349) asserts that aircraft overflights do not damage scenery, natural and historical objects or wildlife in the parks. Therefore, this commenter opposes this NPRM as it believes that ''all categories of aviation are already by the use of navigable airspace for all respective flight activities at this time.''

The Colorado Pilots Association, Inc. (comment 4429) states that the proposed ban is unnecessary because aerial tours do not operate over RMNP for obvious reasons: the high altitudes of the park; aircraft loading factors; and the attendant operating costs associated with running successful aerial tour operations. Thus, ''it is inappropriate to restrict an activity that is unlikely to ever occur.''

Geo-Seis (comment 4350), a part 135 certificate holder and provider of certain air tour operations in various parts of the U.S., oppose the NPRM, contending that ''while no specific plans currently exist, [it] is an operator that is contemplating operations in the RMNP,'' especially given the close proximity of its offices to the Park and the type of helicopters this company operates. This commenter asserts that since it operates high altitude helicopters with an excellent safety record, it requests the FAA to reconsider prohibiting helicopter operations in the RMNP in the future.

3. National Standards/General Aviation

National Business Aircraft Association, Inc. (NBAA) (comment 1843), the Grand Canyon Air Tour Council (comment 2006), NATA (comment 4229), Aircraft Owners and Pilots Association (AOPA) (comment 4356), and the NCAUWG (comment 4424) are concerned about the potential for this proposed rule becoming the model for national overflight standards affecting all national parks. While the NBAA (comment 1843) has no vested interest in commercial sightseeing operators, it takes issue with a

requirement to detour around the airspace of national parks while engaging in normal operations. NBAA is opposed to regulation prohibiting overflights by persons other than those engaged in for-hire sightseeing service because ''there is no substantial evidence of significant noise impact on park area from normal (non-sightseeing) overflights by general aviation aircraft.'' Each of these commenters are wary of the implications of the NPRM based on the Grand Canyon National Park Rule, that is their opinion, are inherently discriminatory towards general aviation. AOPA (comment 4356) contends that due to the Grand Canyon National Park Rule, general aviation is required to fly higher altitudes than air tour operators, even though it constitutes very little transient traffic, as opposed to the thousands of overflights conducted by air tour operators. A similar point is made by NASAO (comment 4433). Several of the commenters point out that general aviation does not disturb the natural quiet of RMNP, and the current voluntary overflight altitude of 2,000 feet is one result of voluntary cooperation.

The Grand Canyon Air Tour Council (comment 2006) comments that the RMNP proposal is not separable from the FAA's and the Department of the Interior's project to develop national standards that will attempt to regulate all air traffic over all national parks and other possible federal land, and states that the broader issue ''needs to be brought into the public domain for proper viewing.'' The council recommends a voluntary agreement until the debate on national standards for park overflights is available for national scrutiny.

AOPA (comment 4356) opposes any altitude restrictions for general aviation over RMNP. It asserts that general aviation does not disturb the natural quiet of the RMNP, and the current voluntary overflight altitude of 2,000 feet has served well to negate the potential impact of general aviation overflights.

4. Economic Considerations

Since there are no operators currently performing sightseeing air tour operations over RMNP, the FAA in the NPRM determined that the expected impact of this regulatory action is negligible and that this proposed amendment would not have a significant impact on a substantial number of small entities. Since operators may be considering starting these types of operations over the park in the future, the FAA asked for comment on whether any person intends to institute commercial sightseeing operations at RMNP.

HAI (comment 4357) disagrees with the rationale that there was no need to conduct a regulatory impact analysis because ''there are no operators currently performing sightseeing air tour operators over RMNP, therefore the regulatory impact is negligible.'' HAI states that it is incumbent upon the FAA that an analysis of the future impact of this rule be conducted.

The Grand Canyon Air Tour Council (comment 2006) claims that the cost issue is not fully considered by the FAA. This commenter asserts that if the FAA can use a potential noise issue to justify its proposal it can use potential air tour operation in determining what is and what is not a cost on society. It recommends that the FAA: (1) Assess the monetary value of the RMNP's worth to society; (2) examine the potential revenue that could be appropriately generated through present and future business development (including air tours); and (3) develop a financial mode that would attempt to ascertain cost to society versus other values, e.g., the opportunity to see the seventy percent of the RMNP terrain that is above 10,000 feet.

The Grand Canyon Air Tour Council further asserts that it is very difficult to comprehend how the FAA concluded in the Regulatory Evaluation section that ''this rule would not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade.'' The council states that the majority of air tour operators fall within the federal definition of a small business and that the majority of revenue produced by air tour operators are from foreign visitors.

5. Quiet Aircraft

McDonnell Douglas Helicopter Systems (MDHS) (comment 4552) states that the use of quiet aircraft technology would be more effective in reducing noise than would flight restrictions or the imposition of a ban. This commenter cites Congressional testimony and reports by the NPS and FAA/National Aeronautics and Space Administration (NASA) on the use of quiet aircraft technology and how it can be used as a noise reduction methodology. For example, in a 1994 report to Congress, the NPS recommended the use of quiet aircraft technology as a means to reduce the noise effect on National Parks.

C. Proposed Alternatives

The NPRM outlined three alternative methods of preserving the natural enjoyment at RMNP and requested specific comments on how such agreements could be handled. Alternative One would ban commercial aviation sightseeing tours in the vicinity of RMNP. Alternative Two would allow commercial sightseeing tours, but would restrict the operations to routes that would be restricted to minimum altitudes and would follow the existing road system, among other restrictions. Variations of this alternative were presented in the NPRM. Alternative Three would call for voluntary agreements between air tour operators and the NPS.

Since there were no air tour operators conducting overflights at the time the NPRM was proposed, the three proposed alternatives were an attempt to provide a fair representation of the possible ways to mitigate the predicted effect of aircraft noise generated by future air tour operators. Using the alternatives, which included suggestions ranging from the maintenance of the status quo through the use of voluntary agreements and restrictions on time, season, and altitudes, to a complete ban on all future air tour operations, the FAA made an informed decision. After considering the public policy favoring the preservation of the natural enjoyment of our National Parks, the strong demand from Colorado residents to ban commercial air tour overflights, the special situation and unique features of RMNP, and the numerous comments and alternatives, the FAA concluded that a ban on commercial air tour operations over RMNP will ultimately inure to the benefit of all. In effect, the ban will operate to preserve the status quo, because there are currently no commercial air tour operations at RMNP. The ban clearly protects the enjoyment of the park while avoiding the imposition of restrictions that would result in a less than meaningful opportunity for commercial air tours to operate over RMNP.

1. Alternative One—Ban Sightseeing Tours

a. *Support.* The majority of commenters (99 percent) support a ban on commercial aviation sightseeing tours. Most of these commenters are individuals who live near the park and/or have visited the park. Organizations that support a ban include: CANA/S, Sierra Club, NPCA, Wilderness Land Trust, League of Women Voters, Town of Estes Park, Estes Valley Improvement Association, Inc., Larimer County Board of County Commissioners, The Wilderness Society, and other local governmental and non-governmental organizations. Reasons that commenters give for supporting the ban include:

(i) *Preserve the Natural Enjoyment of the Park.* Commenters stress that the total ban would preserve the natural enjoyment and tranquillity of the park, which is what visitors value most in their national park experience. Some commenters cite statistics. e.g., 96 percent of park visitors value tranquillity, and 81 percent of park visitors are directly opposed to tour overflights. Some commenters point out that most of the park's visitors come from urban areas and are seeking the peace and quiet offered by the park. Others point out that the original purpose of national parks and wilderness areas was to provide this natural tranquillity and that overflights would destroy this objective.

Commenters assert that the allowance of overflights at other national parks (e.g., Grand Canyon National Park) has resulted in unacceptable noise levels which spoil the experience of park visitors. For example, commenter #2698 says that commercial sightseeing tours in Sedona, Arizona's Red Rock and Canyon regions continually violate FAA regulations which limit flight altitudes.

Roy Romer, the Governor of Colorado (comment 2156), supports Alternative One. He cites the counties, chambers of commerce, and hundreds of area citizens who have shown their unanimous support for a ban on helicopter tour overflights and who believe that helicopter tours of the park would be inconsistent with the long-term economic development goals and quality of life in their communities. Similarly, CANA/S (comment 4227) references two memos: One from Department of Agriculture, Secretary Dan Glickman, to Department of Transportation, Secretary Federico Peña (dated July 31, 1996); and the other from the Forest Service Chief Jack Ward Thomas to Secretary Glickman (dated April 11, 1996): ''We believe that commercial helicopter flights over wildernesses are inconsistent with the values for which these areas were established by Congress.''

Estes Valley Improvement Association (comment 155) claims that tour operations would shatter the silences in the RMNP ''bowl of a valley.'' It is this commenter's belief that because the air is thin in this area, larger and stronger helicopter engines would be necessary. This would result in unendurable noise in the valley, thereby negatively impacting the ground tourism as well as the quality of life for the residents of the area.

The NPCA (comment 3634) states that, unlike commercial passenger jets and general aviation operations, commercial air tour operations are characterized by frequent, low-altitude flying to maximize contact with scenic points of interest. From the perspective of NPCA's members, this impacts on the park visitor's experience and the preservation of natural quiet.

(ii) *Safety.* Estes Valley Improvement Association (comment 155) cites the danger that tour operators would put themselves in by flying in an area known for extreme variations in weather, as sudden storms are common in the Great Divide and have been known to destroy airplanes. This, in turn, is a great source of danger for helicopters, people on the ground, and rescue operations.

Another commenter (comment 1335), based on his experience as a park ranger at the RMNP, states that bursts of wind would prove difficult for piston-engine aircraft to maintain altitude, air speed, and control when operating in the ''rarefied air of these altitudes'' of the RMNP. Also, he comments that the terrain of the park is more vertical than horizontal and is not safe for the operation of any aircraft and that a further danger would be for rescue personnel and victims of an incident. He cites the specific example of a recent airplane accident on Mount Epsilon, where the plane exploded from impact on the mountainside; when the airplane and pilot were found, there was no safe way to retrieve the pilot's body due to the potential of avalanches caused by the perilous plane position on the snow cornices on top of the cliff.

One commenter asserts that Alternative One would ensure the safety of park visitors (passengers on overflights and visitors on the ground) by preventing flying in a potentially unsafe mountainous area with varying elevations and unpredictable weather conditions (e.g., quick-forming thunderstorms, strong mountain wave winds and accompanying turbulence). One commenter (comment 540) also asserts that the crash of any aircraft could likely ignite a catastrophic forest fire.

(iii) *Wildlife.* From an ecological standpoint, commenters 295 and 1335 assert that increased air traffic can affect animals in many negative ways: adversely affecting breeding behaviors of birds and mammals, interrupting nesting habits, and causing stress to certain species. Animals indigenous to these areas are apt to respond to this noise stress by either migrating from the area or simply dying off, unable to handle the stress to their natural habitat. In addition, there may be an increased danger from rock falls and avalanches. To this commenter, the most important issue is that the RMNP should serve as a tranquil refuge to the wildlife. Posing a similar ecological concern, a park ranger (comment 1335) mentions the greater pollution problem when dealing with airplane crashes, scattering fuel loads and airplane parts throughout the fragile tundra ecosystems, which require years to recover from such accidents.

A complete ban would prevent potential negative impacts on wildlife. Some commenters state that RMNP is one of the last refuges for many species, and that overflights would devalue their natural habitat and safety. This, in turn, would impact visitors' experience of the park because many of them value wildlife sightings. It would also be consistent with the national policy of providing protection for national park lands.

(iv) *Access for Disabled.* To counter the claim that prohibiting the flight of helicopters would disadvantage the elderly or disabled from enjoying the park, the Estes Park Accommodations Association (comment 257) states that there are areas for cars to travel as well as tour vans to accommodate them. The Wilderness Land Trust (comment 2027) similarly assert that there are opportunities to partake of the scenic vistas, making aviation sightseeing unnecessary.

Visitors who cannot or choose not to see the park on foot can already get a good view of the park and look down on the mountains by driving on one of the park's several roads (e.g., Trail Ridge Road) or by using the handicap accessible trails. Thus, overflights are unnecessary.

(v) *Cost.* CANA/S (comment 4227) states that the benefit (natural quiet for the vast majority of visitors and residents who value this resource) of Alternative One justifies its costs (a disappointed prospective air tour operator of some unknown time in the future). The same analysis applies to the option of maintaining the status quo (avoiding any additional expenses now), which according to this commenter does not ''justify its costs (uncertainty about the advent of RMNP air tours, as well as the failure of FAA to address problems in their early or pre-existent stages, not to mention even higher expenses to solve problems retroactively.)'' The benefits of Alternatives Two and Three (economic transactions between the few and the fewer) do not justify their costs (shattered natural quiet for most individuals, and enormous governmental expenses for dealing with the problems).

(vi) *Other.* The Wilderness Society (comment 4457) states that, as has occurred at other national parks, correction of overflight problems will be

virtually impossible once commercial flights have become established. Thus, FAA action is necessary to preclude the establishment of commercial air tour operations within RMNP and provide the highest degree of protection for the park's resources and visitors.

The Sierra Club, Grand Canyon Chapter (comment 2035) strongly supports Alternative One and adds the following recommendations: the rule should be implemented permanently; four bordering Congressionally designated wilderness areas should also be covered under this no-air-tour-flight rule, specifically, Comanche Peak, Indian Peak, Neota, and the Neversummer Wildernesses; general aviation should be subjected to the same rule as air tour operators, except that low altitude flights may be required for emergency purposes like search and rescue, fire-fighting, etc.; and the rule should apply to airspace adjacent to the protected areas as well.

b. *Oppose.* (i) Air Transportation—Least Damaging. Commenters such as the HAI (comment 4357) and Geo-Seis (comment 4350) claim that helicopters and other air tours are the most environmentally sound means to enjoy RMNP because, unlike those visitors on foot, the air tour visitors do not trample vegetation, disturb artifacts or leave behind any refuse. In addition, air tours do not require roads or other infrastructure development. More importantly, they provide a service to the handicapped and elderly, who would not otherwise be able to visit the park. Finally, these tours may fulfill the need to provide rescue and emergency airlift.

NATA (comment 4229) and HAI (comment 4357) state that these proposals are discriminatory in nature as no other modes of access to the Park have been proposed to be limited. NATA states that ground traffic ''extol a much more tangible price on the natural beauty of the Park'' while air tours ''leave no residual effects within the Park that affect the enjoyment of the Park by persons on the ground.''

(ii) *Temporary Ban While Studying.* NATA (comment 4229) notes that the idea behind the prohibition of all flights is to allow the FAA and NPS the opportunity to ''study the situation and to develop a plan for controlling these overflights to minimize or eliminate their effect on park visitors on the ground.'' This commenter thinks that this alternative is counter-intuitive to this stated objective, as no data would be able to be collected if no flights were permitted to take place in the RMNP. In order to accurately determine the effect of air tours within the Park, air tours must be allowed within the Park, as extrapolating or estimating the data from other sources would be inaccurate due to the unique characteristics of all parks. In conclusion, NATA believes that the fact no sightseeing operators provide service to the Park is irrelevant and future opportunities to provide access to the Park are eliminated unfairly.

(iii) *Air Tour Operators comparable to General Aviation Aircraft.* The USATA (comment 4563) points out that, according to the NPRM, commercial aircraft currently overfly the park on a daily basis at 19,000 and 16,000 feet above mean sea level (MSL). USATA says that these altitudes are less than 2,000 feet above the highest peaks and also adds that, since seventy percent of the park terrain at RMNP is 10,000 feet MSL, most of the general aviation aircraft currently flying through RMNP are following routes where the Park's peaks rise above these aircraft. USATA states that with numerous aircraft moving in, around and above RMNP, NPS officials, in discussions with the FAA, have found that these aircraft have not caused any serious noise problem. USATA believes that air tour aircraft are akin to general aviation aircraft and commercial overflights, and if used properly, would present negligible effects.

(iv) *Other.* Temsco Helicopters (comment 4575), an operator that conducts air tours in Alaska, says that prohibiting air tours would be discriminatory to air tour operators. This commenter also says that alternative one would create interpretation problems. For example, ''are flights that are point to point but fly through RMNP air tours? Is a photo flight an air tour?''

2. Alternative Two—Permit Sightseeing tours with Limitations

a. *Support.* Geo-Seis (comment 4350) would support some time-specific restrictions under this option and suggests that the times be modified to parallel optimum flight conditions, which are primarily earlier in the mornings to mid-afternoon.

b. Oppose. (i) Enforcement. The Estes Valley Improvement Association (comment 155) claims that limiting operations is completely unsatisfactory primarily because of the inability of any agency to monitor this regulation. This commenter and others believe that the proposed requirement of flying 2,000 feet above ground-level is not practical or enforceable since the ground-level varies so drastically from 7,500 to 14,255 feet.

CANA/S (comment 4227) claims that the FAA's 2,000-foot above-ground-level guideline for flights over noise-sensitive areas is routinely ignored by air tour operators. In addition, HAI's flight guidelines are also often ignored.

An individual commenter (comment 325) says that a 2,000 ft. above ground level restriction is meaningless because ''[o]ver much of the park's terrain hikers could throw rocks down on the occupants of a plane complying with the restriction.'' Also, seasonal restrictions are meaningless because the park is used year-round by skiers and others.

(ii) Noise Issue. Estes Valley Improvement Association (comment 155) states that since noise from aircraft reverberates all over the valley, this option to keep flying only over roads would not solve the reduction in noise issue, as this area is where the highest percentage of residents, visitors and lower groups of animals would be affected.

Similarly, CANA/S (comment 4227) adds, noise from aircraft flying at 2,100 feet above ground is, for all intents and purposes, indistinguishable from that at 2,000 feet. Therefore, this alternative and the voluntary agreement fail to address many aspects of the natural quiet equation. This commenter adds, according to NPS's 1992 *Aircraft Overflight Study: Effect of Aircraft Altitude upon Sound Levels at the Ground,* any doubling of flight altitude (say from 2,000 feet to 4,000 feet) would, based on divergence alone, result in only a 12 decibel reduction (NPS, page 3). This commenter contends that this may be helpful in the instance of already quiet aircraft, but loud aircraft would still shatter the quiet.

The Wilderness Society (comment 4457) states that the restrictions of Alternative Two would not eliminate the degradation of visitors' experiences. Routing flights over road corridors would mean that more visitors would be affected by the noise, and routing flights over backcountry areas would affect the highest quality wilderness and wildlife habitat. In addition, restrictions on elevation above ground level would not eliminate the noise problem, and would result in as a de facto ban at those altitudes where noise levels were reduced to an acceptable level because the distance from the ground to the aircraft would be too great to afford a decent view. Finally, it would also be extremely difficult to enforce an altitude restriction.

(iii) Lack of Data. Taking a different approach to this alternative, NATA (comment 4229) perceives that the variants presented by this alternative

offer nothing more than varying forms of restrictions. This commenter assumes that the basis for this action is to enhance the environment of the Park by visitors on the ground by limiting air tour operations during these periods. However, NATA asserts, no quantifiable data exists as to how limiting air access to the Park will enhance the experience of visitors on the ground. According to a survey of Park users conducted by the NPS, about 90 percent of the visitors to the Park stated that their enjoyment of the Park would be affected by helicopter noise. This commenter states that using this data to limit all overflight operations is ludicrous, and ''the FAA cannot apply theoretical data to a nonexisting situation.''

HAI (comment 4357) believes that this NPRM does not provide sufficient information for meaningful comment. For instance, no information on what routes are considered in Alternative Two was included and there are no maps or charts provided for an analysis of proposed routes. This lack of information makes it impossible to comment in detail.

(iv) Other. NPCA (comment 3634) states that, in a park environment that is totally free of commercial air tour activity, placing limitations on operations would invite the establishment of such activity. NPCA adds that any limit, less restrictive than a total and permanent ban, would result in the derogation of park values rather than any improvement of current conditions.

Temsco Helicopters (comment 4575), which supports alternative three, states that time and seasonal restrictions of alternative two would make any kind of air tour operation unworkable. For example, seasonal restrictions would make operations economically unfeasible and would close the park to one type or class of visitor for a portion of the year.

USATA (comment 4563) disapproves of imposing limits on the routes used by air tour aircraft and points out that the ability of these aircraft to operate away from populated areas is a positive factor. USATA states that air tours would cause the least amount of environmental damage to wilderness areas and would therefore be supporting the mission of the Wilderness Act to preserve the ''primeval character and influence'' of these areas.

USATA goes on to point out its difficulties with Variants A, B, and C. USATA says that the 2,000 feet AGL limitation of Variant A would be in effect a ''one-size-fits-all'' approach would could exacerbate the presence of sound from aircraft; this was the case in Haleakala National Park which was required to meet a 1,500 foot AGL minimum by SFAR 71. USATA also states that the time limitations of Variant B would be unreasonable because it would be impossible to present many of the wonders of the park in the absence of flight. Finally, USATA says that the seasonal limitations of Variant C would threaten the viability of air tour operations seeking to operate in RMNP because many of these companies would need to operate year round in order to stay in business.

3. Alternative 3—Voluntary Agreement

a. *Support.* The Grand Canyon Air Tour Council (comment 2006) contends that this is the only viable option. This commenter believes that a voluntary agreement is necessary, because such an agreement provides a solution ''where no authority exists for effecting regulatory options (as in the case of this RMNP NPRM).'' This commenter provides reasons why the other two alternatives are not acceptable: the disregard to the interests of the elderly and handicapped to have air tour availability in the RMNP, the lack of an Environmental Impact Statement prior to the implementation of the proposed SFAR, and the fact that this proposal is based on a request by Colorado's Governor, the Congressional delegation, and other officials from Colorado specifically, none of whom are the owners of this national park and do not represent a federal statutory authority nor a legislative mandate. Therefore, in this commenter's opinion, it ''would appear incumbent upon the FAA to decide to proceed only with Alternative Three and request the involvement of potential tour operators in the establishment of a voluntary agreement to prohibit or limit operations.''

Temsco Helicopters (comment 4575) points out that there are good examples of existing voluntary agreements that are working well. For example, in Alaska, where this commenter operates, the best routes and altitudes have been refined over the years and have resulted in the least impact and very few complaints. This commenter states that an SFAR would not allow for the kind of refinements and positive results that such agreements have fostered.

Geo-Seis (comment 4350), an air tour operator, believes that given the personal preferences of paying customers on these flights and limitations on flights due to adverse weather conditions, voluntary and satisfactory operating agreements could easily be established with most operators.

AOPA (comment 4356) believes ''cooperation between general aviation pilots and the NPS has always been a cornerstone of aviation's efforts to preserve the park experience of ground visitors. The current voluntary overflight altitude of 2,000 feet is one result of this cooperation.''

USATA (comment 4563) supports the use of voluntary agreements and says that its organization would work with the FAA, NPS, and others in drafting a letter of agreement. The agreement should address these issues: (1) areas that would be covered, (2) possible restrictions and identities of the participants, (3) discussion on how an agreement would be implemented in the necessary time frame, (4) how an altitude restriction would be enforced, (5) suggested penalties for violations, and (6) the circumstances under which an agreement could be terminated.

b. *Oppose.* Many commenters say that voluntary compliance is unrealistic because operators would not voluntarily limit their own profits and because it would be difficult to enforce. For example, commenter #325 says that the park is sufficiently large to be a challenge to monitoring of compliance.

The Estes Valley Improvement Association (comment 155) believes that this proposal is completely unrealistic since, currently, operators do not exist in the RMNP, and no possible route of overflights could make tolerable the noise which would fill the Valley and the Park.

NPCA (comment 3634) states that voluntary agreements have a history of failure and cites the experience at Hawaii Volcanoes National Park where many operators, after having given verbal agreements to park management, backed away from written agreements for fear that a rogue operator would capitalize on non-compliance and seize market share. Similarly, the Wilderness Society (comment 4457) states that voluntary agreements have not successfully protected park resources and that violations occur for which the Park Service has no recourse.

On the NPRM's use of the Statue of Liberty and Jefferson National Expansion Memorial as examples of successful voluntary flight agreements, CANA/S (comment 4227) refutes the ability of the FAA to use them as examples. These locales are site-specific, urban ones, where ''natural quiet'' did not already exist to any appreciable degree, particularly with the 500-foot above ground level altitude agreements in effect. These locales are in no way comparable to those of much more vast territory, much of it wilderness, and much of it relatively

quiet. The sightseeing objective of those two examples is to swoop around a single entity. Similarly, NATA (comment 4229) claims that while these self-regulated, self-policing cases have been successful for those specific parks, no air tour operators currently provide service to the RMNP, and no agreements can be made between the government and ''air tour operators which may exist in the future.''

Response to Comments

As will be described in greater detail below, the comments offered many cogent and informative remarks for consideration by the FAA. The number and quality of the comments received demonstrated to the FAA the importance and complexity of this issue as it relates to RMNP. All comments were thoroughly read and analyzed.

Many of the commenters offered similar arguments for either acceptance or rejection of the various alternatives presented in the NPRM. Due to the vast number of the comments, the section below is a summary of the assertions alleged in the comments and the corresponding response by the FAA.

FAA Authority To Manage the Airspace

Several commenters questioned what they considered was the apparent usurpation by the NPS of the FAA's statutory authority and jurisdiction to regulate the national airspace system. They asserted that the NPS, through this rule, had gained control over the navigable airspace in complete disregard to the FAA's statutory mandate. The regulation of navigable airspace is the sole responsibility of the FAA. The United States Congress has clarified this issue by vesting the FAA with sole authority for the management and control of the navigable airspace. In addition, safety remains the FAA's primary consideration and plays a necessary and integral role in any decision made by the agency.

The allegation that the NPS has assumed jurisdiction for the management of the national airspace is unfounded. The FAA and NPS worked closely together, however, to base any regulatory action on FAA's statutory authority and responsibility. Toward this end, for example, no action was even proposed until the FAA made a determination that there would be no adverse effect on aviation safety in navigable airspace from any of the proposals stated in the NPRM.

Several commenters argued that the FAA lacked the authority to regulate a problem that ''does not exist.'' These commenters argue that it is premature for the FAA to regulate this area, where commercial air tours do not presently operate over RMNP. The Administrator of the FAA is charged with the duty of regulating the use of the navigable airspace, adopting regulations deemed necessary to abate aircraft noise, and protecting persons and property on the ground. The Administrator has the authority to regulate whenever previous history or evidence has revealed a propensity for future problems.

The FAA acknowledges that each of the national parks differ in their topography, nature, size and purpose, but certain experiences found in one park also occur in other parks. Experience with commercial air tour operations in Badlands National Park, Bryce Canyon National Park, Glacier National Park, Glacier Bay National Park, Great Smokey Mountains National Park, Grand Canyon National Park and Mt. Rushmore National Memorial have demonstrated the rise in the number of commercial air tour operations conducted over the parks and a concomitant increase in the noise from such operations.

For example, at Glacier National Park, The NPS estimates that from 1986–1996 the number of fixed wing and helicopter tours at the park increased from 100 to 800 and the number of tour operators from one to five. At Badlands National Park, NPS estimates that the single air tour operator offering helicopter tours conducted over 400 flights in a five month period, or an average of three flights per hour during peak periods. These flights are repetitive in nature concentrated in two basic circular flight patterns over the same area again and again, constantly disturbing the quiet of the park. The air tour operations have led to numerous complaints by visitors to the park.

Bryce Canyon has air tour operations from several locations within the vicinity of the park. At Bryce Canyon Airport, located 3.5 miles north of the park, NPS reports that the number of enplanements has increased dramatically from 1299 in 1991 to approximately 4700 per year in the current year. Likewise, the number of air tour operators, from all locations, has increased from one to five. At the Mt. Rushmore National Memorial, the Park Service estimates that the number of overflights has increased from 2400 per year to 4000 per year along with an increase of tour operators from one to four. All of the tour operators use helicopters and the majority of these flights are concentrated in the summer months at the rate of approximately 30 per day.

In addition, the Park Service has conducted a survey of park users at RMNP, which indicated that ninety-three percent of visitors considered tranquility to be an ''extremely'' or ''very'' important value in the park. Approximately ninety percent of the visitors surveyed stated that noise from helicopter tours would affect their enjoyment of the park. A copy of the survey has been placed in the docket of this proceeding.

Based upon this information from RMNP visitors, the growth of tour operations at these other parks, and the apparent representations of potential tour operators, the FAA has concluded that the introduction of air tour operations at RMNP is a real possibility in the absence of regulation. Further, if commercial air tours are established at RMNP, the actions by commercial air tour operators at the other parks suggests that the number of commercial air tour operators and the number of daily over flights would both increase beyond *de minimus* levels. Air tour operations would tend to visit many of the points of interest where ground-based visitors are likely to concentrate and to conduct operations at altitudes so as to maximize contact with these points of interest. The increase in operations and their proximity to major points of interest would lead to increased noise levels thereby impacting the quiet enjoyment of RMNP expected and desired by visitors to the park.

While the FAA has determined that a permanent rule regarding oversights of Rocky Mountain National Park by commercial tour operators should be made part of the overall rulemaking on overfights of all national park units, the FAA is taking this temporary action now to avert the introduction of such operators into RMNP while the national rule is completed. The experience gained from other national parks forms part of the basis for the Administrator's decision to move at this time to protect Rocky Mountain National Park.

Administrative Procedure Act

One commenter alleged that the FAA has failed to comply with the Administrative Procedure Act's notice and opportunity for comment requirements by failing to provide sufficient information to allow a meaningful response to Alternative Two. As an example, the commenter suggests that, under Alternative Two, the absence of maps and charts deprives the commenter of a meaningful opportunity to analyze the proposed routes.

Section 553(b) of the Administrative Procedure Act provides that ''notice shall include—(3) either the terms of substance of the proposed rule or a

description of the subjects and issues involved.'' Under the alternatives section, the FAA solicited comments on numerous proposals, while requesting new ideas on possible restrictions. The Agency received many comments on the proposed alternatives, but no new alternative that had not already been proposed. (Had the FAA received a new, significantly different, proposal on which it relied, the FAA would have issued a Supplemental NPRM to solicit comments on the new proposal prior to taking action.) The number and specificity of the received comments demonstrate a general understanding of the proposed alternatives. Therefore, the FAA concludes that it has provided sufficient detailed information concerning the description of the subjects and issues involved to comply with the terms of the Administrative Procedure Act by affording interested parties with a meaningful opportunity to comment on the proposal.

''Natural Quiet'' Standard

One commenter challenged the action of the FAA as proposed in the NPRM by alleging that the actions of the FAA exceeded the Congressional mandate provided under Public Law 100–91 to substantially restore the natural quiet of the Park, because that standard was devised solely for the protection of the Grand Canyon. The commenter further opined that the attempt to achieve ''natural quiet'' in RMNP was inappropriate and without any Congressional mandate.

It is true that Public Law 100–91 was directed to restoring the ''natural quiet'' of Grand Canyon National Park only and not to the other parks in the national system. Public Law 100–91 provides for the substantial restoration of the natural quiet and experience of the Grand Canyon National Park and protection of public health and safety from adverse affects associated with aircraft overflights. The FAA is taking separate action on restoring the quiet of Grand Canyon National Park.

In this final rule, however, the FAA is carrying out President Clinton's directive to promote natural quiet at Rocky Mountain National Park. As noted above, the President's *Parks for Tomorrow* initiative specified that the restoration of natural quiet, and the natural enjoyment of RMNP are goals to be addressed by this rulemaking. By promulgating this final rule, the FAA is cooperating with the NPS to further the goal of protecting Rocky Mountain National Park, its environment, and visitors' enjoyment, to ensure that the potential problems associated with noise from commercial air tour operations do not arise while a long-term solution is developed to protect RMNP and other national park units from the adverse effects of overflights by tour operators.

Another commenter asserted that NPS's report to Congress, while espousing the restoration of natural quiet, singled out only noise as being obtrusive. The commenter alleged that this made the report incomplete and biased.

The NPS's report to Congress: *Report on Effects of Aircraft Overflights on the National Park System* responded to the Congressional mandate set forth in Public Law 100–91. The scope of the mandate was limited to the impacts of aircraft overflight on the national park system with distinctions to be made among various categories of aircraft overflights. The law made no provision to identify or compare any impacts on the national park system from other activities or sources. To the extent that other activities, such as ground transportation, may have an adverse effect on parks' environment or visitor experience, these effects can be dealt with by the NPS under its authority.

NEPA Requirements

Some commenters maintain that the FAA should prepare an environmental impact statement (EIS) pursuant to the National Environmental Policy Act of 1969, prior to issuing the final rule because they contend that implementation of any of the alternatives of the proposed SFAR, except the ban alternative (Alternative 1), will have a significant adverse affect on the quality of the human environment.

According to the FAA's Environmental Order 1050.1D, the final rule is a Federal action which requires compliance with the NEPA. Consistent with the FAA Order 1050.1D, Para. 35, the FAA prepared a draft environmental assessment (DEA). The DEA did not disclose potentially significant direct or indirect impacts affecting the quality of the human environment. On November 21, 1996, the FAA announced the availability of the DEA for notice and comment. The comment period on the DEA remained open until December 23, 1996. Based on the comments received on the DEA and further analysis, the FAA has issued a Final EA. The FAA has determined that no additional environmental analysis is required and has issued a finding of no significant impact (FONSI). The final EA and FONSI has been issued and is available for review in the Docket. For copies of the documents, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section listed above.

This final rule constitutes final agency action under 49 U.S.C. 46110. Any party to this proceeding having a substantial interest may appeal the order to the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within 60 days after entry of this Order.

EPA Consultation

One commenter states that the NPRM does not cite a statutory basis for the proposed action, but if the basis is 40 U.S.C. 44715, the FAA failed to consult the EPA.

The FAA is, in fact, relying on 40 U.S.C. 44715 and has consulted with EPA. The EPA believes that the environmental assessment adequately supports a finding of no significant impact.

Airline Deregulation Act

Another commenter believes that by promulgating the NPRM, the FAA has violated Section 102 of the Airline Deregulation Act of 1978 by failing to: (1) Encourage the entry of new carriers into air transportation, (2) foster the expansion of existing carriers into additional air transportation markets, and (3) insure the existence of a competitive airline industry. The commenter cites the possibility that interstate operators might become interested in commercial air tours in the future.

The statutory obligation to encourage development and competition among air carriers is not unconstrained. The FAA has authority to regulate, restrict, or prohibit activities by operators when necessary in the public interest. The final rule effects a temporary ban on commercial air tour operations over the Rocky Mountain National Park; the FAA has determined such a ban is necessary to allow for the orderly development of a comprehensive approach to regulating air tour operations at RMNP and other parks in a manner that is consistent with the needs of park visitors on the ground. The potential that an interstate operator will become interested in commercial air tour operations at RMNP at some unspecified point, let alone during this interim period, is pure speculation, irrespective of the informal remarks of the commenters, and fails to rise to the level of a protectable interest. Moreover, it is important to recognize that a major reason the final rule has been promulgated, prior to the existence of commercial air tours, is to avoid the unnecessary interruption of established commercial service by whatever

regulation is adopted in the broader national rulemaking now underway on park overflights.

This rulemaking arose in response to public demand. The policy for preserving the natural enjoyment at our national parks has been formulated by the FAA to facilitate the adaptation of the air transportation system to the present and future needs and interests of the public. Any potential air tour operator currently evaluating whether to provide air tour operations within Rocky Mountain National Park will be able to participate in the development of the rulemaking on national park overflights at all parks, including RMNP.

Americans With Disabilities Act

Several comments were received alleging that the final rule will violate the Americans With Disabilities Act, § 2(a)(8) by depriving disabled persons of equal opportunity for full participation in the enjoyment of the Rocky Mountain National Park. According to these comments, commercial air tour operations will be the only way disabled individuals can enjoy the vistas of RMNP.

To the contrary, Rocky Mountain National Park offers an unique opportunity for disabled individuals to enjoy its spectacular vistas via its extensive road system. Approximately 54% of the RMNP can be viewed from some point along its 149 miles of winding road. In this aspect, RMNP is unique in its ability to provide access to recreational experiences via trails which allow access to backcountry and scenic vistas. Moreover, the NPS has established facilities and programs within RMNP to enhance the opportunities for visitors with disabilities to experience the Park. Thus, FAA believes that this rule does not violate the ADA.

Economic Costs

One commenter suggested that the FAA should conduct a cost/benefit analysis to determine whether the costs of implementing the NPRM will exceed its ultimate value to society. The imposition of this ban will not have an economic impact on commercial air tour operations over RMNP today because they are non-existent. Nor does the FAA consider it probable that significant levels of new services will arise during the temporary period between adoption of this rule and completion of the more comprehensive rulemaking on national park overflights. The FAA's intent is specifically to avert economic damage to commercial air tour operators by acting prior to one of more operators commencing business on the assumption that they will be allowed to operate over RMNP once the general rule is adopted. By acting expeditiously, the FAA will enable these operators to avoid making the capital investments necessary to engage in these operations that may be subject to future restrictions as part of the national rule.

However, it would be an error to minimize the true impetus for the final rule which is to preserve the natural resources at RMNP, including the quiet and solitude. In this respect, it is difficult to assign a monetary value to the benefit to be gained by this rule. Specifically with respect to the economic value attached to the preservation of environmental values, some economic analysis models (such as use of a ''willingness to pay'' analysis) could ascertain an economic value to society of such an asset. However, such analysis is not necessarily directly comparable in a cost/benefit basis with the economic valuations of costs and benefits that the FAA undertakes for other rulemakings. As a result, the information provided through such an effort would have little analytical or probative value.

National Standards/General Aviation

Many of the commenters that expressed opposition to this rule stated that it is premature for the FAA to take action concerning one park within the national park system when it is currently drafting a rule to cover all aviation operations within the total national park system. The commenters felt that parks should not be dealt with on a case-by-case basis, but should be incorporated into any national standards that are promulgated.

To some extent, the FAA agrees with these concerns. For that reason, this rule will terminate when national standards are adopted. However, in view of the strong local demand for action to ensure preservation of Rocky Mountain National Park and the ripeness of this proceeding, the FAA is taking the opportunity to establish temporary protective measures at RMNP while the national standards are being adopted. By Presidential Declaration dated April 22, 1996, the President directed the Secretary of Transportation to consider and draft a Notice of Proposed Rulemaking that would propose national standards for air tour overflights of the national parks. The FAA is working on that national rule currently and will follow rulemaking procedures, including proceeding with notice and opportunity for comment, prior to taking any final action. The FAA has designed its Rocky Mountain National Park rule to terminate on the adoption of national standards.

Certain commenters raised an objection that even though the air tour ban would apply to only commercial air tour operators, the rule proposed still represents an undue threat to the public right, including that of general aviation aircraft, to transit the navigable airspace of the United States. This final rule is strictly limited to overflights by commercial air tour operators over RMNP. Air tour operations differ from general aviation operations in the frequency of trips and their operational altitudes. In addition, air tours generally operate over picturesque areas where ground traffic congregates and at altitudes intended to maximize contact with these areas. Therefore, air tour operations are distinguishable from general aviation operations to such a degree as to remove any perceived threat to the right of general aviation aircraft to transit RMNP. Under the provisions of the final rule, all other aircraft will remain undisturbed in their current routes and altitudes of flight.

Quiet Technology

Another commenter recommends that rather than banning commercial air tours over the RMNP, the FAA should follow the recommendations of a 1994 report to Congress where the NPS suggested the use of quiet aircraft technology as a means of reducing the noise effect on National Parks. The NPS report to Congress suggested that quieter aircraft could be used in substantial restoration of natural quiet in Grand Canyon National Park (GCNP). It identified Dtt C–6–300, Vistaliner and Cessna 208 Caravan airplanes, and the McDonnell Douglas ''No Tail Rotor'' helicopters as the quietest aircraft currently operating in GCNP. The NPS made this determination based on its evaluation of aircraft certification data derived from applicable noise certification standards in Part 36 of Title 14 of the CFR, and from NPS flyover noise measurements taken in the park. Because of the temporary nature of this rule, the FAA determined that quiet technology would not provide an adequate alternative. Quiet technology ultimately holds great promise for ensuring the compatibility of air tour overflights and the maintenance of quiet for ground-based visitors of national parks. Indeed, movement toward the use of quiet technology forms a cornerstone of the FAA's proposal for a long-term solution to overflights of the Grand Canyon. And the FAA will want to explore the role quiet technology should play in the national rule. However, for this interim period, a temporary ban on

commercial air tour operations will maintain the status quo and allow an orderly resolution of questions pertaining to quiet technology and other issues. To the extent that technological change would allow the operation of commercial air tours within RMNP in a manner consistent with the protection of the Park, its resources, and its enjoyment by visitors, the FAA will review this rule in the future.

The Lack of Air Tour Operators

Certain commenters questioned whether this rule was even necessary, because aerial tours do not operate over RMNP for obvious reasons: the high altitudes of the park; aircraft loading factors; and the attendant operating costs associated with running successful aerial tour operations. The FAA, in cooperation with the NPS, is currently developing regulations to govern aircraft overflight of national parks. Since the inception of that effort, interest has been expressed by an operator to commence commercial air tour service at RMNP. As a practical matter, it was the fact that a commercial air tour operator was contemplating engaging in flights over RMNP that caused the Governor of Colorado, members of the Colorado Congressional delegation, and Estes Park, Colorado officials to request the FAA to preemptively ban such operations at RMNP.

The fact that commercial air tour service is being contemplated for RMNP supported the FAA determination that immediate action was necessary to preserve the natural enjoyment of visitors to RMNP by implementing a *temporary* ban on commercial air tour operations. In addition, the FAA believes it is critical to act expeditiously on this matter to avoid any potential environmental and economic impact.

Alternatives

As previously mentioned, the FAA is attempting to implement a regulation over RMNP that achieves the goal of preserving the natural enjoyment of the Park by visitors by averting the future and potential adverse effects of aircraft noise. The comments received on the alternatives were crucial in the FAA's decision. Based on the comments, the FAA determined that Alternatives 2 and 3 would not achieve the desired goal. Therefore, the FAA has determined that the best alternative in application and result would be Alternative One on a temporary basis.

In response to the voluntary agreement alternative and the comments received on that alternative, the FAA determined that since there are currently no air tour operators conducting operations over the Park, there are no operators to participate in a meaningful discussion and negotiation with the NPS officials at the Park. The FAA is appreciative of the willingness of certain aviation groups, such as USATA and HAI, to participate in the drafting and implementation of a voluntary agreement. However, without actual operators that would be willing to be made a party to the voluntary agreement, the FAA determined that this alternative would not achieve its desired goal.

Alternative 2 proposed to permit sightseeing tours with several suggested limitations. The FAA partially agrees with some of the commenters who stated that the imposition of partial restrictions would not provide a meaningful result for the commercial air tour operators or achieve the goal of this rulemaking. Moreover, in reviewing the different options that could be used in conjunction with air tour restrictions listed in Alternative 2, the FAA concluded that the application of these options would be operationally difficult for the commercial air tour operators. The terrain within RMNP is quite varied and irregular, with mountain peaks and valleys differing in elevations by thousands of feet. This forces a pilot to be more attentive to the varying topography.

The FAA agrees with the commenters that cited the difficulty in requiring air tour operators to conduct operations only over the existing roadways in RMNP. Certain flight corridors may become necessary in the future, but their establishment will necessitate a much more comprehensive aeronautical and environmental review that just designating the existing roadways. Given the challenging operational environment, the FAA agrees with those comments which claim that restrictions based on the season, time of day, or day of the week would be economically unfeasible for air tour operators.

As noted above, the FAA can reasonably infer from the varied and instructional information received at other parks as to the effects of aircraft noise due to commercial air tour operations. An altitude restriction that would increase the minimum altitude above 2,000 feet above ground level would still have the potential to adversely impact both visitors and resources. Therefore, the FAA determined that the most efficient method of mitigating the potential adverse effects from aircraft noise in this particular case would be to place the preemptive ban on all commercial air tour operations.

Comments Received During the Reopened Comment Period

On November 21, 1996, the FAA reopened the comment period on this rule in order to allow comment on the Draft Environmental Assessment (DEA) that was made available at that time; public responses were also invited to material from the National Park Service that was placed in the docket on December 11, 1996, concerning commercial air tour operations over national park lands.

The information showed that commercial sightseeing operations have become very popular at a number of units of the national park system, and are growing in popularity in others. Many park areas have either documented or estimated significant increases in the volume of air tour activity over the last ten years. For example, air tour flights over Grand Canyon National Park have increased from a few hundred flights per year in the 1960's, to 40,000 to 50,000 per year in 1986, to 80,000 to 95,000 per year in 1996, with up to 40 companies offering sightseeing flights over the park, according to industry, FAA and/or media estimates. Experience at Hawaii Volcanoes and Haleakala National Park in Hawaii has been similar in trend but lower in magnitude, with highs of 23,000 flights per year and 10 operators estimated at Hawaii Volcanoes.

Hard statistics are lacking on the number of sightseeing operations conducted over national park areas because, with the exception of recent fee legislation for Grand Canyon, Hawaii Volcanoes, and Haleakala National Parks, there are no requirements for operators to provide such data. Even at the three parks in the fee legislation, accurate data has not been readily available. In virtually all cases, overflight data has to be estimated based upon a variety of sources, such as airport operations data, limited field observations, FAA projections for airport master planning, industry publications, and voluntary responses to surveys and requests for information.

The trends based upon such numbers indicate increasing interest and levels of sightseeing operations over many national park areas, which correlates with trends for ground visitation. For example, Glacier National Park estimates that between 1986 and 1996 the number of overflights increased from 100 to 800 per year, and the number of commercial air tour operators increased from one to five. Mount Rushmore estimated an increase from 2,400 to 4,000 overflights and from one to four operators during the same time

period. Sightseeing tour operators have become based within a few miles of the park boundary during the past two years at Bryce Canyon and Canyonlands, with major expansion of airport facilities either proposed or approved to accommodate increasing tour operations at both places. At present, a new helicopter tour operation is in the process of starting up at Chickamauga-Chattanooga National Military Park.

The extended comment period closed on December 23, 1996. Forty-nine submissions were received during the reopened comment period, most of which were substantive comments on the proposed rule. Many of the commenters during the reopened period had commented previously, but were either supplementing their prior comments or were adding to or extending their arguments.

Thirty-one commenters used the reopened comment period to express overall support for a complete ban on commercial tour overflights. These include the comments from the Estes Valley Improvement Association, the Town of Grand Lake, CO, the National Parks and Conservation Association, the Pourdre Canyon Group of the Sierra Club, the Estes Park League of Women Voters, and the League of Women Voters of the United States and numerous individuals. These commenters typically stressed the need to maintain the natural enjoyment of the Park's solitude and quiet and argued that overflights by commercial air tour operators would adversely affect that enjoyment. Among those expressing general opposition to the proposal were several other individuals and Bell Helicopters Textron, Inc. Every comment submitted during the reopened comment period was read and considered, although neither all comments nor all points raised will be addressed individually in this preamble. Many of the arguments presented are similar to those that were submitted earlier and discussed above. Several comments, however, suggested new arguments against the imposition of a ban on commercial tour overflights, and these are discussed below.

The new comments that addressed the DEA are discussed in the Final Environmental Assessment for this rule and are not mentioned in the preamble to this rule. A copy of the Final Environmental Assessment has been placed in the rulemaking docket and is available upon request to the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Alleging that the reopened comment period was too short, the Helicopter Association International, the Grand Canyon Air Tour Council, and the United States Air Tour Association requested that the DEA be withdrawn and/or the comment period extended to allow additional time for further analysis. However, several commenters such as the League of Women Voters, the Estes Valley Improvement Association, Inc., and the Town of Grand Lake, stated that the time allowed was sufficient to analyze the DEA and found the document adequate in its review of the relevant environmental consequences associated with this rule. Further, as discussed above, the FAA believes that prompt completion of this rulemaking is necessary, because the proposed ban on commercial air tours contained in the NPRM may affect the business and investment decisions of operators. Therefore, while in the abstract it is always desirable to have more rather than less time for public comments, that desire must be balanced against the need to complete the rulemaking in a timely manner. This means that the temporary ban should be implemented before any air tour operator attempts to start commercial air tour operations at RMNP and then is adversely affected financially by the imposition of the subsequent ban. Experience at other national park units suggests that while commercial air tour operations do not cease in the winter months, the number of commercial air tour operations in the winter (as well as the number of new start-up air tour businesses) is not as high as in the warmer months of the year. Therefore, the FAA wants to impose the temporary ban in the more dormant months of the year before new air tour operations are started.

Even though the comments offered by Southwest Safaris (Safaris) focus on the DEA, Safaris alleges certain points that pertain both to the DEA and this final rule. Safaris argues, among other things, that the FAA has no basis on which to ban overflights by commercial air tour operations, because there are no such operations currently. In the absence of such operations, Safaris argues, there is no ''measurable'' need to prohibit them. Safaris also dismisses National Park Service data indicating that approximately 90 percent of park visitors surveyed stated that noise from helicopters would affect their enjoyment of the park. (''In the last sentence, the word, 'would,' does not mean 'does.' The impact of helicopter noise over RMNP is entirely hypothetical.'') The problem with Safaris' argument is that it necessarily implies that the FAA has no authority to act to prevent reasonably foreseeable problems before they occur, and this is simply false. The agency is not obliged to wait until damage occurs before exercising its authority to stop such damage. This issue arises more frequently in the safety context, where most of FAA's regulations arise, but it applies with no less force in the exercise of FAA's other authorities.

Safaris also challenges the FAA's right to apply information gained from experience with commercial tour overflights of other national parks to RMNP. While each park has unique characteristics, the FAA believes that some general understanding can be gained with respect to the business of conducting tour overflights, including its growth pattern and market considerations. The FAA's and NPS experience extends as well to an appreciation of the effect of such overflights on park visitors and resources. While specific topography and park characteristics must be taken into account, the agencies general knowledge can and must inform its projections about the nature and effects of any air tour operations at RMNP. The FAA acknowledges that additional information would improve our ability to forecast specific noise impacts. The agency has determined to impose only a temporary ban on commercial tour overflights at RMNP while a broader rule is considered. This rulemaking allows the FAA to prevent an overflight problem from air tour overflight from developing in RMNP, as it has in so many other national parks.

Safaris goes on to argue, as does the Northern California Airspace Users Working Group, that air tour operations increase rather than diminish the value of parks, and that compared to automobile visitors, air tour visitors cause less damage to park resources. The FAA will not be drawn into any attempt to compare the benefits and costs to park resources of air and ground visits. Experience from other parks that do have air tour operations is that most air tour national park visitors (though by no means all) are also ground visitors. Indeed, this was confirmed by representatives of the air tour industry at the Grand Canyon in discussions with FAA staff earlier this year. Therefore, air tour operations do not in any large measure replace ground visits. In view of RMNP's ready accessibility to a major metropolitan area and the convenience with which it may be visited by automobile, it is reasonable to assume that this will be particularly true at RMNP.

HAI argues that the NPRM should be withdrawn because, in HAI's view, the regulatory language is too vague to be enforceable. HAI claims that the

proposed rule would prohibit regional air carrier and on-demand air taxi flights that now traverse the park. The FAA has already addressed the argument that a prohibition on air tours at RMNP would also apply to other kinds of air operations. The short answer is that it would not. The FAA has the same response to the comment of the Soaring Society of America. The Soaring Society's comment argues that gliders do not pollute measurably, either in noise or emissions, and it states the Society would therefore oppose a general ban of aircraft flights over a National Park. The FAA has not imposed any general ban on all aircraft at Rocky Mountain National Park. Only commercial air tour operations would be affected by the temporary ban adopted in this rule.

As to HAI's suggestion here that air tour operations cannot be distinguished from point-to-point service, we believe that neither the operators nor the FAA will have any difficulty in understanding the difference between the high-frequency air tour service that concentrates at places of particular interest and flights that travel as directly as feasible between two distant cities, and happen to traverse the park on a particular route. However, if HAI believes, as it says, that a more specific definition is necessary, we invite HAI to propose one, either for future use at RMNP or as part of the development of a national rule on air tour overflights at national parks.

Regulatory Evaluation

Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is a ''significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) helps to assure that Federal regulations do not overly burden small businesses, small non-profit organizations, and airports located in small cities. The RFA requires regulatory agencies to review rules which may have ''a significant economic impact on a substantial number of small entities.'' A substantial number of small entities, defined by FAA Order 2100.14A—''Regulatory Flexibility Criteria and Guidance,'' is more than one-third, but not less than eleven, of the small entities subject to the existing rule. To determine if the rule will impose a significant cost impact on these small entities, the annualized cost imposed on them must not exceed the annualized cost threshold established in FAA Order 2100.14A.

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is ''a significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This rule will not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade. The FAA's criteria for ''substantial number'' are a number which is not less than 11 and which is more than one third of the small entities subject to this rule.

This regulatory evaluation examines the costs and benefits of special flight rules in the vicinity of Rocky Mountain National Park (RMNP). The rule is intended to preserve the natural enjoyment of RMNP from any potential adverse impact from aircraft-based sightseeing overflights. Since the impacts of the changes are relatively minor as well as temporary, a full regulatory analysis, which includes the identification and evaluation of cost-reducing alternatives to this rule, has not been prepared.

Costs

At present there are no air tour operations over RMNP and, despite some expression of interest, none have taken definitive action to initiate service at this time. Considering the historical record, the FAA assumed that this final rule will not lead to increased costs to an operator over the next ten years since there are no operators. Moreover, applications for air tour operations have been repeatedly turned down by the town of Estes Park, and it is unlikely that opposition to air tour operators will lessen over time there.

However, while there are no air tour operators that are currently expected to operate in RMNP, information supplied to the docket shows that from time to time small operators have tried to gain approval for operating over RMNP from local authorities. In order not to overlook the potential costs imposed by this rule to potential operators in this analysis, the FAA has attempted to estimate this potential cost. To estimate the potential costs to these potential operators, the FAA employed recent data from the proposed rulemaking on ''Flight Rules in the Vicinity of Grand Canyon National Park.''

Financial data from two small scheduled fixed wing operators and a helicopter operator that operate over the Grand Canyon were utilized. The three operators chosen are: a 5 passenger CE 206 operator, a 3 passenger Piper Pa–28–180 airplane operator, and a SA–341–G helicopter operator. The estimated annual operating revenues for these operators are respectively, $53,000, $10,000, and $16,000.

Even if the FAA assumes that three relatively small operators would eventually gain authority to operate over RMNP in the next ten years, the costs will still be quite small. The FAA estimates costs in lost revenues to operators due to this rule will range from zero, which is most likely, to $79,000 per year if three operators are denied the ability to do business over RMNP due to the rule.

Benefits

This rule serves to preserve the desired state of quiet and solitude in the park. Currently, the natural enjoyment of the Park is not disturbed by air tour operators and will not be after the rule is promulgated.

Conclusion

Small entities potentially affected by the final rule are potential air tour operators that in the absence of the rule would operate over Rocky Mountain National Park. The FAA estimates from zero to three operators might be affected by the rule, well below the substantial number criteria. The FAA thus concludes that there will not be a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

The final rule will not have any impact on international trade because the potentially affected operators do not

compete with foreign operators. The rule also will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services to the United States.

Federalism Implications

This action will not have substantial 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. Indeed, State and local government representatives have been among the advocates for FAA regulatory action to protect RMNP from the noise created by overflights. Therefore, in accordance with Executive Order 12612, it is determined that this action will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with United States obligations under the convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization Standards and Recommended Practices (SARP) to the maximum extent practicable. For this action, the FAA has reviewed the SARP of Annex 10. The FAA has determined that this action will not present any differences.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), there are no requirements for information collection associated with the proposed regulation.

Conclusion

For the reasons set forth above, the FAA has determined that this rule is a significant regulatory action under Executive Order 12866. The FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is considered significant under DOT Regulatory Policies and Procedures.

List of Subjects

14 CFR Part 91

Aircraft, Airmen, Aviation Safety.

14 CFR Part 119

Air carriers, Aircraft, Aviation safety, Charter flights.

14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Safety, Transportation.

14 CFR Part 135

Air Taxis, Aircraft, Airmen, Aviation safety.

The Amendment

The FAA wishes to be responsive to concerns about the effects of overflights on the national park system. For that reason and due to the unique situation at RMNP the FAA is temporarily banning commercial air tour operations in the vicinity of the RMNP for sightseeing purposes for the limited duration of the SFAR. In consideration of the foregoing, the Federal Aviation Administration amends Title 14 of the Code of Federal Regulations (14 CFR) parts 91, 119, 121, and 135 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

PART 119—CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS

2. The Authority citation for part 19 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40101, 4010, 40103, 40113, 44105, 44106, 44111, 44701–44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

4. The authority citation for part 135 is revised to read as follows.

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

5. In parts 91, 119, 121, and 135, Special Federal Aviation Regulation No. 78, the text of which will appear at the beginning of part 91 is added to read as follows:

SFAR No. 78—Special Operating Rules for Commercial Air Tour Operators in the Vicinity of the Rocky Mountain National Park

Section 1. Applicability. This Special Federal Aviation Regulation prescribes operating rules for commercial air tour flight operations within the lateral boundaries of the Rocky Mountain National Park, CO.

Section 2. Definition. For the purpose of this SFAR: ''commercial air tour'' means: the operation of an aircraft carrying passengers for compensation or hire for aerial sightseeing.

Section 3. Restriction. No person may conduct a commercial air tour operation in the airspace over Rocky Mountain National Park, CO.

Expiration: This SFAR will expire on the adoption of a final rule in Docket No. 27643.

Issued in Washington on January 3, 1997.

Linda Hall Daschle,

Acting Administrator.

[FR Doc. 97–435 Filed 1–3–97; 3:46 pm]

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Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Part 171, et al.

Hazardous Materials in Intrastate Commerce and Improvements to Hazardous Materials Identification Systems; Final Rules

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173 and 180

[Docket HM–200; Amdt. Nos. 171–150, 173–259, and 180–11]

RIN 2137–AB37

Hazardous Materials in Intrastate Commerce

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule requires that all intrastate shippers and carriers comply with the Hazardous Materials Regulations (HMR) with certain exceptions. This action is necessary to comply with amendments to the Federal hazardous materials transportation law mandating that DOT regulate the transportation of hazardous materials in intrastate commerce. The intended effect of this rule is to raise the level of safety in the transportation of hazardous materials by applying a uniform system of safety regulations to all hazardous materials transported in commerce throughout the United States.

DATES: *Effective date:* October 1, 1997.

Permissive compliance date: Compliance with the requirements as adopted herein is authorized as of April 8, 1997. This time period provides sufficient time for receipt and resolution of any petitions for reconsideration received on this final rule.

FOR FURTHER INFORMATION CONTACT: Diane LaValle or Deborah Boothe, (202) 366–8553, Office of Hazardous Materials Standards, RSPA, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

Currently, the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) do not apply to highway transportation by intrastate carriers, except for the transportation of hazardous substances, hazardous wastes, marine pollutants, and flammable cryogenic liquids in portable tanks and cargo tanks. The HMR apply to all hazardous materials transported in commerce by rail car, aircraft, or vessel. A July 1986 report by the Office of Technology Assessment (OTA), then an agency of Congress, entitled ''Transportation of Hazardous Materials,'' highlighted the need for national uniformity in the regulation of hazardous materials transportation and packaging requirements.

In response to the OTA report, RSPA published an advance notice of proposed rulemaking in the Federal Register on June 29, 1987 [52 FR 24195] which requested comments on extending the application of the HMR to all intrastate transportation in commerce as a means of promoting national uniformity and transportation safety. In 1990, the Federal hazardous material transportation law was amended to require the Secretary to regulate hazardous materials transportation in intrastate commerce. 49 U.S.C. 5103(b)(1)

RSPA proposed to extend the application of the HMR to all intrastate transportation of hazardous materials in commerce in a notice of proposed rulemaking (NPRM) published on July 9, 1993 [58 FR 36920]. A correction to the NPRM was published on July 15, 1993 [58 FR 38111]. The NPRM requested comments on the need for, and possible consequences of, extending the application of the HMR to all intrastate transportation of hazardous materials in commerce.

More than 200 comments were received in response to the NPRM. While most of the commenters supported the idea of uniformity, a significant number requested relief from the application of the HMR (or portions thereof). Among the concerns expressed were the appropriateness of regulating: (1) Small quantities of hazardous materials that are used incidental to a primary business that is other than transportation; and (2) the operation of small cargo tank motor vehicles.

The major objections raised were that: (1) uniform treatment of all intrastate hazmat shippers and carriers under the HMR would be extremely detrimental to rural and small businesses, including petroleum marketers and farmers; (2) although all States have adopted the HMR, certain States have deviated from the regulations, particularly regarding highway shipments, e.g., by ''grandfathering'' non-DOT specification cargo tanks, or exempting farm operations; and (3) regulation of user quantities of hazardous materials transported incidental to the primary responsibility of the carrier (i.e., materials of trade) could create burdens for these carriers.

In response to comments to the NPRM, RSPA published a supplemental notice of proposed rulemaking (SNPRM) in the Federal Register on March 20, 1996 [61 FR 11484]. The three proposals addressed in the SNPRM were exceptions from the HMR for: (1) ''Materials of trade,'' (2) non-specification small cargo tank motor vehicles (i.e., less than 13,250 liters (3,500 gallon) capacity) used exclusively in intrastate transportation of flammable liquid petroleum products, and (3) certain requirements addressing use of registered inspectors for these small cargo tank motor vehicles used to transport flammable liquid petroleum fuels.

II. Summary of Regulatory Amendments

RSPA received more than 1200 comments on the SNPRM from a variety of organizations, including trade associations, petroleum marketers, public service commissions, state police, farmers and farm co-operatives, water and power companies, members of Congress, State and Federal government agencies, waste haulers and fertilizer associations.

A. Extension of the HMR to Intrastate Transportation

Commenters in support of the expansion of the HMR to intrastate carriage stated that deviations from a uniform domestic scheme should be minimized. One commenter stated that the report by OTA entitled ''Transportation of Hazardous Materials'' was right on target by identifying the need for uniformity in transportation of hazardous materials, and that the action taken by RSPA in response to the report and the Federal hazardous materials transportation law was correct.

Petroleum marketers and the agricultural community, many of whom are small businesses, opposed extending the HMR to intrastate movement of hazardous materials. Some of these commenters stated that the additional requirements, such as for shipping papers and placarding, would provide little or no benefit to public safety when compared to the increased cost of regulation. These commenters urged RSPA to issue an exception from the regulations that recognizes the needs of agricultural producers by waiving the application of certain requirements of the HMR. Other commenters expressed concerns about the requirements for specification cargo tanks used to transport hazardous materials (other than combustible liquids) and stated that the cost of retrofitting non-specification cargo tanks would be prohibitive.

As required by the Federal hazardous materials transportation law, this rule extends the application of the HMR to intrastate transportation of hazardous materials by highway and provides exceptions for: (1) Materials of trade transported by interstate and intrastate motor carriers; (2) certain non-

specification packagings in intrastate transportation; (3) inspectors of small cargo tank motor vehicles, used for flammable liquid petroleum fuels in interstate and intrastate transportation; and (4) certain agricultural products transported in intrastate commerce under specified conditions. Section 171.1 is revised to extend the scope of the HMR to intrastate transportation of hazardous materials. In addition § 171.8 is reorganized for clarity and therefore republished in its entirety for the convenience of the reader.

B. Exceptions for Materials of Trade

Prompted by comments submitted to the NPRM and petitions for rulemaking, RSPA proposed in the SNPRM to limit regulatory requirements for the transportation of certain hazardous materials used as materials of trade. Factors leading to RSPA's determination included: (1) The relatively small quantity of these hazardous materials that are normally carried on a motor vehicle; (2) the general reliance on a DOT specification or U.N. standard packaging (or components thereof) as the principal packaging; and (3) a motor vehicle operator's familiarity with the hazardous material being transported.

Materials of trade include, subject to certain limitations, hazardous materials carried on a motor vehicle for protecting the health and safety of the motor vehicle operator (such as insect repellant or self-contained breathing apparatus) or for supporting the operation or maintenance of a motor vehicle (such as a spare battery or engine starting fluid). They also include certain hazardous materials carried by a private motor carrier engaged in a principal business which is other than transportation, such as lawn care, plumbing, welding, door-to-door sale of consumer goods, and farm operations.

In proposed § 173.6, RSPA identified types and quantities of hazardous materials for which exceptions would be provided. Specific limitations (such as maximum gross weight of materials of trade that may be carried on a motor vehicle) and safety provisions (such as packaging and hazard communication) were proposed to strike a balance between safety and the impact of full application of the HMR.

Most commenters to the SNPRM supported the materials of trade proposal, and offered many suggestions for its modification or expansion.

1. Definition of material of trade (§ 171.8)

One commenter requested that the first two criteria (carried for the purpose of protecting the health and safety of the motor vehicle operator or passengers; and carried for the purpose of supporting the operation or maintenance of the motor vehicle) should be expanded to all modes allowing materials of trade to be carried by air or water. The same commenter also requested that the third criteria (carried by a private carrier in direct support of a principal business that is other than transportation) should be limited to materials used that day which would limit the scope of the materials of trade exception. Two commenters requested that RSPA expand the third criteria of the definition from private motor carrier to include use of a contract carrier dedicated to a private carrier (i.e., an exclusive use contract carrier). In addition, some commenters noted that the materials of trade definition would exclude maintenance vehicles such as tow trucks and railroad motor vehicles that carry materials of trade for the purpose of supporting the operation or maintenance of another motor vehicle or a rail car.

RSPA believes that the materials of trade exception should apply only to highway transportation, as proposed. The HMR already provide modal exceptions for certain hazardous materials used as carrier's equipment and supplies (e.g, § 175.10). This final rule is intended to provide similar relief for highway transportation. The second criteria, however, is expanded to include maintenance vehicles that carry materials of trade for the purpose of supporting the operation or maintenance of motor vehicles rather than ''the motor vehicle on which it is carried'' as was originally proposed. Under the third criteria, any private carrier, including a railroad operating its motor vehicles in maintenance-of-way service, is eligible for the materials of trade exception. RSPA did not intend to limit the materials of trade exception to materials used the same day. Rather, the primary factor is that the hazardous material is used incidental to the private carrier's principal business.

2. Limitation of Materials of Trade Exception to Certain Classes of Hazardous Materials (§ 173.6(a))

Commenters requested inclusion of the following additional classes and divisions of hazardous materials within the materials of trade exception:

Test kits containing Division 4.3 materials;
Power cartridge devices, Division 1.4;
Division 1.4S igniters used by railroads for welding rail;
Division 1.4G railway torpedoes;
Division 6.2 infectious substances (home health care);
Display fireworks; and
Chlorine gas in 20-pound cylinders.

RSPA agrees that test kits containing small amounts of Division 4.3 materials may be safely transported as materials of trade. These types of test kits are frequently transported and used by electric utilities and used oil handlers and contain very small quantities of a Division 4.3 material. Therefore, § 173.6 includes Division 4.3 materials when transported in quantities that correspond to the small quantity exceptions in § 173.4. A power device cartridge (used to project fastening devices) which is classed in Division 1.4 Compatibility Group S (1.4S) may be reclassed as ORM–D if transported in accordance with the requirements of § 173.63(b). A power cartridge device that is reclassed as ORM–D meets the criteria for a material of trade.

The level of hazard posed by other materials suggested by commenters is not consistent with the intent of the materials of trade exception. For that reason, explosives such as igniters used for welding rail, railway torpedoes, Division 6.2 materials (infectious substances and regulated medical waste), Division 2.3 materials (such as chlorine gas, a poison by inhalation material in Hazard Zone B) and display fireworks are not included in the materials of trade exception.

3. Gross Mass or Capacity of Packagings for Materials of Trade (§ 173.6(a))

Some commenters requested that larger container capacities be authorized for materials of trade, such as a permanently attached tanks having a capacity not greater than 400 gallons for dilute mixtures of hazardous materials.

Commenters expressed concern that, while a small container filled with a concentrated hazardous material may meet the criteria for material of trade, when the same amount is transported in an aqueous solution in a bulk packaging, it no longer qualifies for the material of trade exception. An example is chlorpyrifos, a pesticide, which has a reportable quantity of one pound. As a concentrate, chlorpyrifos would qualify as a material of trade. However, due to its one-pound reportable quantity, when diluted with water in a 300-gallon capacity cargo tank or portable tank to the 1 or 2 percent concentration in which the product is normally applied, the tank will contain a reportable quantity and would be a hazardous substance subject to the HMR as a Class 9 material. Notwithstanding the fact that the same amount of chlorpyrifos (in concentrated form) would be excepted from most regulatory requirements when transported in conformance with

§ 173.6, under the proposal a tank of diluted material would not be subject to regulatory relief. In some cases these solutions may be diluted to such an extent that they are no longer subject to the HMR. RSPA agrees that the increased volume that comes with dilution poses no additional threat to the environment. Accordingly, § 173.6(a)(1)(iii) authorizes a dilute mixture (up to 2 percent concentration) in a non-specification bulk packaging having a capacity equal to or less than 1500 liters (400 gallons) when properly classed as a Class 9 liquid. A material of trade is authorized in a packaging having a maximum capacity of 30 liters (8 gallons). When the 30 liter quantity is diluted with 1500 liters of water, it produces a 2 percent concentration mixture. A condition specified in § 173.6(c)(2) requires that the bulk packaging (capacity greater than 119 gallons) containing the diluted material of trade must be marked with the four-digit identification number marking (as prescribed by § 172.332) to be authorized for transportation as a material of trade.

4. Materials Excluded From the Materials of Trade Exception (§ 173.6(a)(4))

A few commenters stated that hazardous materials associated with the identification numbers UN2924 and UN2925 should not be excluded from the materials of trade exception. These commenters contended that other dual hazard materials are authorized under proposed § 173.6(a)(1), and use of a generic proper shipping name for such dual hazard materials is not reason to exclude them from the materials of trade exception. Commenters also stated that the list of prohibited hazardous materials associated with certain identification numbers was recently removed from the small quantity exception in § 173.4. RSPA agrees and the identification numbers proposed for inclusion in paragraph (a)(4) are not adopted.

Commenters requested clarification on the inclusion of hazardous wastes as materials of trade. RSPA confirms that hazardous wastes are not included in the materials of trade exception. Inclusion of hazardous wastes as materials of trade would conflict with other requirements such as those pertaining to manifests (40 CFR Part 262 and 49 CFR 171.3 and 172.205).

5. Packaging for Materials of Trade (§ 173.6(b))

Many commenters requested clarification of the packaging requirements for materials of trade. Some commenters stated that it would not be possible to determine whether a non-tested package has equal or greater strength and integrity as one that meets DOT's performance standards. Another commenter stated that the packaging requirements for materials that are not manufactured should be clarified. No alternatives were suggested by commenters.

By requiring the manufacturer's original packaging, RSPA is effectively requiring DOT-authorized packagings or their equivalent for materials of trade. A packaging that has equal or greater strength and integrity should be capable of passing the performance tests required for a packaging for that particular hazardous material. As with all hazardous materials packagings, the packaging must be compatible with the lading. If the manufacturer's original packaging is not available, shippers may refer to the HMR to determine what type of packaging is authorized or required and then make a determination as to what packaging may be used for that material of trade. If doubt remains, shippers and carriers are advised to use a specification packaging.

Commenters also requested an exception from the packaging requirements for salespersons to transport hazardous materials in an open box. An exception is already provided from the outer packaging requirements for receptacles that are secured against movement in cages, carts, bins, boxes or compartments in § 173.6(b)(3). Therefore, a salesperson may transport an open box containing inner receptacles as long as they are secured against movement.

One commenter stated that requirements for packaging gasoline should reference the Occupational Safety and Health Administration's (OSHA) regulations applicable to construction activities (29 CFR 1926.152). These OSHA requirements address storage and use of gasoline at construction sites rather than transportation. The OSHA standard that addresses safety cans for gasoline is 29 CFR 1910.106 which is referenced as an option for packaging gasoline in § 173.6(b)(4).

One commenter stated that RSPA should require that all cylinders have the gauge removed and a protective cap in place for cylinders capable of receiving a cap. Another commenter asked whether manifolding is authorized for compressed gas cylinders. RSPA believes that it is unnecessary for cylinders to have the gauges removed and protective caps in place. Section 173.6(b)(1) requires all materials of trade packages to be securely closed, secured against movement, and protected against damage. Accordingly, all valves must be closed on all cylinders, but manifolding of cylinders charged with gases that are materials of trade is not prohibited.

6. Hazard Communication (§ 173.6(c))

Several large shipping and manufacturing companies requested that the materials of trade marking requirement include the manufacturer's name and telephone number, precautionary/warning statements, trade name and associated hazard, or at least the proper shipping name and identification number.

RSPA is satisfied that marking each package with an indication of the hazardous material it contains (with the addition of marking ''RQ'' on a package containing a reportable quantity of a hazardous substance) is adequate for a material of trade. In case of a spill, carriers need to know if the spill needs to be reported to the National Response Center, thus the requirement for the ''RQ'' marking. Additional marking requirements would be of small value due to the quantity limits of most hazardous materials allowed under the materials of trade exception, and in view of the fact that a cylinder containing compressed gas must bear the required DOT hazard warning label. A provision is added in § 173.6(c)(1) to require a packaging to be marked ''RQ'' when it contains a hazardous substance in a reportable quantity.

One commenter stated that vehicle operators should be made aware of appropriate emergency action. A few of the commenters believe that hazardous materials require more than a passing knowledge that they exist to transport them safely. One commenter stated that carriers should still be required to provide training for their employees.

One purpose of the materials of trade exception is to provide appropriate relief to private carriers transporting small quantities of hazardous materials. These private carriers generally transport the same types of materials repeatedly. Through experience, they gain a basic knowledge of the hazardous material being transported. RSPA does not believe these types and quantities of hazardous materials warrant more restrictive regulation than what was proposed other than the retention of the ''RQ'' marking requirement, which has been in effect since 1980.

7. Aggregate gross weight of materials of trade on a vehicle (§ 173.6(d))

Many commenters wanted the maximum gross weight allowed on the vehicle raised from 150 kg (330

pounds), especially when transporting compressed gas cylinders. They stated that cylinders can weigh up to 200 pounds each, and various commenters suggested raising the weight restriction to levels between 500 and 1000 pounds. RSPA agrees that steel cylinders could easily exceed the maximum gross weight for materials of trade on a transport vehicle. Paragraph (d) allows a maximum gross weight of 200 kg (440 pounds) which would typically accommodate two cylinders of compressed gas, each having a gross weight of 100 kg (220 pounds) as limited by § 173.6(a)(2).

C. Exceptions for Certain Non-Specification Packagings Used in Intrastate Transportation (§ 173.8)

The proposals in § 173.8 generated numerous comments both in support of the proposals and in opposition to the exceptions proposed. Comments in support of the proposals were generally submitted by petroleum marketer associations and individual marketers. Comments opposed to the proposals were submitted by State agencies, chemical manufacturers, interstate motor carrier associations, and the National Transportation Safety Board (NTSB).

Some commenters, such as the NTSB, oppose any use in hazardous materials service (other than for combustible liquids) of any non-specification cargo tank past the three year transition provision proposed in the SNPRM. Commenters, including State agencies, stated that an authorization to allow the continued use of non-specification cargo tanks beyond the three year transition period will continue to place the public at risk, by allowing substandard levels of safety. Commenters believe that the level of potential hazard presented by a cargo tank motor vehicle of less than 3,500 gallons is comparable to risks presented by larger cargo tanks and that the fact that these cargo tank motor vehicles operate within a single State does not diminish the risk. The Hazardous Materials Advisory Council stated that deviations from a uniform domestic regulatory scheme should be minimized. The State Police of Idaho described a scenario involving a small cargo tank motor vehicle that resulted in a major hazardous materials incident and forest fire. As a result of this incident, Idaho implemented a complete statewide inspection program on similar type motor vehicles. In support of their opposition to the proposal in this section the Idaho State Police stated:

> The result of this incident caused us to complete a statewide inspection effort on all similar type vehicles. We were alarmed at what we found. Several tanks of the same size as the one involved with the fire were found to have the same type of leaks, going directly on the exhaust system under the tank. Other violations noted included domes with missing seals, inspections that were many years expired, many drivers with no hazardous materials training at all, and much of the equipment in disrepair. We found that in many cases the people operating this type of tankers had just bought the business and started hauling gasoline * * *.
>
> * * * Yet we found a huge majority of this type of tankers that were literally bombs waiting to go off. We believe this is not a problem unique to Idaho, and it is representative of this type of tankers across the nation.
>
> There are many reasons for the poor condition of this type of tankers. They typically travel state and county roads. They rarely, if ever travel through ports of entry or weigh stations and are almost never inspected. Yet, this type of vehicle in a poor state of repair present the greatest danger to safety when compared to large semi-tanker type units.
>
> Small ''Mom and Pop'' tanks load and unload right next to homes, schools, hospitals and businesses of all kinds and sizes. They are close to large numbers of people as they travel around loading and unloading. Yet the drivers/owners/operators have the least training and the poorest equipment.

Comments in support of the proposed exceptions provided in this section state that the proposal is a good first step in reducing the regulatory burdens on the small business petroleum marketer. Commenters believe that States should be allowed to provide exceptions for businesses within their State. They stated that the safety record of these small cargo tank motor vehicles is very good. They also state that it would be extremely burdensome to totally replace the fleet of non-specification cargo tanks with specification cargo tanks, without quantifiable data that demonstrate significant increases in safety.

RSPA believes that the exceptions provided in § 173.8 are responsive to concerns about the economic and regulatory impacts on small businesses that currently operate non-specification small cargo tanks. RSPA also believes that the conditions prescribed in this section provide for an acceptable level of safety. As provided in this final rule, a small non-specification cargo tank motor vehicle may only be operated by an intrastate motor carrier of flammable liquid petroleum products in a State that allows its use and it must be operated in conformance with the requirements of that State. In addition, after June 30, 2000, the tank would have to meet the Part 180 requirements (except for § 180.405(g)) in the same manner as required for DOT MC 306 cargo tank motor vehicles. Since the exception for continued use of non-specification cargo tanks applies only to those in operation within a State prior to July 1, 1998, no additional non-specification cargo tanks may be placed in service after that date. Therefore, as the non-specification cargo tanks are replaced, they would be replaced with cargo tanks meeting the specification requirements of the HMR.

The Petroleum Marketers Association of America (PMAA) requested that RSPA extend the date that a non-specification cargo tank may be authorized by a state statute or regulation. They requested an additional two years, until July 1, 1998, so that state legislatures would be able to provide such exceptions prior to implementation of these regulations. As requested, the dates within this section have been revised to provide an additional two years for States to incorporate any additional exceptions in their State laws or regulations. Additionally, a three year transition was intended for bulk packagings under § 173.8 (a) and (d)(6); therefore, the dates referenced in these paragraphs have been changed to read ''June 30, 2000.''

PMAA also asked that RSPA adopt a ''truck by truck interpretation'' of what constitutes an ''intrastate motor carrier,'' because it believes that a company should not be considered an interstate carrier of hazardous materials when its hazardous materials vehicles never leave its ''home'' State, but other vehicles used by the carrier transport non-hazardous materials across State lines. In addition, PMAA asked that ''intrastate'' transportation be interpreted to include movements that are no more than 100 miles outside the carrier's ''home'' State, because one delivery out of State ''to a person who would otherwise never receive any gasoline or diesel fuel * * * will cause all of the other trucks in the fleet to be subject to the federal HMR.''

In essence, PMAA is asking RSPA to create new exceptions from requirements in the HMR that have, for many years, been applicable to all interstate motor carriers. If RSPA were to adopt PMAA's request, regarding movements up to 100 miles, an adjacent State would be compelled to accept exceptions that apply in a carrier's ''home'' State even if those exceptions had not been adopted in the adjacent State. RSPA has consistently interpreted ''interstate motor carrier'' as any carrier that, in the course of its business, travels between States, or between a State and a foreign country, or between two points in a single State through another State or a foreign country. For this reason,

RSPA believes that the proper meaning of the term ''intrastate commerce,'' as used in 49 U.S.C. 5103(b)(1) and the HMR, includes only those carriers who transport property or persons solely within the boundaries of a single State.

One commenter requested that the capacity of a cargo tank motor vehicle be revised to read ''3,500 gallons or less'' rather than ''less than 3,500 gallons.'' RSPA is not adopting this request. Limiting the capacity of these cargo tanks to ''less than 3,500 gallons'' is consistent with the registration requirements in § 107.601.

The California Highway Patrol (CHP) stated that the proposed volume limitations are inadequate for gasoline used to refuel other vehicles and equipment. According to CHP, in the State of California currently there are thousands of tanks smaller than 119 gallons used to transport gasoline as cargo. These tanks are permanently secured to transport vehicles and are protected from damage or leakage in the event of a rollover. CHP states that these tanks provide farm, timber and construction industries with a practical, safe and economical means of dispensing gasoline for equipment used on job sites. Currently, these packagings are not considered cargo tanks, since by definition a cargo tank is a bulk packaging (i.e., has a capacity greater than 119 gallons). Since the small 119-gallon tanks are not cargo tanks they are not covered by the exceptions provided in this section. RSPA has determined that the exception in proposed § 173.8 for small ''cargo tanks'' used to transport flammable liquid petroleum products should be equally applicable to non-bulk metal permanently secured tanks that are authorized by the State in which they are transported. Therefore, a provision is added in paragraph (c) to authorize non-bulk tanks, that are permanently mounted and protected against leakage or damage in the event of a turnover, for transportation of flammable liquid petroleum products. As such, after June 30, 2000, these non-bulk tanks would be required to meet the part 180 inspection and testing requirements (except § 180.405(g) which addresses manhole assemblies) as if they were MC 306 cargo tank motor vehicles. Packagings that cannot meet the part 180 requirements must be removed from hazardous materials service by the end of the three year transition period, consistent with the transition period for other non-specification bulk packagings authorized under § 173.8 (b) and (c).

The Petroleum Marketers of Iowa (PMI) requested that RSPA delay publication of this final rule as it relates to the hydrostatic or pressure testing of cargo tanks used in intrastate transportation. PMI states that they are in the process of requesting that the Iowa State University Center for Nondestructive Testing conduct a review and study of the testing of these cargo tanks. RSPA is not delaying publication of this final rule as requested by PMI because any proposal for alternative non-destructive testing procedures for cargo tanks would be beyond the scope of this rulemaking proceeding. In addition, a three-year transition period is being provided for application of the testing and inspection requirements of Part 180 to intrastate carriers. This should be sufficient time for the submission and handling of a well supported petition for rulemaking on the subject. Adoption of alternative or substitute testing procedures for the currently required hydrostatic and pressure testing requirements for cargo tanks could have a substantial effect on the manner of determining the continuing qualification and integrity of all cargo tanks, specification and non-specification alike. RSPA has encouraged PMI to consult with potentially affected parties, such as the Truck Trailer Manufacturers Association, National Tank Truck Carriers, Inc., the Federal Highway Administration's Office of Motor Carrier Safety, as well as RSPA, in regard to the methodologies to be employed in such a study.

Other commenters requested an expansion of the exception to include products such as petroleum crude oil, and natural gas liquids and condensates. Petroleum crude oil and natural gas liquids are flammable liquid petroleum products and, as such, are already afforded the exception. RSPA is clarifying that although all flammable liquid petroleum products are included in the exception in § 173.8 (b) and (c), liquefied petroleum gases are not. The HMR currently provide for the use in intrastate commerce of certain non-specification cargo tanks for propane, see 173.315(k). RSPA does not believe that an expansion of the materials covered by the exceptions provided in this section is necessary or warranted.

Based on the foregoing and the changes described above, § 173.8 is otherwise adopted as proposed.

D. Exception for use of a Registered Inspector

RSPA received several comments regarding the proposed exception in § 180.409 that allows a person to perform an annual external visual inspection and leakage test on small cargo tank motor vehicles used exclusively for flammable liquid petroleum fuels without being a registered inspector. Commenters to the SNPRM disagreed over this exception.

Commenters who opposed the exception stated that the use of substandard cargo tanks to transport hazardous materials over public highways would reduce safety. One commenter stated that registered inspector test costs were nominal, and that initially over 90% of all 3500-gallon tanks required repairs to pass the tests when such tests became mandatory under the part 180 requirements. After five years of annual testing, only 20–25% of tanks required repairs to pass the tests. Other commenters opposed to the proposal stated that the current requirement that inspectors be registered should be retained. They also believe that the training and qualifications of persons performing inspections, who are not registered, would not be adequate. The Idaho State Police stated: ''Our previous first hand observations and experience indicate this absolutely will not work. Our inspections revealed all the tank defects that would have been found had the tanks been inspected. Several owners told us they had checked their tanks and did not see anything wrong with them. Many did not even know how to check internal valves for correct operation.''

Commenters in support of the exception stated that it would provide ''valuable relief to industry.'' They noted that using a registered inspector resulted in time away from their business to travel to a registered inspector site and financial hardship. A few commenters requested elimination of the annual leak test and the 5-year hydrostatic test altogether, and that RSPA should require a monthly visual inspection to be performed by the owner, including recordkeeping requirements. RSPA has also been asked by the Federal Highway Administration to clarify that the exception applies only to persons who perform visual inspection and leakage tests on their own cargo tank motor vehicles.

Prior to January 1, 1991, the HMR's inspection and periodic retest requirements did not apply to cargo tank motor vehicles with a capacity of 3,000 gallons or less used exclusively in flammable liquid service. This exception was fully evaluated and ultimately removed in a final rule published June 12, 1989 under Docket HM–183, [54 FR 24982]. RSPA determined that periodic tests were necessary for these small cargo tanks to ensure that product retention integrity is maintained. No new data was presented

for consideration sufficient to support a revision of this requirement.

After consideration of all comments, RSPA believes that the regulatory relief requested by small businesses, is not from the registration procedure itself, but is relief from the educational and years of experience requirements that prevent more persons who wish to perform these tests from registering. In addition, RSPA is clarifying that the exception from registration provided in § 180.409(c) for inspectors of non-bulk permanently secured tanks for flammable liquid petroleum fuel applies only to motor carriers who perform the annual visual inspection and leakage test on motor vehicles that they own or control.

In this final rule RSPA is providing exceptions from the education and years of experience requirements in the definition of ''Registered Inspector'' in § 171.8 for inspectors of small cargo tank motor vehicles carrying flammable liquid petroleum fuels. These inspectors must still register under Part 107 of this chapter. RSPA is also clarifying that this exception applies only if the person performs the annual external visual inspection and leakage tests on cargo tanks that they own or operate. In addition, inspectors of permanently mounted non-bulk tanks authorized under § 173.8(c) are totally excepted from the registration requirements. Motor carriers should be aware that the other tests required for these permanently mounted tanks by § 180.407(c), e.g., the periodic hydrostatic test, must be performed by a registered inspector. Cargo tank repair, modification, stretching and rebarreling are also required to be performed by a registered facility.

E. Exceptions for Agricultural Operations

RSPA received more than 500 comments from farmers and agricultural supply businesses who expressed concern that a final rule would prohibit states from granting exceptions for farmers. Some of these commenters agreed that, although uniform regulations promote consistent enforcement of the HMR, the nature of agriculture and its importance to their state's economy demands that farmers be granted some reasonable relief from the impact of full application of the HMR. Commenters alleged that the loss of intrastate exemptions would undoubtedly have a major economic impact on the agricultural industry. They also claimed that costs would be approximately $2,000 to $3,500 per year per farm. They strongly encouraged RSPA to develop an exception for agricultural movements consistent with currently authorized state exceptions. Specific requests included exceptions for: (1) Agricultural products in movements of up to 5,000 pounds of a single class of hazardous material on a transport vehicle; (2) any quantity of agricultural products when diluted in water in preparation for field application; (3) ammonium nitrate fertilizer when transported in fertilizer application equipment in quantities of less than 468 cubic feet; and (4) diesel fuel and gasoline when transported in metal cargo tanks of up to 300 gallons capacity.

In a conference report (H.R. Rep. No. 785, 104th Cong., 2d Sess. 67 (1996)) accompanying the FY 1997 DOT appropriations bill, Congress expressed concerns that this rulemaking might increase compliance costs to farmers and agribusinesses and encouraged RSPA ''to give serious consideration to establishing an agriculture exemption consistent with similar exemptions already granted by the department.''

RSPA believes that confusion exists on the estimates of the burden of complying with the HMR. For example, a carrier who routinely transports the same hazardous material may use a ''permanent'' shipping paper by laminating a document containing the required description of the materials and emergency response information. In this circumstance, it is not necessary to prepare a new document for each trip. Other commenters believe that this final rule will require more farmers to obtain a commercial drivers license (CDL) or comply with a different level of financial responsibility. Nothing in this final rule will require any additional person to obtain a CDL, nor does it eliminate any waivers from the CDL authorized by the Federal Highway Administration. Other commenters still mistakenly believe that this final rule will require compliance with the Federal Motor Carrier Safety Regulations (FMCSR; 49 CFR Parts 390–397). For example, the Illinois Farm Bureau stated that for those farmers who haul hazardous materials, under the proposed regulation, part 391 of the FMCSR would be applied to them. As stated the preamble to the SNPRM, RSPA has determined that this final rule will not subject additional motor carriers, including farmers, to the provisions of the FMCSR. RSPA did not propose to and has not subjected any new motor carriers to the provisions of the FMCSR. The provisions of § 177.804 remain unchanged and do not extend the application of FMCSR requirements to motor carriers not currently required to comply with the FMCSR. The regulations that address CDL requirements, financial responsibility requirements, and drug testing are independent requirements and nothing in this final rule impacts their applicability to a motor carrier.

RSPA agrees that agricultural operations should be recognized (see § 173.5 in the present regulations) in those States that have chosen to provide exceptions, but not necessarily to the same extent as the present state exceptions.

RSPA is adding definitions for ''agricultural product'' and ''farmer'' in § 171.8 and is providing exceptions from the requirements of Subparts G (Emergency Response Information) and H (Training) of Part 172 of this subchapter, in addition to exceptions already provided in § 173.5 for transport by farmers when such a transportation activity is authorized before July 1, 1998 by the State in which the transportation takes place. RSPA believes that the exceptions provided in §§ 173.5 (Agricultural operations), 173.6 (Materials of trade), and 173.8 (Exceptions for non-specification packagings used in intrastate transportation) will provide substantial though not total relief to farmers. For example, many small quantities of packaged hazardous materials meet the definition of materials of trade and may be transported with minimum shipping requirements, such as a general marking on the package to communicate hazard warning information, and notification to the motor vehicle operator of the materials of trade provisions for stowage and securely closing packages. Dilute materials (up to 2 percent concentration) in aqueous solutions that are properly classed as Class 9 materials will qualify for the materials of trade exception when in packagings having a capacity equal to or less than 1500 liters (400 gallons). In addition, flammable liquid petroleum products in intrastate transportation are authorized to be transported in small non-specification cargo tanks if authorized by the State before July 1, 1998. The other requirements of the HMR, including marking and placarding vehicles, hazmat training, shipping papers, emergency response information and emergency response telephone number requirements, except as stated in § 173.5(a) apply to the hazardous materials being transported under this section.

In addition to the other exceptions provided in this section, RSPA is providing an exception, under specified conditions, from the HMR for movements of agricultural products, excluding Class 2 materials, that are

moved between fields of a single farm. This exception applies to a farmer, who is an intrastate private motor carrier, and who transports an agricultural product between fields of his farm over local roads. Movement of the agricultural product must conform to the requirements of the State in which it is transported and must be specifically authorized by current State law or regulation in effect before July 1, 1998. For the purposes of this section, a local road does not include an ''interstate highway.'' RSPA believes that this exception provides regulatory relief for farmers without compromising safety.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was reviewed by the Office of Management and Budget. This final rule is considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034) due to significant public and congressional interest. A regulatory evaluation is available for review in the Docket.

B. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''). The Federal hazardous materials transportation law (49 U.S.C. 5101–5127) contains an express preemption provision that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) the designation, description, and classification of hazardous material;

(ii) the packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(iii) the preparation, execution, and use of shipping documents pertaining to hazardous material and requirements respecting the number, content, and placement of such documents;

(iv) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(v) the design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

This rule concerns the packaging, marking, labeling, placarding and description of hazardous materials on shipping papers. This rule preempts State, local, or Indian tribe requirements in accordance with the standards set forth above.

Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted. Title 49 U.S.C. 5125(b)(2) provides that if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the Federal Register the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA determined that the effective date of Federal preemption for the requirements in this rule concerning covered subjects is January 1, 1998.

C. Regulatory Flexibility Act

This final rule will affect many small business entities that ship or transport hazardous materials, but any adverse economic impact should be minimal. Many small entities affected by this final rule will receive relief from current regulatory requirements. The regulatory evaluation developed in support of this final rule includes a benefit-cost analysis that favors its adoption, primarily due to the positive net benefits that may be realized by small entities.

RSPA estimates that 8,400 for-hire intrastate carriers that are small business entities will be affected by this rule. This is based on the best available data indicating there are approximately 420,000 trucks used in intrastate (208,000) or local (212,000) transportation services, and that nationwide statistics on truck use indicate approximately 2% of all trucks engaged in for-hire transportation carry hazardous materials. RSPA conservatively estimates that each of the 8,400 affected trucks is owned by a separate entity and that each operator is a small business.

In addition to entities engaged in purely intrastate for-hire transportation of hazardous material, this rule applies to motor vehicle operators engaged in agriculture, mining, construction, manufacturing, wholesale trade, retail trade, utilities, and a broad assortment of service industries, including lawn maintenance, plumbing, painting and welding. The Associated Builders and Contractors and the National Association of Plumbing-Heating-Cooling Contractors cite Bureau of Labor Statistics data in Employment and Wages Annual Averages 1992 that estimate there are 629,779 construction establishments, and that 533,455 of these entities employ less than 10 persons. Data from the Small Business Administration indicate there are 73,000 plumbing companies, 24,000 welding companies, 26,000 lawn care service companies, and 31,000 painting companies. For these industries, there is no data readily available that distinguishes entities engaged in purely intrastate operations. RSPA conservatively estimates 90% of the total number do not operate outside their home state.

The minimal adverse economic impact on small entities is attributed to the fact that, because every State has already adopted hazardous materials transportation safety regulations, virtually every intrastate shipper or carrier of hazardous materials is already subject to regulations that are the same as or similar to those in the Federal Hazardous Materials Regulations (HMR). Twenty States have adopted the HMR in their entirety, and the vast majority of remaining States have adopted transportation safety regulations similar to the HMR. Many exceptions provided by the latter group of States are being incorporated in this final rule, especially with respect to agricultural operations (§ 173.5), materials of trade exceptions (§ 173.6), and exceptions for non-specification packagings used in intrastate transportation (§ 173.8).

The scope of the materials-of-trade exception is not restricted to purely intrastate motor carriers. Thus, RSPA is providing significant regulatory relief to small (and many large) entities that currently transport hazardous materials by motor vehicle in interstate commerce. These small entities now may carry certain hazardous materials in alternative packagings that provide equal or greater strength and integrity to DOT specification packagings, and the paperwork burden associated with preparation and retention of hazardous materials shipping papers is completely removed, as is the requirement for reporting incidents involving the unintentional release of a hazardous material that meets the criteria for a material-of trade. In effect, RSPA believes there could be an aggregate net benefit to small entities whose transportation of hazardous materials is limited to materials of trade.

Based upon readily available information concerning the size and nature of entities likely affected by this final rule, I certify this rule will not have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. Information collection requirements in 49 CFR parts 172 and 177 pertaining to shipping papers are currently approved under OMB control number 2137–0039. Information collection requirements contained in 49 CFR part 171 pertaining to incident reporting are currently approved under OMB control number 2137–0039. Information collection requirements pertaining to cargo tank specification requirements, including testing, in 49 CFR part 180 are approved under OMB control number 2137–0014. Requirements pertaining to marking of bulk containers in 49 CFR part 172 are approved under OMB control number 2137–0575. RSPA believes that any increase in burden as a result of this final rule has been offset by exceptions provided in this and other recent final rules. For example: increases in the burden for the preparation of shipping papers for intrastate transportation of hazardous materials will be offset by the exceptions from shipping paper requirements provided for materials of trade; and increased burdens resulting from intrastate motor carriers being required to submit incident reports have been offset by the elimination of the incident reporting requirements for limited quantities (see HM–222B; 61 FR 27166). RSPA will submit revised information collection burden estimates as a result of this final rule to OMB for approval prior to the compliance dates in this rulemaking.

E. Regulations Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR parts 171, 173, and 180 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. Section 171.1 is revised to read as follows:

§ 171.1 Purpose and scope.

(a) This subchapter prescribes requirements of the Department of Transportation governing—

(1) The offering of hazardous materials for transportation and transportation of hazardous materials in interstate, intrastate, and foreign commerce by rail car, aircraft, motor vehicle, and vessel (except as delegated at § 1.46(t) of this title).

(2) The representation that a hazardous material is present in a package, container, rail car, aircraft, motor vehicle, or vessel.

(3) The manufacture, fabrication, marking, maintenance, reconditioning, repairing, or testing of a packaging or container which is represented, marked, certified, or sold for use in transportation of hazardous materials.

(4) The use of terms and symbols prescribed in this subchapter for the marking, labeling, placarding and description of hazardous materials and packagings used in their transport.

(b) Any person who, under contract with any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government, transports, or causes to be transported or shipped, a hazardous material or manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation of a hazardous material shall be subject to and comply with all provisions of the Federal hazardous materials transportation law, all orders and regulations issued thereunder, and all other substantive and procedural requirements of Federal, State, and local governments and Indian tribes (except any such requirements that have been preempted by the Federal hazardous materials transportation law or any other Federal law), in the same manner and to the same extent as any person engaged in such activities that are in or affect commerce is subject to such provisions, orders, regulations, and requirements.

3. In § 171.8, the following definitions are added in alphabetical order:

§ 171.8 Definitions and abbreviations.

* * * * *

Agricultural product means a hazardous material, other than a hazardous waste, whose end use directly supports the production of an agricultural commodity including, but not limited to a fertilizer, pesticide, soil amendment or fuel. An *agricultural product* is limited to a material in Class 3, 8 or 9, Division 2.1, 2.2, 5.1, or 6.1, or an ORM–D material.

* * * * *

Farmer means a person engaged in the production or raising of crops, poultry, or livestock.

* * * * *

Material of trade means a hazardous material, other than a hazardous waste, that is carried on a motor vehicle—

(1) For the purpose of protecting the health and safety of the motor vehicle operator or passengers;

(2) For the purpose of supporting the operation or maintenance of a motor vehicle (including its auxiliary equipment); or

(3) By a private motor carrier (including vehicles operated by a rail carrier) in direct support of a principal business that is other than transportation by motor vehicle.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

4. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

5. Section 173.5 is revised to read as follows:

§ 173.5 Agricultural operations.

(a) The transportation of an agricultural product other than a Class 2 material, over local roads between fields of the same farm, is excepted from the requirements of this subchapter when:

(1) It is transported by a farmer who is an intrastate private motor carrier; and

(2) The movement of the agricultural product conforms to requirements of the

State in which it is transported and is specifically authorized by a State statute or regulation in effect before July 1, 1998.

(b) The transportation of an agricultural product to or from a farm, within 150 miles of the farm, is excepted from the requirements in subparts G and H of part 172 of this subchapter when:

(1) It is transported by a farmer who is an intrastate private motor carrier;

(2) The total amount of agricultural product being transported on a single vehicle does not exceed:

(i) 7,300 kg (16,094 lbs.) of ammonium nitrate fertilizer properly classed as Division 5.1, PG III, in a bulk packaging, or

(ii) 1900 L (502 gallons) for liquids or gases, or 2,300 kg (5,070 lbs.) for solids, of any other agricultural product;

(3) The packaging conforms to requirements of the State in which it is transported and is specifically authorized for transportation of the agricultural product by a State statute or regulation in effect on or before July 1, 1998; and

(4) Each person having any responsibility for transporting the agricultural product or preparing the agricultural product for shipment has been instructed in the applicable requirements of this subchapter.

(c) Formulated liquid agricultural products in specification packagings of 220 L (58 gallons) capacity, or less, with closures manifolded to a closed mixing system and equipped with positive dry disconnect devices may be transported by a private motor carrier between a final distribution point and an ultimate point of application or for loading aboard an airplane for aerial application.

(d) See § 173.315(m) pertaining to nurse tanks of anhydrous ammonia.

(e) See § 173.6 pertaining to materials of trade.

6. A new § 173.6 is added to read as follows:

§ 173.6 Materials of trade exceptions.

When transported by motor vehicle in conformance with this section, a material of trade (see § 171.8 of this subchapter) is not subject to any other requirements of this subchapter besides those set forth or referenced in this section.

(a) *Materials and amounts.* A material of trade is limited to the following:

(1) A Class 3, 8, 9, Division 4.1, 5.1, 6.1, or ORM–D material contained in a packaging having a gross mass or capacity not over—

(i) 0.5 kg (1 pound) or 0.5 L (1 pint) for a Packing Group I material;

(ii) 30 kg (66 pounds) or 30 L (8 gallons) for a Packing Group II, Packing Group III, or ORM–D material;

(iii) 1500 L (400 gallons) for a diluted mixture, not to exceed 2 percent concentration, of a Class 9 material;

(2) A Division 2.1 or 2.2 material in a cylinder with a gross weight not over 100 kg (220 pounds); or

(3) A Division 4.3 material in Packing Group II or III contained in a packaging having a gross capacity not exceeding 30 ml (1 ounce).

(4) This section does not apply to a hazardous material that is self-reactive (see § 173.124), poisonous by inhalation (see § 173.133), or a hazardous waste.

(b) *Packaging.* (1) Packagings must be leak tight for liquids and gases, sift proof for solids, and be securely closed, secured against movement, and protected against damage.

(2) Each material must be packaged in the manufacturer's original packaging, or a packaging of equal or greater strength and integrity.

(3) Outer packagings are not required for receptacles (e.g., cans and bottles) that are secured against movement in cages, carts, bins, boxes or compartments.

(4) For gasoline, a packaging must be made of metal or plastic and conform to requirements of this subchapter or requirements of the Occupational Safety and Health Administration of the Department of Labor contained in 29 CFR 1910.106.

(5) A cylinder or other pressure vessel containing a Division 2.1 or 2.2 material must conform to packaging, qualification, maintenance, and use requirements of this subchapter, except that outer packagings are not required. Manifolding of cylinders is authorized provided all valves are tightly closed.

(c) *Hazard communication.* (1) A non-bulk packaging other than a cylinder (including a receptacle transported without an outer packaging) must be marked with a common name or proper shipping name to identify the material it contains, including the letters ''RQ'' if it contains a reportable quantity of a hazardous substance.

(2) A bulk packaging containing a diluted mixture of a Class 9 material must be marked on two opposing sides with the four-digit identification number of the material. The identification number must be displayed on orange panels or, alternatively, a white square-on-point configuration having the same outside dimensions as a placard (at least 273 mm (10.8 inches) on a side), in the manner specified in § 172.332 (b) and(c) of this subchapter. Each digit in the identification number marking must be at least 25 mm (one inch) high and 6 mm (0.24 inch) wide.

(3) A DOT specification cylinder (except DOT specification 39) must be marked and labeled as prescribed in this subchapter. Each DOT–39 cylinder must display the markings specified in § 178.65–14.

(4) The operator of a motor vehicle that contains a material of trade must be informed of the presence of the hazardous material (including whether the package contains a reportable quantity) and must be informed of the requirements of this section.

(d) *Aggregate gross weight.* Except for permanently mounted tanks authorized by paragraph (a)(1)(iii) of this section, the aggregate gross weight of all materials of trade on a motor vehicle may not exceed 200 kg (440 pounds). A material of trade may be transported on a motor vehicle under the provisions of this section with other hazardous materials without affecting its eligibility for exceptions provided by this section.

7. A new § 173.8 is added to read as follows:

§ 173.8 Exceptions for non-specification packagings used in intrastate transportation.

(a) *Non-specification bulk packagings.* Notwithstanding requirements for specification packagings in subpart F of this part and parts 178 and 180 of this subchapter, a non-specification bulk packaging may be used for transportation of a hazardous material by an intrastate motor carrier until July 1, 2000, in accordance with the provisions of paragraph (d) of this section.

(b) *Non-specification cargo tanks for petroleum products.* Notwithstanding requirements for specification packagings in subpart F of this part and parts 178 and 180 of this subchapter, a non-specification cargo tank motor vehicle having a capacity of less than 13,250 liters (3,500 gallons) may be used by an intrastate motor carrier for transportation of a flammable liquid petroleum product in accordance with the provisions of paragraph (d) of this section.

(c) *Permanently secured non-bulk tanks for petroleum products.* Notwithstanding requirements for specification packagings in subpart F of this part 173 and parts 178 and 180 of this subchapter, a non-specification metal tank permanently secured to a transport vehicle and protected against leakage or damage in the event of a turnover, having a capacity of less than 450 liters (119 gallons), may be used by an intrastate motor carrier for transportation of a flammable liquid

petroleum product in accordance with the provisions of paragraph (d) of this section.

(d) *Additional requirements.* A packaging used under the provisions of paragraphs (a), (b) or (c) of this section must—

(1) Be operated by an intrastate motor carrier and in use as a packaging for hazardous material before July 1, 1998;

(2) Be operated in conformance with the requirements of the State in which it is authorized;

(3) Be specifically authorized by a State statute or regulation in effect before July 1, 1998, for use as a packaging for the hazardous material being transported;

(4) Be offered for transportation and transported in conformance with all other applicable requirements of this subchapter;

(5) Not be used to transport a flammable cryogenic liquid, hazardous substance, hazardous waste, or marine pollutant; and

(6) On and after July 1, 2000, for a tank authorized under paragraph (b) or (c) of this section, conform to all requirements in part 180 (except for § 180.405(g)) of this subchapter in the same manner as required for a DOT specification MC 306 cargo tank motor vehicle.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

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

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

9. In § 180.409, the introductory text of paragraph (a) is revised, paragraph (b) is redesignated as paragraph (d), and new paragraphs (b) and (c) are added to read as follows:

§ 180.409 Minimum qualifications for inspectors and testers.

(a) Except as otherwise provided in this section, any person performing or witnessing the inspections and tests specified in § 180.407(c) must—

* * * * *

(b) A person who only performs annual external visual inspections and leakage tests on a cargo tank motor vehicle, owned or operated by that person, with a capacity of less than 13,250 liters (3,500 gallons) used exclusively for flammable liquid petroleum fuels, is not required to meet the educational and years of experience requirements set forth in the definition of ''Registered Inspector'' in § 171.8 of this subchapter. Although not required to meet the educational and years of experience requirements, a person who performs visual inspections or leakage tests or signs the inspection reports must have the knowledge and ability to perform such inspections and tests and must perform them as required by this subchapter, and must register with the Department as required by subpart F of part 107 of this chapter.

(c) A person who performs only annual external visual inspections and leakage tests on a permanently mounted non-bulk tank, owned or operated by that person, for petroleum products as authorized by § 173.8(c) of this subchapter, is not required to be registered in accordance with subpart F of part 107 of this chapter. In addition the person who signs the inspection report required by § 180.417(b) of this subpart for such non-bulk tanks is not required to be registered. Although not required to register, a person who performs visual inspections or leakage tests or signs the inspection reports must have the knowledge and ability to perform such inspections and tests and must perform them as required by this subchapter.

* * * * *

Issued in Washington, DC on December 30, 1996 under authority delegated in 49 CFR, part 1.

D.K. Sharma,

Administrator.

[FR Doc. 97–188 Filed 1–7–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 175, 176 and 177

[Docket No. HM–206; Amdt. Nos. 171–151, 172–151, 173–260, 174–84, 175–85, 176–42, 177–89]

RIN 2137–AB75

Improvements to Hazardous Materials Identification Systems

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the Hazardous Materials Regulations (HMR) to better identify hazardous materials in transportation. Changes include adding a new ''POISON INHALATION HAZARD'' (PIH) label and placard to enhance the ready identification of materials which are poisonous if inhaled, lowering the quantity for specific hazard class placarding from 2,268 kilograms (5,000 pounds) to 1,000 kilograms (2,205 pounds) of one class or division of material loaded on a transport vehicle, expanding requirements for transport vehicles and freight containers that have been fumigated, and other enhancements to the hazard communication system. Improved identification of, and information about, hazardous materials in transportation assists emergency response personnel in responding to and mitigating the effects of incidents involving the transportation of hazardous materials, and improves safety to transportation workers and the public.

DATES: *Effective date:* October 1, 1997.

Compliance date: Voluntary compliance is authorized beginning February 11, 1997.

FOR FURTHER INFORMATION CONTACT: Helen L. Engrum, telephone (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Current Hazard Communication System

The Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) include a wide variety of hazard identification and communication requirements for hazardous material shipments. These requirements are designed, in part, to provide fire and emergency response personnel, the public, and transport workers with information in the event of a transportation incident involving hazardous materials. Hazard communication and emergency response information requirements are set forth in Subparts C through G of Part 172 of the HMR.

During transportation, most non-bulk packages of a hazardous material must be marked with the shipping name and identification number of the material and must have a hazard warning label affixed to the package. Many shipments of hazardous materials must be identified by placards attached to the transport vehicle or bulk package. Most hazardous materials must be described and identified on a shipping paper that accompanies a shipment in transportation. A shipping paper must contain an emergency response telephone number that is monitored at all times the hazardous material is in transportation. This telephone number is used by emergency responders to

obtain more detailed, product specific information on the hazardous material being transported. A carrier is required to have on each vehicle transporting a hazardous material appropriate emergency response information intended to provide guidance for the initial actions to be taken in the event of an incident.

The hazard communication system in the HMR generally is consistent with international standards. In a number of rulemaking actions from 1976 to the present, DOT has revised hazard communication requirements in the HMR, by adoption of shipping descriptions, labels, and placards, for consistency with standards in the United Nations Recommendations on the Transport of Dangerous Goods (U.N. Recommendations).

The changes to hazard communication requirements made by this final rule are intended to enhance the identification of hazardous materials in transportation and improve the availability of emergency response information. These changes should result in better response by, and protection for, emergency response personnel, (e.g., local fire or police department personnel), and help ensure that hazardous materials are transported with minimum risks to persons, property, and the environment.

B. Rulemaking History

On June 9, 1992, RSPA published an advance notice of proposed rulemaking (ANPRM) in the Federal Register [57 FR 24532]. The ANPRM was issued in response to Section 25 of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. Law 101–615). The section required the Secretary of Transportation to initiate a rulemaking to determine methods of improving the existing system of placarding vehicles transporting hazardous materials and to determine methods for establishing and operating a central reporting system and computerized telecommunications data center that could provide information to facilitate responses to incidents involving hazardous material. DOT was required to contract with the National Academy of Sciences (NAS) to study the need for establishing the central reporting system and telecommunications center. The NAS and DOT reports are included in this docket.

In the ANPRM, RSPA requested comments on 63 primary questions, many of which had sub-elements, addressing: (1) Methods of improving the current system of placarding vehicles transporting hazardous materials; (2) methods to improve the system of identifying hazardous materials in transportation; (3) the feasibility and necessity of requiring carriers to maintain continually-monitored telephone contacts for emergency response information; and (4) methods for establishing and operating a central reporting system and center that could provide information to facilitate responses to incidents involving the transportation of hazardous materials. More than 230 comments were submitted in response to the ANPRM. Most commenters did not support a comprehensive modification of the existing hazard communication requirements. The commenters were overwhelmingly opposed to establishing a central reporting system and center, on the grounds that it would not be workable and would be too costly.

On August 15, 1994, RSPA issued a notice of proposed rulemaking (NPRM) in the Federal Register proposing certain changes to the hazard communication requirements of the HMR. [59 FR 41848; Corrections to the NPRM were published Aug. 26, 1994 (59 FR 44230) and Aug. 30, 1994 (59 FR 44795)] RSPA agreed with the central recommendation in the NAS report and most of the commenters to the ANPRM not to establish a national, central reporting system and computerized telecommunications data center. Accordingly, RSPA did not propose to establish a central reporting system and computerized telecommunications data center.

More than 80 written comments from chemical companies, transport companies, farmers, trade associations, explosives manufacturers and distributors, police departments and fire associations, State governments, and the National Transportation Safety Board (NTSB) were received in response to the NPRM. In addition, on October 18, 1994, a public hearing was held in Washington, DC. Twenty-four persons attended, and several presented written and oral statements. A transcript of the public hearing is on file in the Docket.

II. Regulatory Issues

A. Summary

A majority of commenters supported RSPA's narrowing of the issues related to improvements to the current hazard identification and communication system and supported most of the proposals.

The following is a discussion of the comments and regulatory changes made in this final rule.

B. Labeling and Placarding Requirements

1. *PIH label and placard.* RSPA is adopting, as proposed, in Subparts E and F of Part 172, respectively, unique labels and placards for both liquids and gases that are poisonous by inhalation (PIH).

Based on their severe inhalation hazards, certain materials are designated as poisonous by inhalation. The term ''material poisonous by inhalation'' is defined in 49 CFR 171.8. Classification criteria are set forth in § 173.115 for gases and § 173.132 for liquids. Specific regulations in Subparts C and D of Part 172 generally require that the words ''Inhalation Hazard'' be entered on each shipping paper and marked on each packaging in association with the proper shipping name for PIH materials. Packages of PIH materials must also be labeled and transport vehicles must be placarded, as appropriate. Currently emergency responders are alerted to the presence of materials poisonous by inhalation in transportation by these special package markings and shipping paper information. Since harmonizing domestic regulations with international standards in the U.N. Recommendations and adopting international labels and placards, hazard warning words on a label or placard are no longer required in the HMR. Because of the lack of hazard warning words or a distinguishing characteristic in the symbol on a POISON vs. POISON GAS label or placard to immediately warn emergency responders of the dangers associated with poisonous liquids or gases, RSPA believes the existing POISON or POISON GAS label and placard are not adequate in communicating the inhalation hazard of these materials.

In the NPRM, RSPA proposed a distinctive label and placard for PIH materials. A majority of commenters supported adoption of a PIH label and placard, and others indicated that they would support a PIH label and placard if adopted by the U.N. Most commenters, both for or against the proposal, linked their positions to concerns for maintaining harmonization with the U.N. Recommendations in hazard communication. Commenters supporting a PIH label and placard stated that the new warnings would improve DOT's hazard communication system by creating an instantly recognizable difference between PIH materials and other poisons, thus further enhancing responder safety. The International Association of Fire Chiefs stated that changing the labeling/placarding from ''Poison'' to ''Poison

Inhalation Hazard'' is very appropriate and will be extremely beneficial to emergency responders. The Chemical Manufacturers Association (CMA) supported creation of a new placard for liquids and gases deemed poisonous by inhalation because of the additional guidance that would be provided to emergency responders; however, CMA urged RSPA to work with the U.N. to develop and gain acceptance of a new label and placard before modifying the HMR. The American Trucking Associations (ATA) supported adoption of a PIH label and placard in its comments to the ANPRM and continued that support in its comments to the NPRM. ATA indicated that the present system for identifying PIH materials is inadequate and confusing. ATA also suggested revisions to §§ 171.11, 171.12, and 171.12a, to allow continued use of the existing POISON and POISON GAS labels and placards for international shipments. The Chemical Waste Transportation Institute (CWTI) suggested that the ''Inhalation Hazard'' marking prescribed in the current § 172.313 be eliminated if PIH labels and placards are displayed in domestic transportation.

Several supporters believe that, if RSPA adopts a PIH label and placard, the INHALATION HAZARD text ''must'' be displayed on the label and placard at all times. Many commenters supporting the proposed PIH label and placard asked RSPA to provide a transition period of at least one year for implementation.

Commenters opposed to a U.S.-only PIH label and placard said such a provision would depart from the hazard communication system established in Docket HM–181 to achieve international uniformity. Other commenters opposing a PIH label and placard asserted that existing POISON and POISON GAS labels and placards clearly convey an adequate warning and are generally well understood.

RSPA believes that a new PIH label and placard provide a distinctive warning to emergency responders of the unique hazards (extreme toxicity, high volatility) of PIH gases and vapors. RSPA intends to propose classification, hazard communication and packaging requirements for PIH materials for adoption in international transportation regulations during the 1997–98 biennium of the U.N. Committee of Experts on the Transport of Dangerous Goods. Requiring a specific PIH label and placard is an additional step in RSPA's effort, begun in 1985, to enhance safety in the transportation of PIH materials by establishing a complete system of transportation controls: Classification; hazard communication; and packaging. Adding a PIH label and placard to the hazard communication requirements also responds to a petition (P–1132) for rule change from the Compliance and Investigation Committee of the Cooperative Hazardous Materials Enforcement Development (COHMED) program. The COHMED program, made up of participants from Federal, State and local government agencies, and industry, is an outreach activity of RSPA that promotes coordination, cooperation, education and communication for the safe transportation of hazardous materials.

In response to concerns expressed by commenters, if the new PIH label or placard is displayed, the ''Inhalation Hazard'' marking specified in § 172.313 is not required on a package. However, packages being transported under the provisions in §§ 171.11, 171.12, or 171.12a, which are not labeled as required in this final rule, must display the ''Inhalation Hazard'' marking. RSPA is not adopting a requirement requested by commenters that display of text be required on labels and placards. RSPA believes that the distinct design and dark color of the symbol depicted on the new PIH label and placard adequately convey the appropriate information to alert responders to the dangers involving materials poisonous by inhalation. Also as requested by commenters, for highway and rail shipments of a material poisonous by inhalation, RSPA is including transitional provisions for continued use of the old POISON or POISON GAS placards until October 1, 2001, which is consistent with the current transitional provisions in § 171.14 for placarding highway shipments of hazardous materials (i.e., October 1, 2001).

2. *Lowering the placarding exception for use of the DANGEROUS placards from 2,268 kg (5,000 pounds) to 1,000 kilograms (2,205 pounds).* As proposed, RSPA is adopting, in the placarding provisions in Part 172, a requirement that limits use of the DANGEROUS placard for mixed loads of hazardous materials. RSPA is lowering from 2,268 kilograms (5,000 pounds) to 1,000 kilograms (2,205 pounds) the quantity of one class or division of a hazardous material loaded at one facility for which a specific placard (e.g., CORROSIVE or FLAMMABLE) is required.

A number of commenters opposed this proposal, citing the potential for confusion, additional training, placard proliferation, decreased hazard warning effectiveness, additional drivers needing a Commercial Driver's License (CDL), and cost to industry. The Conference on Safe Transportation of Hazardous Articles, Inc., urged RSPA not to implement the proposed change, stating that it would increase costs and cause a regulatory ''ripple effect'' associated with the reduction of the current placarding threshold.

Farmland Industries, Inc. (Farmland), opposed lowering the quantity for which specific hazard class placarding is required and believed that modification of the use of the DANGEROUS placard would require greater investment in additional placards and training to obtain compliance with the regulations. Farmland stated that each of these investments adds costs to its products, which will ultimately be borne by the consumer. The International Sanitary Supply Association (ISSA) opposed limiting use of the DANGEROUS placard. ISSA stated that, at a time when industry is still coming to terms with the massive changes brought about by HM–181, it is imperative to provide some consistency in the regulations to facilitate overall compliance and transportation safety.

A number of commenters supported the proposal stating that safety would be improved by requiring more shipments to display specific hazard class and division warnings. The IAFC expressed support for the proposal because use of the DANGEROUS placard increases the risk to response personnel arriving at the scene of an emergency because the nature or characteristics of the hazardous material are not specifically identified, resulting in delaying decisions on how to mitigate the incident. Another commenter stated the DANGEROUS placard does not provide enough significant information to emergency responders trying to identify hazardous materials in a transport vehicle. The Compressed Gas Association supported the proposal to better identify the hazards. Shell Oil stated the presence of a DANGEROUS placard may, in some instances, delay effective action. Monsanto stated that the DANGEROUS placard should be eliminated altogether because its elimination will serve to further increase compliance and safety.

RSPA believes that further limiting the use of the DANGEROUS placard by lowering the quantity from 2,268 kilograms (5,000 pounds) to 1,000 kilograms (2,205 pounds) for which a specific placard is required will improve communication relative to the hazardous materials being transported on a vehicle. RSPA does not agree with the comments asserting that additional drivers will be requiring a CDL. Since these motor vehicles are already

placarded with a DANGEROUS placard, display of a specific placard will not affect or increase the number of drivers needing a CDL.

3. *Lowering the placarding exception threshold from 454 kg (1,001 pounds) to 400 kg (882 pounds) aggregate gross weight of Table 2 hazardous materials.* In this final rule, RSPA is not lowering the placarding exception threshold in § 172.504(c). RSPA proposed lowering the placarding exception threshold for hazardous materials in Table 2 from 454 kilograms (1,001 pounds) to 400 kilograms (882 pounds). The exception allows for the transportation of up to 454 kilograms (1,001 pounds) aggregate gross weight of ''Table 2'' hazardous materials in non-bulk packagings on a transport vehicle without placarding.

More than 50 comments were received in opposition to the proposal. In support of their opposition to this proposal, commenters cited the potential for increased confusion, increased costs to industry, an increase in the number of drivers requiring a CDL, increased burden on small shippers, more placard-related prohibitions (i.e., tunnels, some expressway restrictions), training, placard ''proliferation,'' and reduced effectiveness of the placarding requirements.

Some commenters in support of the lowering of the placarding exception, indicated that even small amounts of hazardous materials can cause injury or damage to the public, property, and the environment, and that without placards communication of this important information would be lacking. Monsanto said that the exception to the placarding requirement is inconsistent with other parts of the hazardous materials regulations requiring labeling and marking for smaller quantities of hazardous materials found in other sections of the regulations. Monsanto indicated that reduction of the weight limitation would lead to better communication for hazardous materials shipments, enhanced safety and better emergency response.

RSPA views the proposed lowering of the placarding exception threshold as an incremental enhancement to safety. RSPA agrees with commenters that the number of drivers needing a CDL would increase because more vehicles would be placarded and that such a change would substantially increase compliance costs. Upon further consideration, RSPA has determined that the benefits of this safety enhancement do not outweigh the potential costs and is not adopting this proposal.

4. *Table 1 placard assignment—Organic peroxide, Type B, liquid or solid, temperature controlled.* In § 172.504, RSPA is adopting the proposal to require placarding of any quantity of ''Organic peroxides, Type B, temperature controlled'' material. In the NPRM, a proposal was made to include ''Organic peroxide, Type B, liquid *or* solid, temperature controlled'' in Table 1 of § 172.504(e), which would require placarding in any quantity. Only two comments were received on this issue. PPG Industries, Inc., supported the change. J. B. Hunt Transport, Inc., recommended changing the classification of Organic peroxide, Type B, temperature controlled materials to a Class [Division] 1.3 Explosive, but did not provide any information to substantiate its proposal.

RSPA believes that organic peroxides that require refrigeration for stabilization purposes during transport pose a substantial hazard in any incident that results in a loss of temperature control. These organic peroxides can decompose with such rapidity within a package that the resultant heat and gas will violently burst the package, creating a dangerous situation during which emergency measures and possible evacuation of the areas would need to be initiated. In order to make emergency responders aware of organic peroxides requiring temperature control, it is necessary to communicate the fact without regard to quantity. Therefore, RSPA is adding ''Organic peroxide, Type B, temperature controlled'' in placarding Table 1 of § 172.504(e). The placarding requirements applicable to other organic peroxides remain in Table 2.

5. *Prohibited and permissive placarding: Extraneous information on placards and in placard holders.* RSPA is revising § 172.502 to prohibit extraneous information (e.g., ''DRIVE SAFELY'') on placards, in placard holders and on placard-type displays, as proposed. RSPA received 18 comments supporting the proposal to prohibit the display of extraneous information, such as the ''DRIVE SAFELY'' slogan, on a placard, placard-type display, and in a placard holder. Most of the commenters believed the prohibition will reduce confusion among emergency responders and increase placard effectiveness. ATA urged RSPA to allow a 7 year phase-out period. Dow Chemical Company supported this change, and requested that a reasonable phase-out period be allowed. Yellow Freight System, Inc. supported removal of extraneous information on placards, placard-type displays, and in placard holders and stated that other venues exist on tractors and trailers for carriers to more appropriately place messages unrelated to the safe transportation of hazardous materials. The State of Michigan, Department of State Police stated that elimination of the ''DRIVE SAFELY'' sign is an excellent change and should be adopted. The National Tank Truck Carriers, Inc. (NTTC) had no opposition to this proposal, but questioned whether ''DRIVE SAFELY'' slogans on placard-type displays could be confused with ''alert words'' used on placards.

Five commenters, including the National Private Truck Council, opposed the proposed prohibition, asserting that there is no evidence the ''DRIVE SAFELY'' display on placards and in placard holders confuses responders. The National Industrial Transportation League (NITL) stated that it could better support a rule which would simply forbid the marking of signs or slogans on vehicles, bulk packaging and containers in the ''future,'' but not require the removal of signs and slogans which currently exist. A commenter opposed to this change stated the current requirement in § 172.502(a)(2), as it is currently written, is sufficient to prevent displays of conflicting slogans or markings on transport vehicles carrying hazardous materials.

RSPA believes that extraneous information displayed on placards, placard-type displays, and in placard holders, such as ''DRIVE SAFELY'' and other slogans, detracts from the basic function of placards, and reduces the ability of emergency responders to readily recognize vital hazard alerting information. Placards must be strictly reserved for hazard communication with all other confusing or conflicting displays prohibited. Accordingly, RSPA is prohibiting the display of extraneous information on placards, placard-type displays, and in placard holders.

RSPA agrees with those commenters requesting an extended compliance date consistent with the transitional provisions for placarding highway shipments (October 1, 2001) of hazardous materials for phasing out extraneous information. In the NPRM, RSPA proposed a compliance date of October 1, 1997, for mandatory removal of these slogans. Upon further consideration, RSPA believes a transition period consistent with the current provisions in § 171.14(b) is appropriate and is providing a phase-out period until October 1, 2001, for industry to remove, cover, or obliterate extraneous slogans from placard displays.

C. Marking Requirements

1. *Identification number marking for packaged Poison Inhalation Hazard (PIH) materials.* RSPA is revising § 172.313 and adopting the proposal, with modification, to require that identification number markings be displayed on transport vehicles and freight containers to improve identification of a hazardous material poisonous by inhalation (PIH) offered in amounts of more than 1,000 kilograms (2,205 pounds) aggregate gross weight. RSPA proposed to require identification number markings on a transport vehicle or freight container containing non-bulk packages having more than 400 kilograms (882 pounds) aggregate gross weight of a PIH material.

Commenters, such as the Association of American Railroads (AAR), opposed this identification number marking on the basis that it would be redundant and burdensome to industry given RSPA's proposal to add a new PIH label and placard to more specifically communicate the inhalation hazard to emergency response personnel. Several commenters said it would not provide any safety benefit. Others warned the existing, well understood hazard communication system for poisonous materials could be weakened by introducing a plethora of confusing, redundant markings. Air Products and Chemicals, Inc. said that this change would cause it to modify existing customer delivery patterns to reduce the likelihood of multiple mixed loads of PIH materials.

Other commenters, such as CWTI, supported the change, stating that this proposed change would more ''efficiently convey essential information'' from available sources and provide essential information not previously available because the shipment was not subject to the display of identification number markings on transport vehicles and freight containers. CMA expressed general support for the proposal, and believed that while this change would be relatively minor in nature, the change should help improve the hazard communication system and increase the safety of emergency responders. The 3M company recommended a 1,001 pound threshold for consistency with the existing placarding exception in § 172.504.

RSPA believes that requiring certain quantities of a packaged PIH material to be identified by an identification number marking display on a transport vehicle or freight container will increase the effectiveness of DOT's communication system for high hazard poisonous liquids and gases. This requirement will further enhance the effectiveness of the new PIH labels and placards by providing immediate information to emergency responders assisting them in addressing the hazards of PIH materials.

In response to the concerns expressed by several commenters in regard to shipping mixed loads, (e.g., different kinds of poisonous gases in cylinders, assigned different identification numbers, which may weigh as much as 150 pounds gross weight), RSPA is raising the quantity threshold for identification number marking of a packaged PIH material from the proposed 400 kilograms (882 pounds) to 1,000 kilograms (2,205 pounds) aggregate gross weight on a transport vehicle or freight container.

2. *Identification number marking on vehicles transporting non-bulk packages in large quantities.* Section 172.301 is revised, and the proposal is adopted with modification, to require an identification number marking display on transport vehicles and freight containers containing large quantities of non-bulk packagings of hazardous materials having a single identification number, and includes a threshold of 4,000 kilograms (8,820 pounds) for those quantities. RSPA proposed to require display of identification numbers on vehicles transporting, in truckload or carload quantities, non-bulk packages of hazardous materials that are identified by a single identification number.

Nineteen commenters supported this proposal. Nine commenters opposed it; however, six of these commenters said they would support it if RSPA clarified what constitutes a ''truckload'' or ''carload'' quantity.

Several commenters urged RSPA to define ''truckload'' as ''fully loaded'' when a substantial capacity of the vehicle is ''occupied'' by packaged hazardous materials, or restrict application to common freight container size dimensions, such as 8′× 8′× 20′ or 8′× 8′× 40′. Several commenters were unclear whether RSPA intended the marking requirements to be based on package weight or number; or whether the terms ''truckload'' or ''carload'' would include vans and other similar vehicles.

Commenters opposed to the proposal asserted that the marking requirement might force businesses to change delivery patterns or customer service or to avoid mixing certain hazardous and non-hazardous loads.

RSPA believes that a requirement for the display of identification number marking on transport vehicles and freight containers containing large quantities of hazardous materials in non-bulk packagings having a single identification number will assist emergency responders in accessing hazard mitigation information. In response to commenters concerns regarding the phrase ''truckload'' or ''carload'' quantity, RSPA has decided to avoid use of terms that could be confused with economic terminology. In this final rule, large quantities of hazardous materials in non-bulk packagings having a single identification number and having an aggregate gross weight of not less than 4,000 kilograms (8,820 pounds) on a transport vehicle or freight container would be subject to the requirement. Accordingly, the identification number specified for the hazardous material in the § 172.101 Table must be displayed on a placard, orange panel or plain white square-on-point configuration as prescribed in §§ 172.332 or 172.336, as appropriate.

A new § 172.323 was proposed for the new identification number requirement. After further consideration, RSPA believes it is more appropriate to consolidate this requirement under the general requirements for marking non-bulk packagings, in § 172.301.

3. *Identification number marking visibility on closed transport vehicles or freight containers carrying cargo tanks and other bulk packagings.* In Subpart D of Part 172, RSPA is adopting as proposed a requirement to specify that identification number markings are required on the outside of closed transport vehicles and freight containers carrying cargo tanks and other bulk packagings (e.g., intermediate bulk containers (IBCs)), when the identification number marking on the bulk package is not visible during transportation.

NTTC and three other commenters supported the clarification to assure that markings will be visible on the exterior of a closed transport vehicle or freight container containing a hazardous material in a bulk packaging. The Rigid Intermediate Bulk Container Association (RIBCA) opposed the proposal, saying it is not unusual for one vehicle to contain four or more IBCs bearing four or more different identification numbers. RIBCA said the proposed clarification would require display of many identification numbers on vehicles that would confuse responders. RIBCA suggested use of primary class placards or identification number displays for IBCs bearing ''a single identification number.''

RSPA believes that the display of identification numbers on the outside of

transport vehicles that contain bulk packages of hazardous materials is consistent with the requirement that identification numbers on the bulk package be visible in transportation. RSPA does not agree that identification number marking displays on closed transport vehicles containing other bulk packagings (e.g., IBCs) should only apply if the IBCs in the transport vehicle or freight container bear the same identification number. Accordingly, RSPA is requiring the display of identification numbers on the outside of closed transport vehicles and freight containers when they contain any bulk packaging.

4. *FUMIGANT marking on transport vehicles or freight containers which contain fumigated lading.* In § 173.9, RSPA is adopting its proposal, with modification, to revise and expand the requirements for display of a FUMIGANT marking that is consistent with international requirements. RSPA is: (1) extending the requirements to display the fumigant marking to every material used to fumigate the contents of a transport vehicle or freight container; (2) expanding the requirements to cover all modes of transportation; (3) specifying that a fumigated transport vehicle or freight container is a ''package'' for application of the fumigation requirements; (4) adopting the international fumigant marking; and (5) consistent with the U.N. Recommendations, specifying that a shipping paper accompanying an international shipment must contain hazard warning information concerning the fumigant.

Most commenters supported application of the FUMIGANT marking to all modes of transportation and revision of the marking for consistency with the U.N. Recommendations. The IAFC stated that even though there are not many documented incidents where the lack of a FUMIGANT marking has caused an accident, the potential for such accidents exists throughout the country. The Arizona Department of Public Safety supported the change, stating:

> Your proposed revision would have undoubtedly prevented the injury of one of our Arizona Highway Patrol Commercial Vehicle Safety Specialists last year, when he entered a trailer on a state highway to inspect its contents. He was unaware that it had recently been fumigated with methyl bromide, and was quickly injured by the fumigant. He was treated at a hospital and by his personal physician, and lost time off work from the incident.
>
> This officer was one of our hazardous materials emergency responders, and had been trained to the OSHA 1910–120 [sic] Hazardous Materials Technician level, with over 200 hours of training. However, since he was unaware of the toxic fumigated nature of the trailer, he did not utilize the personal protective clothing and self-contained-breathing-apparatus he was equipped with.

One commenter supported the proposal and stated that the fumigation issue is of particular interest in Washington and Oregon because both States have ports and receive grain from other States via highway and rail.

Only one commenter, a large motor carrier, opposed the proposal, pointing out that the fumigant marking was designed for large enclosed places with little or no opportunity for escape of toxins upon opening (such as a cargo aircraft or vessel). The commenter stated that it would not be beneficial to small ground transportation vehicles that are rarely, if ever, opened in confined spaces.

The Air Transport Association of America inquired whether this provision would require ''small shippers of agricultural products to provide a fumigant warning (if product has been treated) on shipper provided packaging.'' The requirement to display a FUMIGANT warning is applicable to freight containers which contain fumigated lading, and not to aircraft compartments containing crates, boxes or other packages containing agricultural produce or perishable products.

In response to another commenter, the wording ''should indicate'' in proposed § 173.9(f) is changed to read ''must indicate,'' relative to fumigation information on international transport documents.

After further consideration, RSPA is not adopting as proposed, the training and testing requirement prescribed in Subpart H of Part 172, as it applies to persons who offer and accept a material for transportation which has been fumigated. However, if other hazardous materials are being transported, the training requirements of the HMR apply. RSPA believes that persons offering or transporting fumigated loads must have knowledge relative to the fumigated load. Accordingly, § 173.9 is revised to specify that such persons must be informed of the requirements of this section which are applicable solely because the lading has been fumigated and, for the purpose of this section, is a package containing a hazardous material.

For the purposes of compliance with this section of the HMR, RSPA has made the determination that a fumigated load is a ''package.'' This should resolve concerns relative to the potential for increased financial responsibility levels, as required by the Federal Motor Carrier Safety Regulations (FMCSR), 49 CFR part 387.

Based on the forgoing, RSPA believes that a FUMIGANT marking for all modes of transportation is necessary and that display of the proposed FUMIGANT marking will minimize the risk of exposure and prevent injury from poisonous or noxious materials. It should be noted that requirements in § 176.76(i) [issued under the final rule in HM–215A; 59 FR 67390] for fumigants transported by vessel became effective October 1, 1996. On April 29, 1996, a final rule [HM–222A; FR 61 18926] was published in the Federal Register which redesignated § 176.76(i) as § 176.76(h).

D. Emergency Response Information

1. *Emergency response information readily available to authorities.* RSPA proposed to clarify certain provisions of the emergency response information requirements in Subpart G of Part 172, and corresponding §§ 175.33, 176.30, and 177.817. Upon further consideration, based on comments received in opposition to this proposal, RSPA is not adopting the changes proposed in § 172.602 and the corresponding sections. RSPA believes that the basic elements of the proposed change are already adequately covered by the requirements in § 172.600(c).

2. *Carrier notification and information contact.* RSPA is adding § 172.606 to the HMR and adopting, as proposed, a requirement that each carrier who transports a hazardous material, for which a shipping paper is required, to instruct the operator of a motor vehicle, train, aircraft, or vessel to contact the carrier in the event of an incident involving the hazardous material.

Generally, most commenters supported improvements to emergency response information requirements. Most of these commenters did not specifically address their comments to the proposal for carrier information contact and notification. Of the ten comments which specifically addressed this proposal, approximately five commenters supported it. The American Trucking Associations had no comment on this proposal.

Many of the commenters confused the proposal for carrier information contact with the proposal for marking an emergency response telephone number on a motor vehicle when disconnected from its motive power and stored at other than a carrier's, consignee's, or consignor's facility. One commenter said that the proposal was unnecessary because carriers should already be instructing their operators to contact

them in the event of an incident involving hazardous materials, as part of the driver training requirements under Subpart H of Part 172.

RSPA believes that required information available at the scene of a hazardous materials incident meets most of the immediate information needs of responders. However, in some instances the operator of a motor vehicle may not be able to initiate appropriate mitigation procedures without the carriers involvement. RSPA believes better coordination of emergency response and spill mitigation actions will result from specific requirements for carrier instruction to operators regarding incident notification; therefore, RSPA agrees with NAS's recommendation that requiring a carrier information contact will respond in part to concerns addressing improvements to the hazardous materials identification system. In this final rule, RSPA is requiring that a carrier who transports or accepts a hazardous material for transportation instruct the operator of a transport vehicle to contact the carrier following an incident.

3. *Mark carrier telephone number on transport vehicle, or have shipping papers and emergency response information located on transport vehicle when a transport vehicle is separated from its motive power.* RSPA is adopting, as proposed in new § 172.606, a requirement that a motor carrier mark its telephone number on a highway transport vehicle, trailer or semi-trailer, or have shipping papers and emergency response information located on the transport vehicle, when separated from its motive power away from a consignee's, consignor's, or carrier's facility. Most comments on this proposal supported the concept, but differed on how to implement it. Several motor carriers noted that many carriers already mark their names on transport vehicles and asked RSPA to exempt companies already displaying this information. Other commenters cited confusion over marking trailers used by more than one carrier; they said such trailers should bear the lessee's name and phone number. Illinois DOT supported the proposal and stated that a consistent location should be specified, such as a holder on the right front corner, to ensure copies of shipping papers and emergency response information are on a transport vehicle when disconnected from its motive power. NITL generally supported RSPA's proposal in § 172.606(b), but requested exceptions for those carriers who already prominently display their names and principal place of business from having to mark their vehicles with the telephone number of the motor carrier.

RSPA believes that an unattended motor vehicle (e.g., a trailer or semi-trailer disconnected from its motive power) carrying hazardous materials must be sufficiently identified to communicate information regarding hazardous materials in the transport vehicle or to provide a telephone number where the information would be available. In some instances, a semi-trailer may be in an interchange operation in which the motor carrier using the semi-trailer is not the motor carrier whose name is displayed on the vehicle, or a leasing company name may be prominently displayed on a semi-trailer. In either of these instances, the company's name appearing on the semi-trailer would not lead directly to information regarding the hazardous material being transported. RSPA acknowledges that many transport vehicles identified and operated by the same company are marked with the company's name and address. RSPA does not believe such operations should be excepted from complying with any method prescribed in § 172.606(b) (1), (2), or (3).

E. Editorial Correction and Clarification

1. *Notice to train crews of placarded cars.* In § 174.26, RSPA is adopting, as proposed, a requirement that a train consist be updated to reflect the current position in the train of each rail car containing hazardous materials. NTSB supported clarification of a provision in § 174.26, which requires that a train crew must have a document that reflects the current position in the train of each rail car containing a hazardous material, stating:

> The Board supports the proposed change to 49 CFR Section 174.26(b) that would require a traincrew [sic] to have a current record or updated consist to reflect the position in the train of each rail car containing a hazardous material. The proposed revision would satisfy action requested in Safety Recommendation R–9–38, which was issued by the Board to the Federal Railroad Administration following a train derailment in Akron, Ohio, on February 26, 1989.

RSPA proposed that an updated train consist be permitted to meet this requirement. The existing requirement in the HMR specifies that the train crew must have a document indicating the position in the train of each loaded placarded car containing hazardous materials, except when the position is changed or the placarded car is placed in the train by a member of the train crew. Although the provision specifies that a train consist may be used, it does not state that the train consist must be ''updated'' to meet this requirement. AAR and several rail carriers expressed concern that the proposed language as written does not clearly state that train crews can attach a document, which reflects current train placement, to the train consist to indicate changes in the placement of hazardous materials cars in trains. AAR stated that train crews should be specifically authorized to modify consists by inserting a ''reference'' in the consist to additional documents in the train crew's possession.

Along with NTSB, FRA and RSPA believe this section should be clarified to specify that an updated train consist must be used to meet this requirement. In response to AAR's and several rail carriers' concerns for further clarification of the term ''updated'' as it applies to modifying train consists to reflect the train placement requirement, RSPA is revising this section to allow the use of appended or attached documents that reflect current train placement. This addresses situations in which modifying a train consist is accomplished by inserting attachments (e.g., track lists and work orders, etc.) that reflect the current position in the train of cars containing hazardous materials. In this final rule, a train consist must be updated (i.e., modified, changed, or appended) and used by the train crews to accurately reflect changes in the placement of hazardous materials cars in trains.

III. Related Rulemakings

On June 5, 1996, RSPA issued a final rule [HM–216; 61 FR 28666], which contained a number of changes to the rail requirements in the HMR. RSPA revised §§ 172.510 and 172.526 to delete reference to the use of the RESIDUE placard and removed the RESIDUE placard as shown in the placarding examples, respectively. RSPA also removed the special documentation requirements of § 174.25 requiring placard notations or endorsements on shipping papers (e.g., waybills, switching ticket, or switching order). In addition, RSPA deleted paragraph (a) of § 174.26, regarding notices showing the location in each train of each rail car placarded EXPLOSIVES 1.1 or 1.2, POISON GAS, Division 2.3 Hazard Zone A, and Division 6.1, PG I, Hazard Zone A materials, and revised and redesignated paragraph (b) as paragraph (a).

Since the provisions applying to the specifications and use of the RESIDUE placard have been removed in HM–216, the change proposed in § 172.510 (HM–206), regarding reference to the POISON-RESIDUE and POISON

INHALATION HAZARD-RESIDUE placards, is no longer necessary. The action taken in HM–216 in § 174.25 to remove the requirements for placard endorsement and notation on rail billings, makes the proposed change in this section referencing the POISON INHALATION-HAZARD placard unnecessary. In this final rule, for ease of understanding, the text of § 174.26 contained in Docket HM–216 is republished.

On May 30, 1996, RSPA issued a final rule [Docket HM–222B; 61 FR 27166], which revised the requirement in § 177.841 to allow foodstuffs which are loaded in a closed unit load device to be transported in the same motor vehicle with poisons that are loaded in a separate closed unit load device. In this final rule, RSPA is revising § 177.841 to include reference to the new POISON INHALATION HAZARD label.

IV. Section-by-section highlights

This section-by-section summary addresses highlights of the changes to the hazard communications requirements. In addition, the following table is provided as an aid to readers and provides a summary of changes made in this final rule and their respective compliance dates.

Section	Action	Discussion	Compliance date
§ 172.301	ID No. marking on vehicle for large quantities (≥4,000 kg) in non-bulk packages.	New requirement	Oct. 1, 1997.
§ 172.313	ID No. marking on vehicle for a PIH material with ≥ 1,000 kg in non-bulk packages.	New requirement	Oct. 1, 1997.
§ 172.328	ID No. marking display on closed vehicle containing cargo tanks.	New requirement	Oct. 1, 1997
§ 172.331	ID No. marking display on closed vehicle containing other bulk packages (e.g., IBCs).	Expansion of current requirement applicable to portable tanks.	Oct. 1, 1997
§§ 172.416 & 172.429	PIH labels for both liquids and gases that are poisonous if inhaled.	Replaces POISON label and POISON GAS label design.	Oct. 1, 1997.
§ 172.504(b)	Specific placard required when ≥ 1,000 kg of one class on a vehicle.	Reduction of quantity from 2,268 kg for use of DANGEROUS placard for mixed loads.	Oct. 1, 1997.
§ 172.606(a)	Carrier must instruct operator of motor vehicle to contact the company in the event of a hazmat incident.	New requirement	Oct. 1, 1997.
§ 172.606(b)	Requiring information with parked (dropped) motor vehicle.	New requirement	Oct. 1, 1997.
§§ 172.302 & 173.9	FUMIGANT marking, applying to all modes	Expansion of existing requirements and adoption of international design.	Oct. 1, 2001.
§ 172.502	Prohibited display of extraneous information on placard and in placard holder.	Expansion of existing requirements.	Oct. 1, 2001.
§§ 172.540 & 172.555	PIH placards for both liquids and gases that are poisonous if inhaled.	Replaces POISON and POISON GAS placard design.	Oct. 1, 2001.

Section 171.8. Although not proposed, in order to assist persons in locating the requirements for transporting lading which has been fumigated, the entry ''‘Fumigated lading’ (See §§ 172.302(g) and 173.9)'' is being added to the definitions in § 171.8.

Section 171.11, 171.12 and 171.12a. In §§ 171.11(d)(9)(iii), 171.12(b)(8)(iii) and 171.12a(b)(5)(iii), the words ''POISON INHALATION HAZARD'' replace the word ''POISON'' in reference to labeling poison inhalation hazard materials other than gases.

Section 171.14. On September 26, 1996, a final rule was published in the Federal Register [Docket HM–181H; 61 FR 50616] which removed obsolete transition dates in § 171.14. New paragraphs (a), (b), and (c) contain all remaining transitional provisions implementing changes adopted under Docket HM–181. In this final rule (HM–206), paragraph (b) is revised to allow continued use of the old placards for PIH materials, in accordance with the Placard Substitution Table provided in this section. Accordingly, for highway and rail shipments, mandatory use of the new PIH placards [for Division 2.3 and Division 6.1, PG I materials] begins on October 1, 2001, which is consistent with other transitional placarding provisions for highway shipments of hazardous materials.

Section 172.101. On April 29,1996, a final rule was published in the Federal Register [Docket HM–222A; 61; FR 18926]. In this final rule, the § 172.101 Hazardous Materials Table (§ 172.101 HMT) was reformatted to reduce the volume of the regulations and make them easier to use. A numerical identifier is now shown in the § 172.101 HMT in place of the label name. A ''Label Substitution Table,'' was added preceding the HMT to identify which label corresponds to a label code (i.e., numerical identifier) in Column (6). In this final rule (HM–206), the ''Label Substitution Table,'' in § 172.101(g), is amended to include the new label name ''Poison Inhalation Hazard'' and label code ''6.1 (I, Zone A and B, inhalation hazard),'' in its appropriate sequence.

Section 172.301. A new paragraph (a)(3) is added in this section requiring an identification number marking on transport vehicles and freight containers containing large quantities (i.e., not less than 4,000 kilograms (8,820 pounds)) of hazardous materials in non-bulk packagings having a single identification number. Paragraph (a)(1) is also revised to more appropriately include the exception from identification number marking for ORM–D and limited quantity materials, currently provided in paragraph (f)(1). Accordingly, paragraph (f)(1) is removed, and paragraph (f)(2), which is obsolete, is removed.

Section 172.302. A new paragraph (g) is added to reference the fumigation marking requirements in § 173.9.

Section 172.313. Paragraph (a) is revised to include an exception from the

''Inhalation Hazard'' marking requirement, provided packages are already labeled or placarded with the new PIH label or placard. Paragraph (c) is added to require that transport vehicles or freight containers containing more than 1,000 kilograms (2,205 pounds) aggregate gross weight of non-bulk packages containing a material poisonous by inhalation must be marked with the identification number of that material. This is an increase in the quantity threshold (i.e., 2,205 pounds) for the identification number marking display for a PIH shipment in non-bulk packagings from the proposed 400 kilograms (882 pounds).

Section 172.328. Paragraph (a)(3) is added to clarify that an identification number marking must be displayed on a transport vehicle or freight container containing a hazardous material in a cargo tank, if the identification number marking on the cargo tank is not visible during transportation.

Section 172.331. Paragraph (c) is added to clarify that an identification number marking must be displayed on a transport vehicle or freight container containing a hazardous material in a bulk packaging (e.g., an IBC) other than a cargo tank, portable tank, tank car and multi-unit tank car tank, if the identification number marking on the bulk packaging is not visible during transportation.

Section 172.332. Paragraph (a) is revised to reference new marking requirements in §§ 172.301 and 172.313.

Section 172.400. The table of label designations in paragraph (b) of this section is revised by adding reference to the new POISON INHALATION HAZARD label (§ 172.429) for Division 6.1, PG I, Zone A and B materials. The entry for the POISON label applying to 6.1, PG I and II materials is revised to read ''other than inhalation hazard.''

Section 172.416. This section is revised to prescribe the new POISON GAS label.

Section 172.429. This section is added to prescribe the new POISON INHALATION HAZARD label.

Section 172.502. Paragraph (a)(2) is revised to specifically prohibit display of extraneous information, signs, or slogans (e.g., DRIVE SAFELY) on placards, placard-type displays, and in placard holders that by their color, shape, design or content could be mistaken for a hazard warning placard. A mandatory compliance date of October 1, 2001 is provided for removal of extraneous information from placards, placard-type displays, and in placard holders.

Section 172.504. Paragraph (b) is revised by lowering from 2,268 kilograms (5,000 pounds) to 1,000 kilograms (2,205 pounds) aggregate gross weight, the amount of one category of material contained on a transport vehicle, freight container or rail car for which specific placarding is required, limiting use of the DANGEROUS placard. In paragraph (e), Table 1 placard assignments are revised to add the new POISON INHALATION HAZARD placard (§ 172.555) for Division 6.1, PG I, Zone A and B materials and to include the entry ''5.2 (Organic peroxide, Type B, liquid or solid, temperature controlled)'' in the first column, the placard name ''ORGANIC PEROXIDE'' in the second column, and ''§ 172.552'' in the third column. In Table 2, the entry ''5.2'' is replaced by the entry ''5.2 (Other than Organic peroxides, Type B, liquid or solid, temperature controlled)'' in the first column. In paragraph (f), an exception is provided from displaying a POISON placard in those instances when a POISON INHALATION HAZARD placard or POISON GAS placard is required.

Section 172.505. Paragraph (a) is revised to replace the word ''POISON'' with the words ''POISON INHALATION HAZARD'' to correctly reference the new placard in the new § 172.555 for Division 6.1, PG I, Zone A and B materials.

Section 172.510. Since the provisions applying to the specifications and use of the RESIDUE placard have been removed (HM–216), the change proposed in § 172.510 (HM–206), regarding reference to the POISON-RESIDUE and POISON INHALATION HAZARD- RESIDUE placards, is no longer necessary. In this final rule, paragraph (b) is removed, as requirements for fumigated transport vehicles are relocated to §§ 172.302(g) and 173.9, and paragraph (c) is redesignated as paragraph (b), and the words ''POISON GAS or POISON'' are replaced with the words ''POISON GAS or POISON INHALATION HAZARD.''

Section 172.540. This section is revised to prescribe the new POISON GAS placard.

Section 172.555. Section 172.555 is added to prescribe the new POISON INHALATION HAZARD placard.

Section 172.602. RSPA proposed to revise paragraph (c) of this section to clarify that emergency response information must be ''readily available to authorities''; however RSPA is not adopting the proposed language in paragraph (c) because the basic elements of the proposed change are adequately covered by the requirements in § 172.600(c). Paragraph (c)(1) of this section is revised to include reference to the new § 172.606, relative to carrier information contact.

Section 172.606. This section is added to require each carrier who transports a hazardous material to instruct the operator of a motor vehicle, train, aircraft, or vessel to contact the carrier in the event of an incident involving a hazardous material in transportation. This section prescribes information requirements for a motor vehicle (e.g. trailer or semi-trailer) separated from its motive power and parked at other than a consignee's, consignor's or carrier's facility.

Section 173.9. The FUMIGANT marking requirements are revised and expanded by (1) making them applicable to every material used to fumigate the contents of a transport vehicle or freight container; (2) expanding their application to all modes of transportation; (3) specifying that a fumigated transport vehicle or freight container is a ''package'' for application of the fumigation requirements; (4) adopting the international fumigant marking format; and (5) specifying that a shipping paper accompanying an international shipment must contain hazard warning information concerning the fumigant. In this final rule, the proposed paragraph (g) is redesignated as paragraph (h), and a new paragraph (g) is added to specify that persons subject to the requirements of this section must be informed of the requirements of this section.

Section 173.29. For clarity, the introductory text of paragraph (b)(1) is revised to add the phrase ''any other markings indicating the material is hazardous (e.g., RQ, INHALATION HAZARD).''

Section 174.26. Paragraph (a) is revised to specify that a train consist must be ''updated'' to reflect the current position in the train of each rail car containing a hazardous material. The text is modified to allow the use of appended or attached documents to reflect train placement. For ease of understanding, the complete text in this section is republished as contained in the final rule in Docket HM–216.

Section 174.680. An editorial correction is made in this section to add a reference to the new POISON INHALATION HAZARD label to prohibit carrying poisonous materials in the same rail car with foodstuffs.

Section 175.630. This section is revised to add reference to the new POISON INHALATION HAZARD label to prohibit carrying poisonous materials in the same compartment of an aircraft with foodstuffs, and to delete obsolete references to ''etiologic'' substances.

Section 176.600. An editorial correction is made in this section to add a reference to the new POISON INHALATION HAZARD label to prohibit carrying poisonous materials in the same vessel stowage area with foodstuffs.

Section 177.841. This section is revised for consistency with the changes in the final rule under Docket HM–222B [61 FR 27166; May 30, 1996], which revised requirements to prohibit carrying poisonous materials in the same motor vehicle with foodstuffs, and an editorial correction is made to add a reference to the new POISON INHALATION HAZARD label.

V. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is considered a non-significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rulemaking proceeding was originally considered significant because it was required by Sec. 25 of the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), and included consideration of methods for establishing and operating a central reporting system and computerized telecommunications data center covering all shipments of hazardous materials by any mode of transportation, as well as improving the system for placarding vehicles transporting hazardous materials. However, this final rule makes relatively minor, incremental changes in the regulations concerning placarding and other means of communicating the hazards of materials in transportation. RSPA ended its consideration of the central reporting system and computerized data center, based on the adverse recommendation of the National Academy of Sciences (NAS) study (also required by Sec. 25), the lack of support from the regulated community, and the estimated high costs of establishing such a system.

The original regulatory evaluation was reexamined and modified. The economic impact of this rule will result in only minimal costs to certain persons subject to the HMR. A significantly revised regulatory evaluation reflecting the reduced economic impact of this final rule is available for review in the docket.

B. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''). The Federal law expressly preempts State, local, and Indian tribe requirements applicable to the transportation of hazardous material that cover certain subjects and are not substantively the same as Federal requirements. 49 U.S.C. 5125(b)(1). These subjects are:

(1) The designation, description, and classification of hazardous material;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(3) The preparation, execution, and use of shipping documents pertaining to hazardous material, and requirements respecting the number, content, and placement of such documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

This final rule preempts State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are ''substantively the same'' (see 49 CFR 107.202(d)) as the Federal requirements.

Federal law 49 U.S.C. 5125(b)(2) provides that if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the Federal Register the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption for these requirements will be October 1, 1997. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

C. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. Although this final rule applies to all shippers and carriers of hazardous materials, some of whom are small entities, the requirements contained herein would not result in significant economic impacts.

D. Paperwork Reduction Act

The information collection requirements in 49 CFR Parts 172 through 177 pertaining to shipping papers have been approved under OMB approval number 2137–0035. The requirements in § 173.9 that a shipping paper contain hazard warning information concerning the fumigant for an international shipment insignificantly increases the amount of burden imposed by this collection. This information is a current requirement for international shipments by vessel. RSPA believes that this change in burden is not sufficient to warrant revision of the currently approved information collection. Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

E. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Marking, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 171.8 [Amended]

2. In § 171.8, the definition for ''Fumigated lading'' is added in alphabetical order to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Fumigated lading. See §§ 172.302(g) and 173.9.

* * * * *

§ 171.11 [Amended]

3. In § 171.11, in paragraph (d)(9)(iii), the words ''with 'POISON' '' are replaced with the words ''with 'POISON INHALATION HAZARD' ''.

§ 171.12 [Amended]

4. In § 171.12, in paragraph (b)(8)(iii), the words ''with 'POISON' '' are replaced with the words ''with 'POISON INHALATION HAZARD' ''.

§ 171.12a [Amended]

5. In § 171.12a, in paragraph (b)(5)(iii), the words ''with 'POISON' '' are replaced with the words ''with 'POISON INHALATION HAZARD' ''.

6. In § 171.14, paragraph (b) is revised to read as follows:

§ 171.14 Transitional provisions for implementing requirements based on the UN Recommendations.

* * * * *

(b) *Transitional placarding provisions.* (1) Until October 1, 2001, placards which conform to specifications for placards in effect on September 30, 1991 or placards specified in the December 21, 1990 final rule may be used, for highway transportation only, in place of the placards specified in subpart F of part 172 of this subchapter, in accordance with the following table:

PLACARD SUBSTITUTION TABLE

Hazard class or division No.	Current placard name	Old (Sept. 30, 1991) placard name
Division 1.1	Explosives 1.1	Explosives A.
Division 1.2	Explosives 1.2	Explosives A.
Division 1.3	Explosives 1.3	Explosives B.
Division 1.4	Explosives 1.4	Dangerous.
Division 1.5	Explosives 1.5	Blasting agents.
Division 1.6	Explosives 1.6	Dangerous.
Division 2.1	Flammable gas	Flammable gas.
Division 2.2	Nonflammable gas	Nonflammable gas.
Division 2.3	Poison gas	Poison gas.
Class 3	Flammable	Flammable.
Combustible liquid	Combustible	Combustible.
Division 4.1	Flammable solid	Flammable solid.
Division 4.2	Spontaneously combustible	Flammable solid.
Division 4.3	Dangerous when wet	Flammable solid W.
Division 5.1	Oxidizer	Oxidizer.
Division 5.2	Organic peroxide	Organiic peroxide.
Division 6.1, PG I (Zone A and B, inhalation hazard)	Poison inhalation hazard	Poison.
Division 6.1, PG I and II (other than Zone A and B)	Poison	Poison
Division 6.1, PG III	Keep away from food	(not applicable).
Class 7	Radioactive	Radioactive.
Class 8	Corrosive	Corrosive.
Class 9	Class 9	(none required).

(2) For materials poisonous by inhalation, for highway and rail transportation only, placards specified in the January 8, 1997, final rule may be used, in accordance with the Placard Substitution Table in paragraph (b)(1) of this section.

* * * * *

PART 172— HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

7. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

8. In § 172.101, in the Table in paragraph (g), the entries for label code 6.1 (I)[2] and 6.1 (II)[2] are removed and the following entries are added in their place:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

(g) * * *

LABEL SUBSTITUTION TABLE

Label code	Label name
* * *	* *
6.1 (I, Zone A and B inhalation hazard)[2].	Poison Inhalation Hazard.
6.1 (I, other than Zone A and B)[2].	Poison.

LABEL SUBSTITUTION TABLE—Continued

Label code	Label name
6.1 (II, other than Zone A and B)[2].	Poison.
* * *	* *

* * * * *

9. In § 172.301, paragraph (a)(1) is revised, paragraphs (f)(1) and (f)(2) are removed, and a new paragraph (a)(3) is added to read as follows:

§ 172.301 General marking requirements for non-bulk packagings.

(a) * * *

(1) Except as otherwise provided by this subchapter, each person who offers for transportation a hazardous material

in a non-bulk packaging shall mark the package with the proper shipping name and identification number (preceded by ''UN'' or ''NA'', as appropriate) for the material as shown in the § 172.101 Table. Identification numbers are not required on packages which contain only limited quantities, as defined in § 171.8 of this subchapter, or ORM-D materials.

* * * * *

(3) *Large quantities of hazardous materials in non-bulk packages.* A transport vehicle or freight container containing 4,000 kg (8,820 pounds) or more aggregate gross weight of a hazardous material having a single identification number must be marked with the identification number designated for the hazardous material in § 172.101 as specified in § 172.332 or § 172.336. This provision does not apply to ORM-D materials or limited quantities of hazardous materials.

* * * * *

10. In § 172.302, paragraph (g) is added to read as follows:

§ 172.302 General marking requirements for bulk packagings.

* * * * *

(g) A rail car, freight container, truck body or trailer in which the lading has been fumigated with any hazardous material, or is undergoing fumigation, must be marked as specified in § 173.9 of this subchapter.

11. In § 172.313, paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 172.313 Poisonous hazardous materials.

(a) For materials poisonous by inhalation (see § 171.8 of this subchapter), the package shall be marked ''Inhalation Hazard'' in association with the required labels or placards, as appropriate, or shipping name when required. The ''Inhalation Hazard'' marking is not required provided the package is already labeled as prescribed in § 172.429, or placarded as prescribed in § 172.555. (See § 172.302(b) of this subpart for size of markings on bulk packages.) Bulk packages must be marked on two opposing sides.

* * * * *

(c) A transport vehicle or freight container loaded with more than 1,000 kg (2,205 pounds) aggregate gross weight of packages containing a material poisonous by inhalation shall be marked as required by § 172.332 with the identification number specified for the material, in the § 172.101 Table, on each side and each end of the transport vehicle or freight container.

12. In § 172.328, paragraph (a)(3) is added to read as follows:

§ 172.328 Cargo tanks.

(a) * * *

(3) For a cargo tank transported on or in a transport vehicle or freight container, if the identification number marking on the cargo tank required by § 172.302(a) is not visible, the transport vehicle or freight container must be marked as required by § 172.332 on each side and each end with the identification number specified for the material in the § 172.101 Table.

* * * * *

13. In § 172.331, paragraph (c) is added to read as follows:

§ 172.331 Bulk packagings other than portable tanks, cargo tanks, tank cars and multi-unit tank car tanks.

* * * * *

(c) For a bulk packaging contained in or on a transport vehicle or freight container, if the identification number marking on the bulk packaging (e.g., an IBC) required by § 172.302(a) is not visible, the transport vehicle or freight container must be marked as required by § 172.332 on each side and each end with the identification number specified for the material in the § 172.101 Table.

14. In § 172.332, paragraph (a) is revised to read as follows:

§ 172.332 Identification number markings.

(a) *General.* When required by §§ 172.301, 172.302, 172.313, 172.326, 172.328, 172.330, or 172.331 of this subpart, identification numbers must be displayed on orange panels or placards as specified in this section or, when appropriate, on plain white square-on-point configurations as prescribed in § 172.336(b).

* * * * *

15. In § 172.400, the table of label designations in paragraph (b) is revised to read as follows:

§ 172.400 General labeling requirements.

* * * * *

(b) * * *

Hazard class or division	Label name	Label design or section reference
1.1	EXPLOSIVES 1.1	172.411
1.2	EXPLOSIVES 1.2	172.411
1.3	EXPLOSIVES 1.3	172.411
1.4	EXPLOSIVES 1.4	172.411
1.5	EXPLOSIVES 1.5	172.411
1.6	EXPLOSIVES 1.6	172.411
2.1	FLAMMABLE GAS	172.417
2.2	NONFLAMMABLE GAS	172.415
2.3	POISON GAS	172.416
3 (flammable liquid) Combustible liquid	FLAMMABLE LIQUID (none)	172.419
4.1	FLAMMABLE SOLID	172.420
4.2	SPONTANEOUSLY COMBUSTIBLE	172.422
4.3	DANGEROUS WHEN WET	172.423
5.1	OXIDIZER	172.426
5.2	ORGANIC PEROXIDE	172.427
6.1 (Packing Group I, Zone A and B)	POISON INHALATION HAZARD	172.429
6.1 (Packing Groups I and II, other than inhalation hazard)	POISON	172.430
6.1 (Packing Group III)	KEEP AWAY FROM FOOD	172.431
6.2	INFECTIOUS SUBSTANCE [1]	172.432
7 (see § 172.403)	RADIOACTIVE WHITE-I	172.436
7	RADIOACTIVE YELLOW–II	172.438
7	RADIOACTIVE YELLOW–III	172.440
7 (empty packages, see § 173.427)	EMPTY	172.450
8	CORROSIVE	172.442

Hazard class or division	Label name	Label design or section reference
9	CLASS 9	172.446

[1] The ETIOLOGIC AGENT label specified in regulations of the Department of Health and Human Services at 42 CFR 72.3 may apply to packages of infectious substances.

16. Section 172.416 is revised to read as follows:

§ 172.416 POISON GAS label.

(a) Except for size and color, the POISON GAS label must be as follows:

BILLING CODE 4910–60–P

(b) In addition to complying with § 172.407, the background on the POISON GAS label and the symbol must be white. The background of the upper diamond must be black and the lower point of the upper diamond must be 14 mm (0.54 inches) above the horizontal center line.

17. Section 172.429 is added to read as follows:

§ 172.429 POISON INHALATION HAZARD label.

(a) Except for size and color, the POISON INHALATION HAZARD label must be as follows:

BILLING CODE 4910–60–C

(b) In addition to complying with § 172.407, the background on the POISON INHALATION HAZARD label and the symbol must be white. The background of the upper diamond must be black and the lower point of the upper diamond must be 14 mm (0.54 inches) above the horizontal center line.

18. In § 172.502, paragraph (a)(2) is revised and paragraph (b)(3) is added to read as follows:

§ 172.502 Prohibited and permissive placarding.

(a) * * *

(2) Any sign, advertisement, slogan (such as ''Drive Safely''), or device that, by its color, design, shape or content, could be confused with any placard prescribed in this subpart.

(b) * * *

(3) The restrictions in paragraph (a)(2) of this section do not apply until October 1, 2001 to a safety sign or safety slogan (e.g., ''Drive Safely'' or ''Drive Carefully''), which was permanently marked, on or before October 1, 1996, on a transport vehicle, bulk packaging, or freight container.

* * * * *

19. In § 172.504, paragraph (f)(11) is added, and paragraphs (b) and (e) are revised to read as follows:

§ 172.504 General placarding requirements.

* * * * *

(b) *DANGEROUS placard.* A freight container, unit load device, transport vehicle, or rail car which contains non-bulk packages with two or more categories of hazardous materials that require different placards specified in Table 2 of paragraph (e) of this section may be placarded with a DANGEROUS placard instead of the separate placarding specified for each of the materials in Table 2 of paragraph (e) of this section. However, when 1,000 kg (2,205 pounds) aggregate gross weight or more of one category of material is loaded therein at one loading facility on a freight container, unit load device, transport vehicle, or rail car, the placard specified in Table 2 of paragraph (e) of this section for that category must be applied.

* * * * *

(e) *Placarding tables.* Placards are specified for hazardous materials in accordance with the following tables:

TABLE 1

Category of material (Hazard class or division number and additional description, as appropriate)	Placard name	Placard design section reference (§)
1.1	EXPLOSIVES 1.1	172.522
1.2	EXPLOSIVES 1.2	172.522
1.3	EXPLOSIVES 1.3	172.522
2.3	POISON GAS	172.540
4.3	DANGEROUS WHEN WET	172.548
5.2 (Organic peroxide, Type B, liquid *or* solid, temperature controlled).	ORGANIC PEROXIDE	172.552
6.1 (PG I, inhalation hazard, Zone A and B)	POISON INHALATION HAZARD	172.555

TABLE 1—Continued

Category of material (Hazard class or division number and additional description, as appropriate)	Placard name	Placard design section reference (§)
7 (Radioactive Yellow III label only)	RADIOACTIVE [1]	172.556

[1] RADIOACTIVE placard also required for exclusive use shipments of low specific activity material in accordance with § 173.425 (b) or (c) of this subchapter.

TABLE 2

Category of material (Hazard class or division number and additional description, as appropriate)	Placard name	Placard design section reference (§)
1.4	EXPLOSIVES 1.4	172.523
1.5	EXPLOSIVES 1.5	172.524
1.6	EXPLOSIVES 1.6	172.525
2.1	FLAMMABLE GAS	172.532
2.2	NON-FLAMMABLE GAS	172.528
3	FLAMMABLE	172.542
Combustible liquid	COMBUSTIBLE	172.544
4.1	FLAMMABLE SOLID	172.546
4.2	SPONTANEOUSLY COMBUSTIBLE	172.547
5.1	OXIDIZER	172.550
5.2 (Other than organic peroxide, Type B, liquid or solid, temperature controlled).	ORGANIC PEROXIDE	172.552
6.1 (PG I or II, other than PG I inhalation hazard)	POISON	172.554
6.1 (PG III)	KEEP AWAY FROM FOOD	172.553
6.2	(None)	.....
8	CORROSIVE	172.558
9	CLASS 9	172.560
ORM-D	(None)	.....

(f) * * *

(11) For domestic transportation, a POISON placard is not required on a transport vehicle or freight container required to display a POISON INHALATION HAZARD or POISON GAS placard.

* * * * *

20. In § 172.505, paragraph (a) is revised to read as follows:

§ 172.505 Placarding for subsidiary hazards.

(a) Each transport vehicle, freight container, portable tank, unit load device, or rail car that contains a poisonous material subject to the ''Poison Inhalation Hazard'' shipping description of § 172.203(m)(3) must be placarded with a POISON INHALATION HAZARD or POISON GAS placard, as appropriate, on each side and each end, in addition to any other placard required for that material in § 172.504. Duplication of the POISON INHALATION HAZARD or POISON GAS placard is not required.

* * * * *

§ 172.510 [Amended]

21. In § 172.510, the following changes are made:

a. Paragraph (b) is removed.

b. Paragraph (c) is redesignated as paragraph (b), and the phrase ''POISON GAS or POISON'' is replaced with the phrase ''POISON GAS or POISON INHALATION HAZARD.''

22. Section 172.540 is revised to read as follows:

§ 172.540 POISON GAS placard.

(a) Except for size and color, the POISON GAS placard must be as follows:

BILLING CODE 4910–60–P

INHALATION
HAZARD
2

(b) In addition to complying with § 172.519, the background on the POISON GAS placard and the symbol must be white. The background of the upper diamond must be black and the lower point of the upper diamond must be 38 mm (1½ inches) above the horizontal center line. The text, class number, and inner border must be black.

23. Section 172.555 is added to read as follows:

§ 172.555 POISON INHALATION HAZARD placard.

(a) Except for size and color, the POISON INHALATION HAZARD placard must be as follows:

BILLING CODE 4910–60–C

(b) In addition to complying with § 172.519, the background on the POISON INHALATION HAZARD placard and the symbol must be white. The background of the upper diamond must be black and the lower point of the upper diamond must be 38 mm (1½ inches) above the horizontal center line. The text, class number, and inner border must be black.

24. In § 172.602, paragraph (c)(1) is revised to read as follows:

§ 172.602 Emergency response information.

* * * * *

(c) * * *

(1) *Carriers.* Each carrier who transports a hazardous material shall maintain the information specified in paragraph (a) of this section and § 172.606 of this part in the same manner as prescribed for shipping papers, except that the information must be maintained in the same manner aboard aircraft as the notification of pilot-in-command, and aboard vessels in the same manner as the dangerous cargo manifest. This information must be immediately accessible to train crew personnel, drivers of motor vehicles, flight crew members, and bridge personnel on vessels for use in the event of incidents involving hazardous materials.

* * * * *

25. Section 172.606 is added to read as follows:

§ 172.606 Carrier information contact.

Each carrier who transports or accepts for transportation a hazardous material for which a shipping paper is required—

(a) Shall instruct the operator of a motor vehicle, train, aircraft, or vessel to contact the carrier (e.g., by telephone or mobile radio) in the event of an incident involving the hazardous material.

(b) For transportation by highway, if a transport vehicle, (e.g., a semi-trailer or freight container-on-chassis) contains hazardous material for which a shipping paper is required and the vehicle is separated from its motive power and parked at a location other than a consignee's, consignor's, or carrier's facility, the carrier shall—

(1) Comply with the emergency response information requirements for facility operators specified in § 172.602(c)(2);

(2) Mark the transport vehicle with the telephone number of the motor carrier on the front of the transport vehicle near the brake hose and electrical connections; or

(3) Have the shipping paper and emergency response information readily available on the transport vehicle.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

26. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

27. Section 173.9 is revised to read as follows:

§ 173.9 Transport vehicles or freight containers containing lading which has been fumigated.

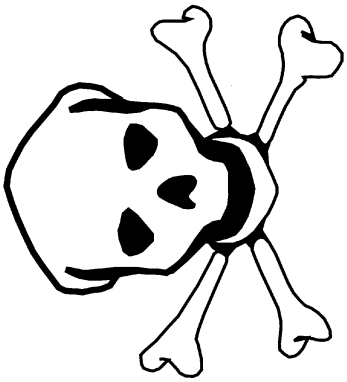
(a) For the purpose of this section, not including 49 CFR part 387, a rail car, freight container, truck body, or trailer in which the lading has been fumigated with any material, or is undergoing fumigation, is a package containing a hazardous material, unless the transport vehicle or freight container has been sufficiently aerated so that it does not pose an unreasonable risk to health and safety.

(b) No person may offer for transportation or transport a rail car, freight container, truck body, or trailer in which the lading has been fumigated or treated with any material, or is undergoing fumigation, unless the FUMIGANT marking specified in paragraph (c) of this section is prominently displayed so that it can be seen by any person attempting to enter the interior of the transport vehicle or freight container. For domestic transportation, a hazard warning label authorized by EPA under 40 CFR part 156 may be used as an alternative to the FUMIGANT marking.

(c) *FUMIGANT marking.* (1) The FUMIGANT marking must consist of red letters on a white background that is at least 30 cm (11.8 inches) wide and at least 25 cm (9.8 inches) high. Except for size and color, the FUMIGANT marking must be as follows:

BILLING CODE 4910–60–P

DANGER



THIS UNIT IS UNDER FUMIGATION

WITH * _____ APPLIED ON

Date _____

Time _____

DO NOT ENTER

BILLING CODE 4910–60–C

(2) The ''*'' shall be replaced with the technical name of the fumigant.

(d) No person may affix or display on a rail car, freight container, truck body, or trailer (a package) the FUMIGANT marking specified in paragraph (c) of this section, unless the lading has been fumigated or is undergoing fumigation.

(e) The FUMIGANT marking required by paragraph (b) of this section must remain on the rail car, freight container, truck body, or trailer until:

(1) The fumigated lading is unloaded; and

(2) The transport vehicle or freight container has undergone sufficient aeration to assure that it does not pose an unreasonable risk to health and safety.

(f) For international shipments, transport documents must indicate the date of fumigation, type and amount of fumigant used, and instructions for disposal of any residual fumigant, including fumigation devices.

(g) Any person subject to the requirements of this section, solely due to the fumigated lading, must be informed of the requirements of this section and the safety precautions necessary to protect themselves and others in the event of an incident or accident involving the fumigated lading.

(h) Any person who offers for transportation or transports a rail car, freight container, truck body or trailer that is subject to this subchapter solely because of the hazardous materials designation specified in paragraph (a) of this section is not subject to any other requirements of this subchapter.

28. In § 173.29, paragraph (b)(1) is revised to read as follows:

§ 173.29 Empty packagings.

* * * * *

(b) * * *

(1) Any hazardous material shipping name and identification number markings, any hazard warning labels or placards, and any other markings indicating that the material is hazardous (*e.g.*, RQ, INHALATION HAZARD) are removed, obliterated, or securely covered in transportation. This provision does not apply to transportation in a transport vehicle or a freight container if the packaging is not visible in transportation and the packaging is loaded by the shipper and unloaded by the shipper or consignee;

* * * * *

PART 174—CARRIAGE BY RAIL

29. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

30. Section 174.26 is revised to read as follows:

§ 174.26 Notice to train crews of placarded cars.

(a) The train crew must have a document that reflects the current position in the train of each rail car containing a hazardous material. The train crew must update the document to indicate changes in the placement of a rail car within the train. For example, the train crew may update the document by handwriting on it or by appending or attaching another document to it.

(b) A member of the crew of a train transporting a hazardous material must have a copy of a document for the hazardous material being transported showing the information required by part 172 of this subchapter.

31. In § 174.680, paragraph (a) is revised to read as follows:

§ 174.680 Division 6.1 (poisonous) materials with foodstuffs.

(a) A carrier may not transport any package bearing a POISON or POISON INHALATION HAZARD label in the same car with any material marked as or known to be a foodstuff, feed, or any other edible material intended for consumption by humans or animals.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

32. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

33. Section 175.630 is revised to read as follows:

§ 175.630 Special requirements for Division 6.1 (poisonous) material and Division 6.2 (infectious substance) material.

(a) A hazardous material bearing a POISON, POISON INHALATION HAZARD, KEEP AWAY FROM FOOD, or INFECTIOUS SUBSTANCE label may not be carried in the same compartment of an aircraft with material which is marked as or known to be a foodstuff, feed, or any other edible material intended for consumption by humans or animals unless either the Division 6.1 (poisonous) material or material in Division 6.2 (infectious substance) and the foodstuff, feed, or other edible material are loaded in separate unit load devices which, when stowed on the aircraft, are not adjacent to each other, or the Division 6.1 (poisonous) material or material in Division 6.2 (infectious substance) are loaded in one closed unit load device and the foodstuff, feed or other material is loaded in another closed unit load device.

(b) No person may operate an aircraft that has been used to transport any package bearing a POISON or POISON INHALATION HAZARD label unless, upon removal of such package, the area in the aircraft in which it was carried is visually inspected for evidence of leakage, spillage, or other contamination. All contamination discovered must be either isolated or removed from the aircraft. The operation of an aircraft contaminated with such Division 6.1 (poisonous) materials is considered to be the carriage of poisonous materials under paragraph (a) of this section.

PART 176—CARRIAGE BY VESSEL

34. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

35. In § 176.600, paragraph (a) is revised to read as follows:

§ 176.600 General stowage requirement.

(a) Each package required to have a POISON GAS, POISON INHALATION HAZARD, or POISON label thereon being transported on a vessel must be stowed clear of living quarters and any ventilation ducts serving living quarters and separate from foodstuffs.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

36. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 49 CFR 1.53.

37. In § 177.841, paragraph (e) introductory text is republished and paragraphs (e)(1) and (e)(2) are revised to read as follows:

§ 177.841 Division 6.1 (poisonous) and Division 2.3 (poisonous gas) materials.

* * * * *

(e) A motor carrier may not transport a package:

(1) Bearing or required to bear a POISON or POISON INHALATION HAZARD label in the same motor vehicle with material that is marked as or known to be a foodstuffs, feed or edible material intended for consumption by humans or animals unless the poisonous material is packaged in accordance with this subchapter and is:

(i) Overpacked in a metal drum as specified in § 173.25(c) of this subchapter; or

(ii) Loaded into a closed unit load device and the foodstuffs, feed, or other

edible material are loaded into another closed unit load device;

(2) Bearing or required to bear a POISON, POISON GAS or POISON INHALATION HAZARD label in the driver's compartment (including a sleeper berth) of a motor vehicle; or

* * * * *

Issued in Washington, DC on December 30, 1996, under authority delegated in 49 CFR Part 1.

Kelley S. Coyner,

Deputy Administrator, Research and Special Programs Administration.

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Basic pay definition and Thrift Savings Plan loan program amendments; comments due by 1-17-97; published 11-18-96

GENERAL SERVICES ADMINISTRATION

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Independent research and development allowable cost criteria/bid and proposal costs for Fiscal Year 1996 and beyond; comments due by 1-13-97; published 11-14-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:

Adjuvants, production aids, and sanitizers--

Sodim 2,2 '-methylenebis(4,6-di-tert-butylphenyl)phosphate; comments due by 1-15-97; published 12-16-96

Adjuvants, production aids, and sanitizers--

2-[[2,4,8,10-tetrakis(1,1-dimethylethyl)-dibenzo[d,f][1,3,2], etc.; comments due by 1-15-97; published 12-16-96

Food for human consumption:

Food additives--

Curdlan; comments due by 1-15-97; published 12-16-96

Human drugs and biological products:

Postmarketing expedited adverse experience reporting requirements; increased frequency reports revocation; comments due by 1-13-97; published 10-28-96

Human drugs:

Colloidal silver ingredients or silver salts, products containing (OTC); not generally recognized as safe and effective; comments due by 1-13-97; published 10-15-96

INTERIOR DEPARTMENT

Land Management Bureau

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Forest management:

Sustained-yield forest units; comments due by 1-14-97; published 11-15-96

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Copyright Office, Library of Congress

Copyright office and procedures:

Registration of claims--

≥Best Edition≥ of published copyrighted works; comments due by 1-14-97; published 12-3-96

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

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PERSONNEL MANAGEMENT OFFICE

Retirement, health benefits, and life insurance, Federal employees:

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SECURITIES AND EXCHANGE COMMISSION

Electronic Data Gathering, Analysis, and Retrieval System (EDGAR):

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TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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AlliedSignal Inc.; comments due by 1-13-97; published 11-13-96

Bell; comments due by 1-13-97; published 11-14-96

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Dornier; comments due by 1-17-97; published 12-5-96

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Gulfstream model G1159A airplane; comments due by 1-13-97; published 12-13-96

Class E airspace; comments due by 1-13-97; published 11-19-96

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National Highway Traffic Safety Administration

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Occupant crash protection--

Smart air bags, vehicles without; warning labels, manual cutoff switches, etc. reduction of dangerous impacts on children; comments due by 1-13-97; published 11-27-96

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Alcohol, Tobacco and Firearms Bureau

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Commerce in explosives; comments due by 1-13-97; published 10-15-96

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Fiscal Service

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Electronic Federal Tax Payment System operation; financial institutions and Federal Reserve Banks; comments due by 1-13-97; published 11-21-96