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Wednesday
October 13, 1999

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Title 3—

The President

Proclamation 7234 of October 6, 1999

General Pulaski Memorial Day, 1999

By the President of the United States of America

A Proclamation

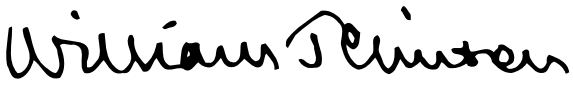
In the more than two centuries that have passed since the signing of our Declaration of Independence, America has grown from a struggling democracy into the most powerful Nation on earth. But today, even as we enter the new century as a proud, prosperous, and free people, we must never forget those friends who cast their lot with us when the outcome of our bid for independence was unclear. Among those to whom we owe such a debt of gratitude is General Casimir Pulaski of Poland, who gave his life for our freedom on a Revolutionary War battlefield 220 years ago this month.

Casimir Pulaski had scarcely reached adulthood when he joined his father and brothers in the struggle for sovereignty for their native Poland. Though the Polish forces were skilled in battle, neighboring empires outnumbered and defeated them, and Pulaski himself was forced into exile. But soon the young soldier answered another call for freedom—this time on behalf of the fledgling United States of America. He distinguished himself in his first military engagement in our War for Independence, and the Continental Congress immediately commissioned him as a brigadier general and assigned him to command the cavalry of the Continental Army. Fighting with characteristic valor and distinction, General Pulaski was killed during the Battle of Savannah and earned an enduring place in our Nation's history.

As we honor Casimir Pulaski this year, we give thanks that for the first time, Poles and Americans can proudly observe the anniversary of General Pulaski's death as NATO allies. In the years to come, both our peoples will continue to draw strength from the memory of Casimir Pulaski and from the courage and sacrifice of so many Poles and Polish Americans who have helped ensure the freedom, peace, and prosperity our two countries enjoy today.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Monday, October 11, 1999, as General Pulaski Memorial Day. I encourage all Americans to commemorate this occasion with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.



[FR Doc. 99–26794
Filed 10–12–99; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 235 and 245

RIN 0584–AC01

School Nutrition Programs: Nondiscretionary Technical Amendments; Correction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects the preamble and amendatory language of the final rule published in the **Federal Register** of September 20, 1999, regarding School Nutrition Programs: Nondiscretionary Technical Amendments. This correction revises an incorrect citation.

DATES: Effective on October 20, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Jane Whitney, 703–305–2620.

SUPPLEMENTARY INFORMATION: The Food and Nutrition Service published a document in the **Federal Register** (64 FR 50735) on September 20, 1999. This final regulation contains an incorrect citation. This correction revises an incorrect citation.

Correction

In final rule FR document 99–24297, beginning on page 50735, in the issue of Monday, September 20, 1999, make the following corrections:

On page 50738 in the first column, first paragraph, line 2, the reference reading ''paragraph (k)'' is corrected to read ''paragraph (l)''.

On page 50742, in the third column, under the section titled § 220.13, amendatory instruction 6., ''paragraph (k)'' is corrected to read ''paragraph (l)''.

Dated: October 5, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–26682 Filed 10–12–99; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–193–AD; Amendment 39–11362; AD 99–21–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A321 series airplanes. This action requires reinforcement of the fuselage structure between frames 62 and 64. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent the loss of structural integrity of the rear part of the fuselage structure in the event of an undetected tail scrape during landing or takeoff.

DATES: Effective October 28, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 28, 1999.

Comments for inclusion in the Rules Docket must be received on or before November 12, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–193–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined 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.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A321 series airplanes. The DGAC advises that fourteen cases of tail scrapes during take-off and landing have been reported. These cases were caused by mishandling or abnormal operation of the airplane. Nevertheless, tail scrapes of the rear part of the fuselage with the ground can affect the structural integrity of the airplane. This condition, if not corrected, could result in undetected loss of structural integrity of the airplane, which could precipitate a structural failure during subsequent operation.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–53–1130, Revision 01, dated July 8, 1998, which describes procedures for reinforcement of the fuselage structure between frames 62 and 64 to avoid structural damage in the event of a fuselage tail scrape with the ground. The reinforcement involves rotating probe inspections to detect cracking of existing fastener holes, and repairs, if necessary; replacement of lower frame sections between frame 62 and frame 64 with new reinforced lower frame sections; and installation of new supports for the hydraulic pipes between frame 62 and frame 64. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 1999–051–125(B), dated February 10, 1999, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent the loss of structural integrity of the rear part of the fuselage structure in the event of an undetected tail scrape during landing or takeoff. This AD requires accomplishment of the actions specified in the service bulletin described previously.

Differences Between Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by either the FAA, or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, a repair approved by either the FAA or the DGAC would be acceptable for compliance.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require up to approximately 350 work hours to accomplish the required reinforcement, at an average labor rate of $60 per work hour. Required parts would be supplied free of charge by the airplane manufacturer. Based on these figures, the cost impact of this AD would be $21,000 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and 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 99–NM–193–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.

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:

99–21–17 Airbus Industrie: Amendment 39–11362. Docket 99–NM–193–AD.

Applicability: Model A321 series airplanes, certificated in any category; except those on which Airbus Modification 25791 has been incorporated in production, or on which Airbus Service Bulletin A320–53–1130, dated June 17, 1997, or Revision 01, dated July 8, 1998, has been accomplished in service.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of structural integrity of the rear part of the fuselage structure in the event of an undetected tail scrape during landing or takeoff, accomplish the following:

(a) Except as required by paragraph (b) of this AD: Within six years after the effective date of this AD, accomplish all specified actions, including the reinforcement of the fuselage structure between frames 62 and 64, rotating probe inspections, and repairs, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1130, Revision 01, dated July 8, 1998.

Note 2: Accomplishment of the reinforcement actions, in accordance with Airbus Service Bulletin A320–53–1130, dated June 17, 1997, is acceptable for compliance with the requirements of paragraph (a) of this AD.

(b) Where Airbus Service Bulletin A320–53–1130, dated June 17, 1997, and Revision 01, dated July 8, 1998, state that the manufacturer should be contacted for the repair of certain conditions detected during the reinforcement procedure, such repairs must be accomplished prior to further flight in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the DGAC (or its delegated agent).

Alternative Methods of Compliance

(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, International Branch, ANM–116, 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, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(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.

Incorporation by Reference

(e) Except as provided by paragraph (b) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A320–53–1130, Revision 01, dated July 8, 1998. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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.

Note 4: The subject of this AD is addressed in French airworthiness directive 1999–051–125(B), dated February 10, 1999.

(f) This amendment becomes effective on October 28, 1999.

Issued in Renton, Washington, on September 30, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26083 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–137–AD; Amendment 39–11367; AD 99–21–22]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–30, SD3–60, SD3 SHERPA, and SD3–60 SHERPA Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Short Brothers Model SD3–30, SD3–60, SD3 SHERPA, and SD3–60 SHERPA series airplanes, that requires a visual inspection to detect corrosion of the shear decks and ribs of the left and right stub wings; follow-on corrective actions, if necessary; and drilling of new drain holes in the lower shear decks. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent corrosion of the stub wing shear decks and ribs, which could result in cracking or failure of the stub wing structure.

DATES: Effective November 17, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 17, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. 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: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 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 Short Brothers Model SD3–30, SD3–60, SD3 SHERPA, and SD3–60 SHERPA series airplanes was published in the **Federal Register** on June 23, 1999 (64 FR 33439). That action proposed to require a one-time borescope inspection to detect corrosion of the shear decks and ribs of the left and right stub wings, follow-on corrective actions, if necessary; and drilling of new drain holes in the lower shear decks.

Comments Received

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

Request To Revise Inspection Method

One commenter suggests that the proposed AD be revised to include instructions to remove the main landing gear (MLG) forward pintle pin (which requires removal of the wheel lever assemblies) and to steam clean the areas identified by the referenced service bulletin. The commenter also suggests that all reference to use of a borescope be deleted to prevent misinterpretation. The commenter states that the proposed AD dictates a different inspection method than the referenced manufacturer's service bulletin, since it does not reference removing the MLG or steam cleaning the area, and requires a borescope inspection. Such a method may actually degrade safety, since without removal of the MLG forward pintle pins, thorough cleaning and subsequent inspection of the area cannot be accomplished. The commenter states that most technicians

would interpret the requirement to use a borescope to mean that removal of the MLG is not required, since the purpose of a borescope is to enable inspection without disassembly.

The FAA has determined that clarification of the AD is necessary. The intent of the AD is to require the same inspection methods specified in the referenced service bulletins. The actions required by paragraph (a) of the AD are specifically required to be accomplished in accordance with Part A of the Accomplishment Instructions of the applicable service bulletin. Part A includes instructions for removal of the port and starboard MLG, and steam cleaning of the affected area, prior to inspection. Part A, paragraph 7., also specifies to ''visually inspect inner surfaces and interfaces between ribs for corrosion using a borescope.'' The FAA does not specify in an AD each action described in the referenced service information, since such restatement would be unnecessarily duplicative and could result in misunderstanding of the requirements. However, to avoid any confusion as to the actions required by this AD, the FAA has revised paragraph (a) of the AD to require that all actions in Part A of the service bulletin be accomplished. The FAA has also restated the borescope inspection requirement to specify a ''visual inspection using a borescope.''

Request To Allow Use of Alternate Service Information

One commenter requests that the proposed AD be revised to allow accomplishment of the required inspections on Short Brothers Model SD3–60 SHERPA airplanes having serial numbers SH3420 through SH3428 in accordance with Shorts Service Bulletin SD360–53–43, Revision 1, dated November 27, 1998. This service bulletin was specified in the proposed AD as the appropriate source of service information for Model SD3–60 airplanes, and SD360–Sherpa–53–4, dated November 27, 1998, was specified as appropriate for Model SD3–60 SHERPA airplanes. The commenter provides documentation showing that the airplane manufacturer has previously accomplished service bulletin SD360–53–43 on certain Model SD3–60 SHERPA airplanes, and requests that the FAA consider such action to be adequate for compliance with the inspection required by this AD.

The FAA concurs. The actions described in Shorts Service Bulletins SD360–53–43, Revision 1, and SD360–Sherpa–53–4 are substantially equivalent. The FAA has determined that for Model SD3–60 SHERPA series airplanes, inspections accomplished in accordance with SD360–53–43, dated November 4, 1997, or Revision 1, dated November 27, 1998, are acceptable for compliance with the initial inspection required by paragraph (a) of this AD. A ''NOTE'' has been added to the final rule to provide such credit.

Conclusion

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

Cost Impact

The FAA estimates that 112 airplanes of U.S. registry will be affected by this AD, that it will take approximately 100 work hours per airplane to accomplish the required inspection, 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 $672,000, or $6,000 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''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:

99–21–22 Short Brothers PLC: Amendment 39–11367. Docket 98–NM–137–AD.

Applicability: All Model SD3–30, SD3–60, SD3 SHERPA, and SD3–60 SHERPA 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 (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 corrosion of the stub wing shear decks and ribs, which could result in cracking or failure of the stub wing structure, accomplish the following:

Inspection and Corrective Actions

(a) Within 6 months after the effective date of this AD, accomplish all actions, including a visual inspection using a borescope, specified in Part A of the Accomplishment Instructions of the applicable Shorts Service Bulletin specified below, all dated November 27, 1998 (hereinafter referred to as the applicable service bulletin), in the areas of the stub wing shear decks and ribs to detect corrosion, and drill new drain holes in the lower shear decks, in accordance with the applicable service bulletin:

- SD330–53–68 (for Model SD3–30 series airplanes);
- SD360–53–43, Revision 1 (for Model SD3–60 series airplanes);
- SD3 Sherpa-53–4 (for Model SD3 SHERPA series airplanes); and

• SD360-Sherpa-53–4 (for Model SD3–60 SHERPA series airplanes).

Note 2: In the case where no corrosion is detected during the inspection described in Part A of the Accomplishment Instructions of the applicable service bulletin, the service bulletin specifies accomplishment of follow-on repetitive inspections of this area as specified in Short Brothers Aircraft Maintenance Programme, Chapter 5–26–57.

Note 3: For Model SD3–60 SHERPA series airplanes, accomplishment of the actions required by paragraph (a) of this AD in accordance with Shorts Service Bulletin SD360–53–43, dated November 4, 1997, or Revision 1, dated November 27, 1998, is acceptable for compliance with the requirements of that paragraph.

(b) Except as provided by paragraph (c) of this AD: If any corrosion is detected during the inspection required by paragraph (a) of this AD, prior to further flight, accomplish corrective actions (i.e., additional inspections, removal of corrosion, replacement of components), as applicable, in accordance with Part B of the Accomplishment Instructions of the applicable service bulletin. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 12 months.

(c) If any corrosion condition is found for which the applicable service bulletin specifies that Short Brothers is to be contacted for an appropriate repair action: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Civil Aviation Authority (CAA) of the United Kingdom (or its delegated agent).

Reporting Requirement

(d) Within 10 days after accomplishment of the initial inspection required by paragraph (a) of this AD, or within 30 days after the effective date of this AD, whichever occurs later, submit a report of the inspection findings (positive or negative) to: Team Leader, Service Engineering-Aerospace Customer Support Short Brothers plc, Belfast, N. Ireland. 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.

Alternative Methods of Compliance

(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, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(g) The actions shall be done in accordance with Shorts Service Bulletin SD330–53–68, dated November 27, 1998, Shorts Service Bulletin SD360–53–43, Revision 1, dated November 27, 1998, Shorts Service Bulletin SD3 Sherpa-53–4, dated November 27, 1998, or Shorts Service Bulletin SD360-Sherpa-53–4, dated November 27, 1998; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. 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.

Note 5: The subject of this AD is addressed in British airworthiness directives 006–11–97, 006–11–98, 007–11–98, and 008–11–98.

(h) This amendment becomes effective on November 17, 1999.

Issued in Renton, Washington, on October 4, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26277 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–377–AD; Amendment 39–11365; AD 99–21–20]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dassault Model Falcon 2000 series airplanes, that requires a detailed inspection for interference between the safety-lock hooks and upper cowls, and corrective action, if necessary. This amendment also requires modification of the attachment supports of the inner locking hooks; and a detailed inspection of the safety-lock hooks on the lower engine cowl for proper operation and for clearance between the outer edges of the upper and lower cowls; and corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent unintended disengagement of the engine cowl hooks during ground maintenance, which could result in in-flight loss of an engine cowl from the airplane and possible damage to the airplane and persons or property on the ground.

DATES: Effective November 17, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 17, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. 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: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dassault Model Falcon 2000 series airplanes was published in the **Federal Register** on August 12, 1999 (64 FR 43961). That action proposed to require a detailed inspection for interference between the safety-lock hooks and upper cowls, and corrective action, if necessary. That action also proposed to require modification of the attachment supports of the inner locking hooks; and a detailed inspection of the safety-lock hooks on the lower engine cowl for proper operation and for clearance between the outer edges of the upper and lower cowls; and corrective actions, if necessary.

Comments

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 39 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required inspections and modification, and that the average labor rate is $60 per work hour. Required parts will cost approximately $9 per airplane. Based on these figures, the cost impact of the required AD on U.S. operators is estimated to be $7,371, or $189 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''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:

99–21–20 Dassault Aviation: Amendment 39–11365. Docket 98–NM–377–AD.

Applicability: Model Falcon 2000 series airplanes, serial numbers 2 through 72 inclusive, except those airplanes on which modification M1486 (reference Dassault Service Bulletin F2000–133, dated July 29, 1998, or Revision 1, dated October 7, 1998) has been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent unintended disengagement of the engine cowl hooks during ground maintenance, which could result in in-flight loss of the engine cowl from the airplane and possible damage to the airplane and persons or property on the ground, accomplish the following:

Corrective Actions

(a) Within 6 months after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD in accordance with Dassault Service Bulletin F2000–133, Revision 1, dated October 7, 1998.

(1) Perform a detailed visual inspection for interference between the safety-lock hooks and upper cowls. If the clearance is outside the limits specified in the service bulletin, prior to further flight, trim the edges of the upper cowl slots.

(2) Modify the attachment supports of the inner locking hooks.

(3) Perform a detailed visual inspection of the safety-lock hooks on the lower engine cowl for proper operation and for clearance between the outer edges of the upper and lower cowls. If any discrepancy is detected, prior to further flight, perform the applicable corrective action specified in the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, 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, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Dassault Service Bulletin F2000–133, Revision 1, dated October 7, 1998. 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 Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. 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.

Note 4: The subject of this AD is addressed in French airworthiness directive 98–391–006(B), dated October 7, 1998.

(e) This amendment becomes effective on November 17, 1999.

Issued in Renton, Washington, on October 4, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26276 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–08–AD; Amendment 39–11366; AD 99–21–21]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310–300 and A300–600R Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A310–300 and A300–600R series airplanes, that requires installation of a new cover assembly, associated new drain and vent pipework, and a new electrical harness on the trimmable horizontal stabilizer for the fuel tank water scavenge motive pump. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent fuel leakage from the seal of the water scavenge pumps, which, if not corrected, could result in leakage of fuel into fuselage areas not designed for fuel, and consequent potential for fuel to be in contact with a fuel ignition source.

DATES: Effective November 17, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 17, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A310–300 and A300–600R series airplanes was published in the **Federal Register** on July 20, 1999 (64 FR 38848). That action proposed to require installation of a new cover assembly, associated new drain and vent pipework, and a new electrical harness on the trimmable horizontal stabilizer for the fuel tank water scavenge motive pump.

Comments

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

Request To Determine Parts Availability

One commenter supports the intent of the proposal, assuming that the necessary parts are available from the manufacturer. The FAA notes that the Airbus service bulletins cited as the appropriate sources of service information in the proposed AD state that kits will be available 150 to 180 days after request by an operator. The FAA is not aware of any difficulties with availability of the kits necessary to accomplish the actions required by this AD. No change is made to the final rule.

New Service Information

Since the issuance of the proposed AD, the manufacturer has issued Airbus Service Bulletin A300–28–6035, Revision 03, dated August 5, 1999. This revision of the service bulletin adds references and clarifies certain procedures and illustrations. The FAA has determined that the changes do not add any additional burden to operators. Paragraph (c) of this AD has been revised to cite Revision 03 of the service bulletin as the appropriate source of service information. For operators that may have previously accomplished the required actions in accordance with Revision 1 or 2 of the service bulletin, ''NOTE 2'' of the final rule has been revised to give credit for those actions. In addition, the applicability has been revised to referenced Revision 03 of the service bulletin.

Conclusion

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

Cost Impact

The FAA estimates that 102 Model A310–300 and A300–600R series airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $5,710. Based on these figures, the cost impact of the required AD on U.S. operators is estimated to be $704,820, or $6,910 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''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:

99–21–21 Airbus Industrie: Amendment 39–11366. Docket 99–NM–08–AD.

Applicability: Model A310–300 and A300–600R series airplanes, except those airplanes on which Airbus Modification 10003 (reference Airbus Service Bulletin A310–28–2058, Revision 2, dated February 22, 1995, or A300–28–6035, Revision 03, dated August 5, 1999) has been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage from the seal of the water scavenge pumps, which, if not corrected, could result in leakage of fuel into fuselage areas not designed for fuel, and consequent potential for fuel to be in contact with a fuel ignition source, accomplish the following:

Model A310–300 Series Airplanes: Modification

(a) For Model A310–300 series airplanes on which a water scavenge pump has been installed prior to the effective date of this AD, in accordance with Airbus Modification 8679 (reference Airbus Service Bulletin A310–28–2049, dated February 6, 1992; Revision 1, dated June 17, 1992; Revision 2, dated June 3, 1994; or Revision 3, dated April 5, 1996): Within 18 months after the effective date of this AD, install a new cover assembly, associated new drain and vent pipework, and a new electrical harness, in accordance with Airbus Service Bulletin A310–28–2058, Revision 2, dated February 22, 1995.

(b) For Model A310–300 series airplanes on which a water scavenge pump is installed after the effective date of this AD, in accordance with Airbus Modification 8679 (reference Airbus Service Bulletin A310–28–2049, dated February 6, 1992; Revision 1, dated June 17, 1992; Revision 2, dated June 3, 1994; or Revision 3, dated April 5, 1996): The actions required by paragraph (a) of this AD must be accomplished simultaneously with Airbus Modification 8679.

Model A300–600R Series Airplanes: Modification

(c) For Model A300–600R series airplanes on which a water scavenge pump has been installed prior to the effective date of this AD, in accordance with Airbus Modification 8679 (reference Airbus Service Bulletin A300–28–6028, dated February 6, 1992; Revision 1, dated June 5, 1992; Revision 2, dated October 14, 1993; Revision 3, dated April 5, 1996; or Revision 4, dated April 3, 1997): Within 18 months after the effective date of this AD, install a new cover assembly, associated new drain and vent pipework, and a new electrical harness, in accordance with Airbus Service A300–28–6035, Revision 03, dated August 5, 1999.

Note 2: Installation of a new cover assembly, associated new drain and vent pipework, and a new electrical harness in accordance with Airbus Service Bulletin A300–28–6035, Revision 1, dated December 4, 1992, or Revision 2, dated March 17, 1993, is considered acceptable for compliance with the requirements specified in paragraph (c) of this AD.

(d) For Model A300–600R series airplanes on which a water scavenge pump is installed after the effective date of this AD, in accordance with Airbus Modification 8679 (reference Airbus Service Bulletin A300–28–6028, dated February 6, 1992; Revision 1, dated June 5, 1992; Revision 2, dated October 14, 1993; Revision 3, dated April 5, 1996; or Revision 4, dated April 3, 1997): The actions required by paragraph (c) of this AD must be accomplished simultaneously with Airbus Modification 8679.

Alternative Methods of Compliance

(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, International Branch, ANM–116, 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, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(g) The actions shall be done in accordance with Airbus Service Bulletin A310–28–2058, Revision 2, dated February 22, 1995; and Airbus Service A300–28–6035, Revision 03, dated August 5, 1999; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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.

Note 4: The subject of this AD is addressed in French airworthiness directive 98–354–256(B), dated September 9, 1998.

(h) This amendment becomes effective on November 17, 1999.

Issued in Renton, Washington, on October 4, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26275 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–96–AD; Amendment 39–11364; AD 99–21–19]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319–131, A320–232 and –233, and A321–131 and –231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319–131, A320–232 and –233, and A321–131 and –231 series airplanes, that requires replacement of all titanium thrust links with steel thrust links. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the titanium thrust links due to the life limit of the thrust links, which in combination with other failures, could result in the separation of an engine from the airplane.

DATES: Effective November 17, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 17, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point

Maurice Bellonte, 31707 Blagnac Cedex, France. 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: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A319–131, A320–232 and –233, and A321–131 and –231 series airplanes was published in the **Federal Register** on August 4, 1999 (64 FR 42293). That action proposed to require replacement of all titanium thrust links with steel thrust links.

Comments

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

Support for the Proposal

One commenter supports the proposal. Two commenters state that they are not affected by the proposed AD.

Request To Revise Certain Wording of the Compliance Section

One commenter requests that paragraph (a) of the proposed rule be revised to read, ''Replace all titanium thrust links with steel thrust links in accordance with Airbus Service Bulletin A320–71–1020, dated May 25, 1998; at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD.'' The commenter states that the term ''later'' could allow the titanium thrust links to remain in service up to 15 months regardless of cycle times. The commenter further states that, since the cycle times are the critical parameter, ''earlier'' would control the use of the titanium thrust links to the critical parameter.

The FAA does not concur. Revising the AD as suggested by the commenter would result in replacement of all titanium thrust links ''within 15 months or at the next engine removal'', even for airplanes having very few accumulated flight cycles. Since this AD is intended to correct an unsafe condition related to the fatigue life limits of the thrust links, the FAA has determined that the compliance time for replacement of the thrust links should be correlated to the total flight cycles on each airplane. This compliance time is also in consonance with that recommended by the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, in the parallel French airworthiness directive. Additionally, for airplanes with thrust links over the threshold of accumulated flight cycles, paragraph (a)(2) of the AD includes a grace period of 15 months, which corresponds with a typical ''C-check'' interval. The ''C-check'' interval is recommended in the Airbus service bulletin for accomplishment of the replacements.

The FAA has determined that the compliance threshold and grace period as proposed are adequate to accomplish timely replacement of the thrust links, while still providing operators sufficient time to perform these actions on thrust links already over the allotted number of accumulated flight cycles. No change is made to the final rule.

Conclusion

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

Cost Impact

The FAA estimates that 65 airplanes of U.S. registry will be affected by this AD, that it would take approximately 3 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts will be supplied by the engine manufacturer at no cost to the operators. Based on these figures, the cost impact of the required AD on U.S. operators is estimated to be $11,700, or $180 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''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:

99–21–19 Airbus Industrie: Amendment 39–11364. Docket 99–NM–96–AD.

Applicability: Model A319–131, A320–232 and –233, and A321–131 and –231 series airplanes; except those airplanes on which Airbus Modification 26506 (reference Airbus Service Bulletin A320–71–1020, dated May 25, 1998) has been accomplished in production; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the titanium thrust links due to the life limit of the thrust links, which in combination with other failures, could result in the separation of an engine from the airplane, accomplish the following:

(a) Replace all titanium thrust links with steel thrust links in accordance with Airbus Service Bulletin A320–71–1020, dated May 25, 1998; at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Prior to the accumulation of the total flight cycles specified for each particular model in the tables of paragraph B.(5), ''Accomplishment Timescale,'' of the service bulletin.

(2) Within 15 months after the effective date of this AD, or at the next engine removal, whichever occurs first.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, 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, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(d) The replacement shall be done in accordance with Airbus Service Bulletin A320–71–1020, dated May 25, 1998. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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.

Note 3: The subject of this AD is addressed in French airworthiness directive 1999–050–126(B), dated February 10, 1999.

(e) This amendment becomes effective on November 17, 1999.

Issued in Renton, Washington, on October 4, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26274 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–26–AD; Amendment 39–11368; AD 99–21–23]

RIN 2120–AA64

Airworthiness Directives; Avions Mudry et Cie Model CAP 10B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Avions Mudry et Cie (Avions Mudry) Model CAP 10B airplanes. This AD requires restricting the entry speed for performing flick maneuvers to 97 knots. Inserting a copy of this AD into the Limitations Section of the CAP 10B flight manual is also required, along with fabricating and installing a placard (in the cockpit of the airplane within the pilot's clear view) that indicates this limitation. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by this AD are intended to provide the flight information necessary to the pilot so that excessive speed is not used during aerobatic maneuvers, which could result in the wing separating from the airplane.

DATES: Effective December 3, 1999.

ADDRESSES: This information may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–26–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Karl M. Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Avions Mudry Model CAP 10B airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 19, 1999 (64 FR 38607). The NPRM proposed to require restricting the entry speed for performing flick maneuvers to 97 knots. The NPRM also proposed to require inserting a copy of the AD into the Limitations Section of the CAP 10B flight manual, along with fabricating and installing a placard (in the cockpit of the airplane within the pilot's clear view) that indicates this limitation. The placard will incorporate the following language:

''THE NEVER-EXCEED AIRSPEED FOR POSITIVE OR NEGATIVE FLICK-MANEUVERS IS 180 KM/H (97 KTS)''

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France.

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

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 39 airplanes in the U.S. registry will be affected by this AD. Accomplishing the flight manual and placard requirements of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of this AD is the time it will take each owner/operator of the affected airplanes to insert the information into the flight manual and fabricate and install the placard.

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 copy of the final 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.

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 a new airworthiness directive (AD) to read as follows:

99–21–23 Avions Mudry & Cie: Amendment 39–11368; Docket No. 99–CE–26–AD.

Applicability: Model CAP 10B airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 within the next 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To provide the flight information necessary to the pilot so that excessive speed is not used during aerobatic maneuvers, which could result in the wing separating from the airplane, accomplish the following:

(a) Restrict the entry speed for performing flick maneuvers to 97 knots through the incorporation of the following information into the CAP 10B flight manual. Accomplish this by inserting a copy of this AD into the Limitation Section of the flight manual:

''The never-exceed airspeed for positive or negative flick-maneuvers is 180 km/h (97 knots).''

(b) Fabricate a placard that incorporates the following words (using at least ⅛-inch letters), and install this placard on the instrument panel within the pilot's clear view:

''THE NEVER-EXCEED AIRSPEED FOR POSITIVE OR NEGATIVE FLICK-MANEUVERS IS 180 KM/H (97 KTS)''

Note 2: Although not required by this AD, the FAA recommends that the bonds between the plywood skins and the ribs are checked and corrected through the ''tapping'' method specified in Avions Mudry Service Bulletin No. 15. This procedure is especially recommended if it is suspected that the above-referenced speed limitation was exceeded during a previous flight.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to Avions Mudry Service Bulletin No. 990501, dated May 20, 1999, should be directed to Avions Mudry & Cie, 9, rue de l'Aviation, 21121 Darois, France; telephone: 03 80 356 65 10; facsimile 03 80 35 65 15. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in French AD T1999–222(A), not dated.

(f) This amendment becomes effective on December 3, 1999.

Issued in Kansas City, Missouri, on October 5, 1999.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26567 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 40 and 42

[Public Notice 2980]

RIN 1400–AB03

Technical Corrections to Regulations Regarding the Issuance of Immigrant and Nonimmigrant Visas

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final rule.

SUMMARY: This rule makes minor technical and editorial changes to various sections of the Department of State's regulations, necessitated by changes to the Immigration and Nationality Act, and in certain cases, for greater overall clarity.

EFFECTIVE DATES: This rule takes effect October 13, 1999.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, 202/663–1204 (odomhe@state.gov).

SUPPLEMENTARY INFORMATION: A number of revisions, both of an editorial variety and certain ones necessitated by changes in the law, are reflected herein.

22 CFR 40.1—Definitions

Section 631 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Pub. L. 104–208) amended section 221(c) of the Immigration and Nationality Act by striking ''four months'' and adding ''six months.'' Correspondingly, the Department amended the regulation at 22 CFR 42.72(a) extending the validity period of an immigrant visa to six months [see 62 FR 27693]. That statutory change is applicable to 22 CFR 40.1(a) as well, as an alien who is applying for an immigrant visa as the accompanying spouse or child of the principal alien may do so for the validity of the principal alien's visa, which IIRIRA increased to six months.

Also, editorial changes are made to paragraphs (f), (g), (i), (l), (m).

22 CFR 40.21—Crimes Involving Moral Turpitude and Controlled Substance Violators

Minor editorial corrections are made to 22 CFR 40.21, paragraphs (a) and (b).

22 CFR 40.81—Ineligible for Citizenship

An addition is made to 22 CFR 40.81 to clarify the meaning of the regulation. This is done to assist consular officers in ascertaining the visa eligibility of certain applicants, especially with respect to individuals who are former members of the armed services.

22 CFR 42.21— Immediate Relatives

An addition to 22 CFR 42.21, Immediate Relatives, is made to reflect a revision to the INA as done by § 219(b)(1) of the Immigration and Nationality Technical Corrections Act of 1994 (Pub. L. 103–416). This revision entitles the children of deceased U.S. citizens to immediate relative status.

22 CFR 42.71—Authority To Issue Visas; Visa Fees

A technical correction is made to 22 CFR 42.71 changing the incorrect reference cite ''INA 243(g)'' to read ''INA 243(d).''

Final Rule

The implementation of the rules as a final rule is based upon the ''good cause'' exception established by 5 U.S.C. 553(b) and 553(d)(3). The changes made either confer a benefit upon aliens as authorized by the new statute or make minor editorial changes that do not change substance or procedure. These editorial changes were made simply for clarity and to comply with the Presidential Memorandum on Plain Language, dated June 1, 1998. The agency hereby finds that notice and public procedure thereon is unnecessary because the rule confers a benefit authorized by law upon eligible aliens and involves no substantive or procedural change from present practice. In addition, pursuant to § 605(b) of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule and it has been determined, and the Assistant Secretary for Consular Affairs hereby certifies, that it will not have a significant economic impact on a substantial number of small entities. The rule has no economic effect beyond that of the statutory requirements already in effect which it implements.

As required by 5 U.S.C. chapter 8, the Department has screened this rule and determined that it is not a major rule, as defined in 5 U.S.C. 80412.

This rule imposes no reporting or record-keeping action on the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act.

This rule has been reviewed as required by E.O. 12988 and determined to meet the applicable regulatory standards it describes. Although exempted from E.O. 12866, this rule has been reviewed to ensure consistency with it.

List of Subjects in 22 CFR Part 40 and 42

Aliens, Immigrants, Immigration, Nonimmigrants, Passports and visas.

In view of the foregoing, 22 CFR Parts 40 and 42 are amended as follows:

PART 40—[AMENDED]

1. The authority citation for Part 40 is revised to read as follows:

Authority: 8 U.S.C. 1104.

2. Amend the introductory text and paragraphs (a), (f), (g), (i), and (l) of § 40.1 to read as follows:

§ 40.1 Definitions.

The following definitions supplement definitions contained in the Immigration and Nationality Act (INA). As used in the regulations in parts 40, 41, 42, 43 and 45 of this subchapter, the term:

(a) (1) *Accompanying or accompanied by* means not only an alien in the physical company of a principal alien but also an alien who is issued an immigrant visa within 6 months of:

(i) The date of issuance of a visa to the principal alien;

(ii) The date of adjustment of status in the United States of the principal alien; or

(iii) The date on which the principal alien personally appears and registers before a consular officer abroad to confer alternate foreign state chargeability or immigrant status upon a spouse or child.

(2) An ''accompanying'' relative may not precede the principal alien to the United States.

* * * * *

(f) *Dependent area* means a colony or other component or dependent area overseas from the governing foreign state.

(g) *Documentarily qualified* means that the alien has reported that all the documents specified by the consular officer as sufficient to meet the requirements of INA 222(b) have been obtained, and the consular office has completed the necessary clearance procedures. This term is used only with respect to the alien's qualification to apply formally for an immigrant visa; it bears no connotation that the alien is eligible to receive a visa.

* * * * *

(i) *Foreign state,* for the purposes of alternate chargeability pursuant to INA 202(b), is not restricted to those areas to which the numerical limitation prescribed by INA 202(a) applies but includes dependent areas, as defined in this section.

* * * * *

(l) *Native* means born within the territory of a foreign state, or entitled to be charged for immigration purposes to that foreign state pursuant to INA section 202(b).

* * * * *

3. Amend § 40.21(a) by revising paragraphs (a)(1) and (2) to read as follows:

§ 40.21 Crimes involving moral turpitude and controlled substance violators.

(a) *Crimes involving moral turpitude—(1) Acts must constitute a crime under criminal law of jurisdiction where they occurred.* A Consular Officer may make a finding of ineligibility under INA 212(a)(2)(A)(i)(I) based upon an alien's admission of the commission of acts which constitute the essential elements of a crime involving moral turpitude, only if the acts constitute a crime under the criminal law of the jurisdiction where they occurred. However, a Consular Officer must base a determination that a crime involves moral turpitude upon the moral standards generally prevailing in the United States.

(2) *Conviction for crime committed under age 18.* (i) An alien will not be ineligible to receive a visa under INA 212(a)(2)(A)(i)(I) by reason of any offense committed:

(A) Prior to the alien's fifteenth birthday, or

(B) Between the alien's fifteenth and eighteenth birthdays unless such alien was tried and convicted as an adult for a felony involving violence as defined in section 1(1) and section 16 of Title 18 of the United States Code.

(ii) An alien tried and convicted as an adult for a violent felony offense, as so defined, committed after having attained the age of fifteen years, will be subject to the provisions of INA 212(a)(2)(A)(i)(I) regardless of whether at the time of conviction juvenile courts existed within the convicting jurisdiction.

* * * * *

4. Revise § 40.81 to read as follows:

§ 40.81 Ineligible for citizenship.

An alien will be ineligible to receive an immigrant visa under INA 212(a)(8)(A) if the alien is ineligible for citizenship, including as provided in INA 314 or 315.

PART 42—[AMENDED]

5. The authority citation for part 42 continues to read:

Authority: 8 U.S.C. 1104.

6. Amend § 42.21 by revising paragraph (b) to read as follows:

§ 42.21 Immediate relatives.

* * * * *

(b) *Spouse of a deceased U.S. Citizen.* The spouse of a deceased U.S. citizen, and each child of the spouse, will be entitled to immediate relative status after the date of the citizen's death provided the spouse or child meets the criteria of INA 201(b)(2)(A)(i) and the Consular Officer has received an approved petition from the INS which accords such status, or official notification of such approval, and the Consular Officer is satisfied that the alien meets those criteria.

7. Amend § 42.71 by revising paragraph (a) to read as follows:

§ 42.71 Authority to issue visas; visa fees.

(a) *Authority to issue visas.* Consular officers may issue immigrant visas at designated consular offices abroad pursuant to the authority contained in INA 101(a)(16), 221(a), and 224. (Consular offices designated to issue immigrant visas are listed periodically in Visa Office Bulletins published by the Department of State.) A consular officer assigned to duty in the territory of a country against which the sanctions provided in INA 243(d) have been invoked must not issue an immigrant visa to an alien who is a national, citizen, subject, or resident of that country, unless the officer has been informed that the sanction has been waived by INS in the case of an individual alien or a specified class of aliens.

* * * * *

Dated: September 16, 1999.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 99–26612 Filed 10–12–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–98–054]

RIN 2115 AE47

Drawbridge Operation Regulations; Suwannee River, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing the operation of the old CSX Railroad bridge, across the Suwannee River, mile 35.0 at Old Town, Dixie/ Levy Counties, by allowing the bridge to remain permanently closed. This action will accommodate the needs of non motorized recreational traffic and still provide for the reasonable needs of navigation.

DATES: This section becomes effective November 12, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Project Manager, Bridge Section, (305) 536–4103.

SUPPLEMENTARY INFORMATION:

Regulatory History

On November 9, 1998, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** (63 FR 60226). The Coast Guard received one comment on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

The CSX Railroad bridge across Suwannee River is required to open with 5 Days advance notice (33 CFR 117.33). However, no requests for a bridge opening have been received since 1981. The State of Florida purchased the bridge in 1997 and removed the railroad tracks for development of the nature Coast Trail, a public facility for non-motorized recreational activities.

Discussion of Comments and Changes

One comment was received requesting that the bridge be returned to operable condition within six months, if changed conditions warrant it. The final rule is changed from the proposed rule to address the concern expressed by the comment. A provision has been added to restore the bridge to operable condition within 6 months of notification by the District Commander to do so.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of executive order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation. (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10 e of the regulatory policies and procedures of DOT is unnecessary. We conclude this because of the lack of requests to open the draw.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include small businesses and not for profit organizations that are independently owned and operated and are not dominant in their field and governmental jurisdictions with populations of less than 50,000. Because it expects the impact of the proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed the rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and has determined under Figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—[AMENDED]

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.333 is revised to read as follows:

§ 117.333 Suwannee River.

The draw of Suwannee River bridge, mile 35 at Old Town need not be opened for the passage of vessels, however, the draw shall be restored to operable condition within 6 months after notification by the District Commander to do so.

Dated: September 16, 1999.

Thad. W. Allen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 99–26673 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 05–99–090]

RIN 2115–AA97

Safety Zone; Chesapeake Bay, Hampton, VA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the 1812 Overture Fireworks Display to be held on a deck barge in Chesapeake Bay, adjacent to Fort Monroe, Hampton, Virginia. This action is intended to restrict vessel traffic on a portion of Chesapeake Bay, within a 1000-foot radius of the fireworks deck barge. The safety zone is necessary to protect mariners and spectators from the hazards associated with the fireworks display.

DATES: This temporary final rule is effective from 8:30 p.m. until 9:30 p.m. on October 23, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the USCG Marine Safety Office Hampton Roads, 200 Granby Street, Norfolk, Virginia, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 441–3290.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Alford Danzy, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 441–3290.

SUPPLEMENTARY INFORMATION:

Regulatory History

A Notice of Proposed Rule Making (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553, the Coast Guard finds that good cause exists for not publishing an NPRM. In keeping with the requirements of 5 U.S.C. 533(d)(3), the Coast Guard also finds good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. The Coast Guard received confirmation of this request for a temporary safety zone on September 23, 1999. There was not sufficient time to publish a proposed rule in advance of the event. Publishing an NPRM and delaying the effective date of the regulation would be contrary to the public interest, because immediate action is necessary to protect the vessels and spectators from the hazards associated with the fireworks display.

Background and Purpose

The Coast Guard is establishing a temporary safety zone for the 1812 Overture Fireworks Display to be held on a deck barge in Chesapeake Bay adjacent to Fort Monroe, Hampton, Virginia. The safety zone will restrict vessel traffic on a portion of Chesapeake Bay, within an 1000-foot radius of the fireworks deck barge, located in approximate position 37° 00' 03''N, 076° 18' 26''W (NAD 1983). The safety zone is necessary to protect mariners and spectators from the hazards associated with the fireworks display.

The safety zone is effective from 8:30 p.m. until 9:30 p.m. on October 23, 1999. Entry into this safety zone is prohibited unless authorized by the Captain of the Port Hampton Roads. Public notifications will be made prior to the event via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). This temporary final rule only affects a limited area for one hour and only affects the waters of Chesapeake Bay adjacent to Fort Monroe within a 1000-foot radius of the fireworks deck barge. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this temporary final rule will have a significant economic impact on a substantial number of small entities. ''Small Entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This regulation will be in effect for one hour and only affects the waters of Chesapeake Bay adjacent to Fort Monroe within a 1000-foot radius of the fireworks deck barge. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary final rule does not provide for a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this temporary final rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has analyzed this temporary final rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this temporary final rule is categorically excluded from further environmental documentation. This regulation will have no impact on the environment.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T05–090 is added to read as follows:

§ 165.T05–090 Safety Zone; Chesapeake Bay, Hampton, VA.

(a) *Location.* The following area is a safety zone: All waters of the Chesapeake Bay adjacent to Fort Monroe, Hampton, Virginia within a 1000-foot radius of the fireworks deck barge at approximate position 37°00′03″ N, 076°18′26″ W. All coordinates reference Datum NAD 1983.

(b) *Effective Date.* This section is effective from 8:30 p.m. until 9:30 p.m. on October 23, 1999.

(c) *Definition. Captain of the Port* means the Commanding Officer of the Marine Safety Office Hampton Roads, Norfolk, VA or any Coast Guard

commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(d) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in § 165.23 of this part.

(2) Persons or vessels requiring entry into or passage through the safety zone must first request authorization from the Captain of the Port. The Coast Guard vessels enforcing the safety zone can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (757) 484–8192.

(e) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: September 29, 1999.

B.R. Conaway,

Commander, U.S. Coast Guard, Acting Captain of the Port Hampton Roads.

[FR Doc. 99–26674 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[TX–112–1–7421a; FRL–6449–5]

Approval and Promulgation of Air Quality Implementation Plans; Texas: Redesignation Request and Maintenance Plan for the Collin County Lead Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving a request from the Texas Natural Resource Conservation Commission (TNRCC) to redesignate Collin County, Texas, to attainment for the lead National Ambient Air Quality Standard (NAAQS). This request was submitted to us by the Governor on August 31, 1999. The request was accompanied by a demonstration from TNRCC that continued compliance with the lead NAAQS can reasonably be expected. The maintenance plan also includes a summary of the measured lead concentrations from 1995–1998, an inventory of the annual lead emissions in the County, the permitted and enforceable conditions responsible for continued compliance with the lead NAAQS, and contingency measures, should a future violation occur.

DATES: This direct final rule is effective on December 13, 1999, unless we receive adverse written comments by November 12, 1999. If we receive adverse comments, we will publish a timely withdrawal of this direct final rule in the **Federal Register**, and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at our Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking today?
II. Why is Collin County, Texas, designated as a lead nonattainment area?
III. What has the State done to address its lead issue in Collin County?
IV. What steps must Texas take to change the designation of Collin County from nonattainment to attainment for lead?
V. Does Collin County now meet the National Ambient Air Quality Standard (NAAQS) for lead?
VI. Has Texas met all its regulatory requirements in Collin County?
VII. Has there been an improvement in air quality in Collin County?
VIII. Has the State demonstrated that it can maintain its Compliance with the lead NAAQS in the future?
IX. Administrative Requirements.

I. What Action Is EPA Taking Today?

We are approving the lead maintenance plan for Collin County, Texas, and redesignating Collin County to attainment for the lead NAAQS. We are taking this action because the redesignation request and maintenance plan meet the requirements of the Clean Air Act (the Act). We are publishing this rule without prior proposal because we view this as a non-controversial action, and we anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as our proposal, should adverse comments be filed. This rule is effective on December 13, 1999, without further notice, unless we receive adverse comments by November 12, 1999.

If we receive adverse comments, we will publish a document that withdraws the final rule and informs the public that the rule will not take effect. Any adverse comments we have received will then be addressed in a subsequent final rule. We will not institute a second comment period on this action, so parties interested in commenting should do so at this time.

II. Why Is Collin County, Texas, Designated as a Lead Nonattainment Area?

The Gould National Battery, Incorporated (GNB) smelter, is located in Collin County, Texas, just southwest of the town of Frisco. It produces lead from spent lead-acid batteries and other lead bearing scrap. Dallas, Fort Worth, and Denton, Texas, are all located within 50 kilometers of the GNB facility. The facility currently produces 4.27 tons per year of lead emissions.

Since 1981, lead emissions from the GNB facility have been monitored continuously. Violations of the quarterly arithmetic average of 1.5 micrograms per cubic meter (ug/m^3) NAAQS for lead were recorded in 1985, 1989, and 1990. Notices of violation were issued by the State to the GNB facility, with requirements to implement certain controls.

On November 6, 1991, pursuant to section 107(d)(5) of the Act, we published the notice of nonattainment designation in the **Federal Register** (57 FR 56694) for the portion of Collin County which encompasses the plant boundaries of the GNB facility. The effective date of the nonattainment designation was January 6, 1992.

III. What Has the State Done To Address Its Lead Issue in Collin County?

For States with areas designated to nonattainment for lead, a State Implementation Plan (SIP) must be developed, pursuant to sections 110(a)(2) and 172(c) of the Act, to show how the area will be brought into attainment. Texas was required to submit a SIP which included the following to us by July 6, 1993:

1. Provisions to assure that reasonably available control measures would be implemented; (2) a demonstration (including air quality modeling) that the SIP would provide for attainment as expeditiously as practicable, but no later than January 6, 1997;

(3) a demonstration that reasonable further progress (RFP) would be made toward attainment by January 6, 1997; (4) a permit program for the construction and operation of new and modified major stationary sources; and (5) contingency measures, which would become effective without further action by the State or EPA, upon a determination by us that the area failed to achieve RFP or to attain the lead NAAQS by the applicable statutory deadline. For more information on the planning requirements associated with the nonattainment designation, see section 172(c)(9) of the Act and 57 FR 13498–13569 (April 16, 1992).

Texas held a public hearing on April 21, 1993, to entertain public comment on the lead SIP for Collin County. Following the public hearing, the SIP was adopted by the State and signed by the Governor on July 2, 1993, and submitted to us on July 6, 1993, as a proposed revision to the SIP.

We reviewed this SIP, and found that it contained all the provisions necessary for approval. We approved the Collin County lead SIP on November 29, 1994 (59 FR 60905).

IV. What Steps Must Texas Take To Change the Designation of Collin County From Nonattainment to Attainment for Lead?

According to section 107(d)(3)(E) of the Act, TNRCC must submit to us a revision to the lead SIP that contains the following five elements: (1) a demonstration that the area has attained the lead NAAQS; (2) a demonstration that the Collin County lead SIP is fully approved; (3) a demonstration that the area is in compliance with all other aspects of the Act; (4) there must be permanent and enforceable improvements in air quality in the area; and, (5) there must be a demonstration that the area will remain in compliance with the lead NAAQS. These five elements were submitted to us in a revision to the SIP, dated August 31, 1999. We have reviewed each element, and our evaluation of each is discussed below.

V. Does Collin County Now Meet the National Ambient Air Quality Standard (NAAQS) for Lead?

As mentioned previously, the NAAQS for lead is a quarterly arithmetic average of 1.5 ug/m^3. We require eight consecutive quarters, or two calendar years, of air quality monitoring data showing attainment to justify a redesignation to attainment. The TNRCC submitted data from the three lead monitors at GNB for the years 1995–1998. The highest quarterly average recorded during this four-year period was 0.70 ug/m^3. We have reviewed the air quality data and have determined that it is adequate to demonstrate attainment of the lead NAAQS. The specific ambient lead values recorded at the GNB site are included in the official file for this action, and can also be reviewed at our Aerometric Information Retrieval System website, located at *http://www.epa.gov./airsdata/monitors.htm*.

VI. Has Texas Met All Its Regulatory Requirements in Collin County?

The regulatory requirements for Collin County include: (1) having a fully approved lead attainment SIP as described under section 110(k) of the Act; (2) that an area must have met all the applicable requirements of section 110(a)(2) of the Act; and (3) that all requirements under part D of the Act have been met.

Section 110(k) of the Act outlines our responsibilities and establishes our timeframes for reviewing SIP submittals. Section 110(a)(2) of the Act delineates those general elements that must be included in any SIP submittal in order for us to consider it complete and approvable. The criteria listed ensures a State or Tribal agency's ability to properly implement a given control strategy. Examples of these general elements include, but are not limited to, such things as proof of statutory authority, enforceable emission limits, monitoring, reporting, and recordkeeping mechanisms. Part D of the Act lists additional requirements that are necessary in SIPs for nonattainment areas, and establishes additional guidelines for us to use when we review these SIPs. Subpart 1 of part D contains information on nonattainment area plans in general; Subpart 5 contains additional provisions related to lead nonattainment areas, particularly the deadlines for SIP submissions, and the associated attainment dates.

As we discussed previously, we reviewed the Collin County lead SIP and approved it, in accordance with sections 110 and part D of the Act, on November 29, 1994 (59 FR 60905).

VII. Has There Been an Improvement in Air Quality in Collin County?

A State must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. The implementation of reasonably available control measures by the GNB facility provides enforceable and permanent emission reductions needed to attain and maintain the lead NAAQS. These control measures are contained in permits R–1147A and R–5466D, issued to GNB in 1990, and amended to incorporate the provisions of Board Orders 92–09(k) and 93–12, issued to GNB in 1992 and 1993, respectively.

The control measures contained in permits R–1147A and R–5466D include process controls such as additional vent hoods, ductwork, an additional baghouse, and enclosed process and storage areas. Fugitive controls include paved roads, planted vegetation, and increased maintenance and cleanup procedures. The specifics of the control measures are discussed in the technical support document, included in the official file for this action.

The TNRCC will maintain the permanence of these conditions through enforcement of these permits, and GNB's compliance with the National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelters. Copies of permits R–1147A and R–5466D, which include the provisions of Board Orders 92–09(k) and 93–12, can be found in the official file for this action. We have concluded that the improvement in the air quality in Collin County, Texas, is permanent and enforceable.

VIII. Has the State Demonstrated That It Can Maintain Its Compliance With the Lead NAAQS in the Future?

Section 175(A) of the Act requires States that submit a redesignation request to include a maintenance plan to ensure that the attainment of NAAQS for any pollutant is maintained. This maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the approval of a redesignation to attainment. Eight years after the redesignation, States must submit a revised maintenance plan demonstrating attainment for the ten years following the initial ten year period. To provide for the possibility of future NAAQS violations, the maintenance plan must also contain such contingency measures as we deem necessary to assure that a State will promptly correct any violation of the NAAQS that occurs after redesignation.

The TNRCC demonstrated to us that the lead maintenance plan being approved in this action is adequate to maintain compliance with the lead NAAQS for at least ten years. The current annual emission rate of 4.27 tons per year was modeled in 1993 to show compliance with the lead NAAQS. Air quality data collected at the GNB facility since that time confirms that continued compliance with the lead NAAQS can reasonably be expected,

given the permitted annual lead emission rate of 4.27 tons per year.

The control measures and lead emission limits included in the maintenance plan have been implemented and permitted at the GNB facility, and we expect these conditions to provide for the continued attainment of the lead NAAQS in Collin County. We therefore agree that the maintenance plan satisfies the requirement of section 175(A) of the Act to show maintenance of the lead NAAQS.

Section 175A of the Act also requires each maintenance plan to include contingency measures to be implemented should a future violation of the lead NAAQS occur. The maintenance plan identifies the future conditions upon which contingency measures would be triggered for implementation, and identifies four possible measures to be evaluated for implementation.

The future conditions that would trigger the implementation of one or more contingency measures are: (1) a violation of the 1.5 ug/m^3 quarterly average lead NAAQS, or (2) an increase in the 4.27 tons per year annual lead emission rate, unless the increase has been authorized through an approved permit modification, or new air dispersion modeling shows continued compliance with the lead NAAQS.

The following contingency measures have been submitted: (1) a new wheel-washing facility will be installed to reduce tracking in the yard area—estimated annual lead reduction is 27 pounds per year; (2) installation of a scale and automatic tuyere punching device at the blast furnace, to increase feed and flux control—estimated annual lead reduction is 30 pounds per year; and (3) any alternative measure proposed by GNB that gains lead reductions equivalent to those listed above. Any alternative must be approved by the TNRCC prior to implementation.

The schedule for implementation of a selected contingency measure is 30 days for notification to TNRCC that a trigger has been reached, an additional 60 days for selection of the appropriate contingency measure, and an additional 180 days for GNB to complete implementation.

The TNRCC has the legal authority to implement its lead program in Collin County, Texas, and to enforce those conditions imposed on GNB by permits R–1147A and R–5466D. We find that both the redesignation request and the maintenance plan submitted by TNRCC meet the requirements the Act and follow our guidance on the preparation of such requests.

IX. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable rules on any of these entities. This action does not create any new requirements but simply approves requirements that the State is already imposing. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to E.O. 13045 because it approves a State program.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because approvals under section 111 of the 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 create any new requirements, I certify that this action will not have a significant

economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule can not take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major'' rule as defined by 5 U.S.C. 804(2). This rule will be effective December 13, 1999.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 13, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: September 24, 1999.

Pamela Phillips,

Acting Regional Administrator, Region 6.

40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

2. Section 52.2270 is amended by revising paragraph (b)(1); adding paragraph (d), and adding a new entry to the end of the table in paragraph (e) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(b) Incorporation by reference. (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 31, 1998, were approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after December 31, 1998, will be incorporated by reference in the next update to the SIP compilation.

* * * * *

(d) EPA-Approved State Source-Specific Requirements.

EPA-APPROVED TEXAS SOURCE-SPECIFIC REQUIREMENTS

Name of Source	Permit or Order Number	State Effective Date	EPA Approval Date	Comments
Gould National Battery, Incorporated.	Order Nos. 92–09(k), 93–12, 99–0351–SIP.	9/3/92, 6/2/93, 7/8/99, respectively.	11/29/94, 11/29/94, October 13, 1999, respectively.	92–09(k) and 93–12 were incorporated by reference in our approval of the lead SIP on 11/29/94, (59 FR 60905).

(e) * * *

EPA-APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP Provision	Applicable geographic or nonattainment area	State Submittal/Effective Date	EPA Approval Date	Comments
*	*	*	*	*
Lead Maintenance Plan for Gould National Battery, Incorporated.	Collin County	08/31/99	October 13, 1999 and 64 FR 55425.	Ref. 59 FR 60905 (11/29/94).

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

2. In Section 81.344, the lead table is amended by revising the entry for the Collin County Area to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—LEAD

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Collin County (all)	[December 13, 1999]	Attainment		
*	*	*	*	*

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

* * * * * * *

[FR Doc. 99–26329 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 99–1891]

List of Office of Management and Budget Approved Information Collections Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's list of Office of Management and Budget (OMB) approved public information collection requirements with their associated OMB expiration dates. This list will provide the public with a current list of public information collection requirements approved by OMB and their associated control numbers and expiration dates as of August 31, 1999.

EFFECTIVE DATE: October 13, 1999.

FOR FURTHER INFORMATION CONTACT: Judy Boley, Office of the Managing Director, (202)418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This document adopted on September 23, 1999 and released on September 24, 1999 by the Managing Director in DA 99–1891 revised 47 CFR 0.408 in its entirety.

1. Section 3507(a)(3) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(3), requires agencies to display a current control number assigned by the Director of the Office of Management and Budget (''OMB'') for each agency information collection requirement.

2. Section 0.408 of the Commission's rules displays the OMB control numbers assigned to the Commission's public information collection requirements that have been reviewed and approved by OMB.

3. Authority for this action is contained in Section 4(i) of the Communications Act of 1934 (47 U.S.C. 154(i)), as amended, and section 0.231(b) of the Commission's Rules. Since this amendment is a matter of agency organization procedure or practice, the notice and comment and effective date provisions of the Administrative Procedure Act do not apply. See 5 U.S.C. 553(b)(A)(d).

4. Accordingly, *It is ordered, that* section 0.408 of the rules is REVISED as set forth in the revised text, effective on October 13, 1999.

6. Persons having questions on this matter should contact Judy Boley at (202) 418–0214 or via the Internet to jboley@fcc.gov.

List of Subjects in 47 CFR Part 0

Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 0 as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as revised; 47 U.S.C. 154, 303 unless otherwise noted.

2. Section 0.408 is revised to read as follows:

§ 0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act of 1995.

(a) *Purpose.* This section displays the control numbers and expiration dates for the Commission information collection requirements assigned by the Office of Management and Budget (''OMB'') pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission intends that this section comply with the requirement that agencies display current control numbers and expiration dates assigned by the Director of OMB for each approved information collection requirement. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information

subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to the Associate Managing Director—Performance Evaluation and Records Management, Federal Communications Commission, Washington, DC 20554.

(b) *Display*

OMB Control No.	FCC Form Number or 47 CFR Section or Part, Docket Number or Title identifying the collection	OMB Expiration Date
3060–0003	FCC 610	D10/31/02
3060–0004	Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation, ET Doc. 96–62	06/30/01
3060–0009	FCC 316	11/30/99
3060–0010	FCC 323	07/31/02
3060–0012	Parts 21, 23, 25 and 101 and FCC 701	05/31/00
3060–0016	FCC 346	07/31/00
3060–0017	FCC 347	07/31/00
3060–0020	FCC 406	05/31/02
3060–0021	FCC 480	12/31/00
3060–0024	Sec. 76.29	08/31/01
3060–0025	FCC 755	07/31/00
3060–0027	FCC 301	03/31/02
3060–0028	FCC 313	03/31/02
3060–0029	FCC 302–TV	12/31/00
3060–0031	FCC 314	03/31/02
3060–0032	FCC 315	03/31/02
3060–0034	FCC 340	12/31/00
3060–0035	FCC 313–R	04/30/00
3060–0041	FCC 301–A	02/29/00
3060–0048	FCC 704	05/31/00
3060–0049	FCC 753	06/30/00
3060–0051	FCC 405–B	08/31/00
3060–0053	FCC 703	11/30/99
3060–0054	FCC 820	12/31/01
3060–0055	FCC 327	04/30/00
3060–0056	FCC 730	03/31/00
3060–0057	FCC 731	09/30/99
3060–0059	FCC 740	09/30/99
3060–0061	FCC 325	07/31/02
3060–0062	FCC 330	03/31/02
3060–0065	FCC 422	02/28/02
3060–0066	FCC 330–R	07/31/00
3060–0068	FCC 702	08/31/00
3060–0069	FCC 756	09/30/02
3060–0072	FCC 409	08/31/01
3060–0075	FCC 345	12/31/99
3060–0076	FCC 395	12/31/99
3060–0079	FCC 610–B	06/30/02
3060–0084	FCC 323–E	07/31/02
3060–0089	FCC 503	08/31/01
3060–0093	FCC 405	05/31/00
3060–0095	FCC 395–A, 395–AS	07/31/00
3060–0096	FCC 506, 506–A	08/31/02
3060–0099	FCC Form M	11/30/99
3060–0104	FCC 572	05/31/00
3060–0105	FCC 430	09/30/00
3060–0106	Sec. 43.61	10/31/99
3060–0107	FCC 405–A	01/31/00
3060–0108	FCC 201	05/31/01
3060–0110	FCC 303–S	05/31/01
3060–0113	FCC 396	01/31/00
3060–0119	Sec. 90.145	12/31/99
3060–0120	FCC 396–A	10/31/99
3060–0126	Sec. 73.1820	(1)
3060–0127	FCC 1046	03/31/00
3060–0128	FCC 574	08/31/01
3060–0132	FCC 1068A	12/30/00
3060–0134	FCC 574–R	05/31/02
3060–0136	FCC 574–T	12/31/00
3060–0139	FCC 854/854–R/854ULS	08/31/02
3060–0147	Sec. 64.804	01/31/00
3060–0149	Part 63, Secs. 214, 63.01–63.601	11/30/01
3060–0157	Sec. 73.99	02/29/00
3060–0160	Sec. 73.158	01/31/02
3060–0161	Sec. 73.61	12/31/99
3060–0165	Part 41 Sec. 41.31	01/31/00
3060–0166	Part 42	09/30/01

OMB Control No.	FCC Form Number or 47 CFR Section or Part, Docket Number or Title identifying the collection	OMB Expiration Date
3060–0168	Sec. 43.43	12/31/01
3060–0169	Sec. 43.51, 43.53	04/30/02
3060–0170	Sec. 73.1030	03/31/02
3060–0171	Sec. 73.1125	10/31/01
3060–0173	Sec. 73.1207	05/31/01
3060–0174	Sec. 73.1212	07/31/02
3060–0175	Sec. 73.1250	10/31/99
3060–0176	Sec. 73.1510	12/31/99
3060–0178	Sec. 73.1560	12/31/99
3060–0179	Sec. 73.1590	06/30/01
3060–0180	Sec. 73.1610	02/28/02
3060–0181	Sec. 73.1615	12/31/99
3060–0182	Sec. 73.1620	02/28/01
3060–0184	Sec. 73.1740	12/31/01
3060–0185	Sec. 73.3613	07/31/01
3060–0187	Sec. 73.3594	02/28/01
3060–0188	Sec. 73.3550	08/31/01
3060–0190	Sec. 73.3544	02/28/01
3060–0192	Sec. 87.103	01/31/01
3060–0194	Sec. 74.21	12/31/01
3060–0202	Sec. 87.37	12/31/00
3060–0204	Sec. 90.38(B)	07/31/02
3060–0206	Part 21	05/31/01
3060–0207	Sec. 11.52	09/30/99
3060–0208	Sec. 73.1870	01/31/00
3060–0209	Sec. 73.1920	10/31/99
3060–0210	Sec. 73.1930	06/30/01
3060–0211	Sec. 73.1943	07/31/01
3060–0212	Sec. 73.2080	12/31/99
3060–0213	Sec. 73.3525	11/30/00
3060–0214	Sec. 73.3526	10/31/01
3060–0215	Sec. 73.3527	10/31/01
3060–0216	Sec. 73.3538	11/30/01
3060–0219	Sec. 90.49(b)	10/31/99
3060–0221	Sec. 90.155	12/31/01
3060–0222	Sec. 97.213	12/31/00
3060–0223	Sec. 90.129	04/30/02
3060–0224	Sec. 90.151	02/28/01
3060–0225	Sec. 90.131(B)	09/30/99
3060–0226	Sec. 90.135(d)&(e)	02/28/01
3060–0228	Sec. 80.59	08/31/01
3060–0233	Part 36	10/31/99
3060–0236	Sec. 74.703	06/30/02
3060–0240	Sec. 74.651	02/29/00
3060–0241	Sec. 74.633	02/29/00
3060–0242	Sec. 74.604	02/29/00
3060–0243	Sec. 74.551	05/31/02
3060–0245	Sec. 74.537	05/31/02
3060–0246	Sec. 74.452	07/31/00
3060–0248	Sec. 74.751	06/30/02
3060–0249	Sec. 74.781	01/31/00
3060–0250	Sec. 74.784	01/31/00
3060–0251	Sec. 74.833	10/31/99
3060–0253	Part 68; Secs. 68.106, 68.108, 68.110	04/30/01
3060–0254	Sec. 74.433	07/31/00
3060–0258	Sec. 90.176	10/31/99
3060–0259	Sec. 90.263	12/31/00
3060–0261	Sec. 90.215	12/31/00
3060–0262	Sec. 90.179	12/31/01
3060–0263	Sec. 90.177	09/30/99
3060–0264	Sec. 80.413	12/31/00
3060–0265	Sec. 80.898	08/31/01
3060–0270	Sec. 90.443	01/31/00
3060–0280	Sec. 90.633(f)&(g)	11/30/99
3060–0281	Sec. 90.651	02/28/01
3060–0286	Sec. 80.302	04/30/01
3060–0287	Sec. 78.69	10/31/01
3060–0288	Sec. 78.33	12/31/99
3060–0289	Sec. 76.601	03/31/02
3060–0290	Sec. 90.517	05/31/02
3060–0291	Sec. 90.477	02/28/01
3060–0292	Part 69	09/30/00

OMB Control No.	FCC Form Number or 47 CFR Section or Part, Docket Number or Title identifying the collection	OMB Expiration Date
3060–0295	Sec. 90.607(b)(1) & (c)(1)	12/31/00
3060–0297	Sec. 80.503	12/31/00
3060–0298	Part 61	10/31/00
3060–0307	Sec. 90.629(A)	10/31/99
3060–0308	Sec. 90.505	03/31/01
3060–0309	Sec. 74.1281	09/30/99
3060–0310	Sec. 76.12	12/31/99
3060–0311	Sec. 76.54	09/30/99
3060–0313	Sec. 76.207	07/31/01
3060–0314	Sec. 76.209	03/31/01
3060–0315	Sec. 76.221	09/30/99
3060–0316	Sec. 76.305	07/31/01
3060–0318	FCC 489	12/31/00
3060–0319	FCC 490	09/30/00
3060–0320	Sec. 73.1350	04/30/01
3060–0321	Sec. 73.68	01/31/02
3060–0325	Sec. 80.605	06/30/02
3060–0326	Sec. 73.69	09/30/99
3060–0329	Sec. 2.955	(1)
3060–0330	Part 62	04/30/01
3060–0331	Sec. 76.615(b)	05/31/01
3060–0332	Sec. 76.614	09/30/01
3060–0340	Sec. 73.51	08/31/00
3060–0341	Sec. 73.1680	08/31/00
3060–0342	Sec. 74.1284	07/31/00
3060–0344	Sec. 1.1705	08/31/00
3060–0345	Sec. 1.1709	08/31/00
3060–0346	Sec. 78.27	03/31/01
3060–0347	Sec. 97.311	11/30/00
3060–0348	Sec. 76.79	02/28/01
3060–0349	Sec. 76.73 and 76.75	02/28/01
3060–0355	FCC 492 and FCC 492A	07/31/01
3060–0357	Sec. 63.701	08/31/01
3060–0360	Sec. 80.409(c)	08/31/01
3060–0361	Sec. 80.29	04/30/01
3060–0362	Inspection of Radio Installation on Large Cargo and Small Passenger Ships	11/30/99
3060–0364	Sec. 80.409(d) and (e)	08/31/01
3060–0368	Sec. 97.523	08/31/00
3060–0370	Part 32	12/31/00
3060–0374	Sec. 73.1690	01/31/02
3060–0384	Sec. 64.904	04/30/02
3060–0386	Sec. 73.1635	07/31/02
3060–0387	Sec. 15.201(d)	11/30/99
3060–0390	FCC 395B	12/31/99
3060–0391	Program to Monitor the Impact of Universal Service Support Mechanisms	12/31/01
3060–0392	47 CFR Part 1, Subpart J, Pole Attachment Complaint Procedures	07/31/01
3060–0393	Sec. 73.45	10/31/99
3060–0394	Sec. 1.420	10/31/99
3060–0395	Secs 43.21 and 43.22 FCC Reports 43–02, FCC 43–05 and FCC 43–07	03/31/02
3060–0397	Sec. 15.7(A)	04/30/00
3060–0398	Sec. 2.948, 15.117(G)(2)	10/31/99
3060–0400	Tariff Review Plan	09/30/99
3060–0404	FCC 350	05/31/02
3060–0405	FCC 349	07/31/02
3060–0407	Sec. 73.3598	05/31/02
3060–0410	FCC 495A and FCC 495B	03/31/00
3060–0411	FCC 485	06/30/02
3060–0414	Terrain Shielding Policy	09/30/00
3060–0419	Secs. 76.94, 76.95, 76.155, 76.156, 76.157, 76.159	10/31/01
3060–0421	New Service Reporting Requirements under Price Cap Regulation	11/30/99
3060–0422	Sec. 68.5	10/31/01
3060–0423	Sec. 73.3588	10/31/99
3060–0425	Sec. 74.913	07/31/01
3060–0427	Sec. 73.3523	09/30/00
3060–0430	Sec. 1.1206	09/30/01
3060–0433	FCC 320	03/31/02
3060–0434	Sec. 90.20(e)(6)	05/31/02
3060–0435	Sec. 80.361	10/31/99
3060–0436	Equipment Authorization, Cordless Telephone Security Coding	11/30/99
3060–0439	Regulations Concerning Indecent Communications by Telephone	03/31/01
3060–0441	Sec. 90.621(B)(4)	11/30/99
3060–0443	FCC 572C	03/31/02

OMB Control No.	FCC Form Number or 47 CFR Section or Part, Docket Number or Title identifying the collection	OMB Expiration Date
3060–0444	FCC 800A	06/30/01
3060–0448	Sec. 63.07	08/31/00
3060–0449	Sec. 1.65(c)	01/31/01
3060–0452	Sec. 73.3589	10/31/99
3060–0454	Regulation of International Accounting Rates	01/31/00
3060–0461	Sec. 90.173	12/31/99
3060–0463	Telecommunications Services for Individuals with Hearing and Speech Disabilities—CC Docket No. 98–67	11/30/99
3060–0465	Sec. 74.985	12/31/99
3060–0466	Sec. 74.1283	01/31/00
3060–0470	Allocation of Cost, Cost Allocation Manual, RAO Letters 19 and 26	10/31/01
3060–0473	Sec. 74.1251	12/31/99
3060–0474	Sec. 74.1263	02/29/00
3060–0475	Sec. 90.713	05/31/02
3060–0478	Informational Tariffs	04/30/00
3060–0481	FCC 452R	08/31/00
3060–0483	Sec. 73.687	07/31/00
3060–0484	Sec. 63.100	01/31/02
3060–0488	Sec. 73.30	02/28/01
3060–0489	Sec. 73.37	02/28/01
3060–0490	Sec. 74.902	03/31/01
3060–0491	Sec. 74.991	03/31/01
3060–0492	Sec. 74.992	02/28/01
3060–0493	Sec. 74.986	02/28/01
3060–0494	Sec. 74.990	02/28/01
3060–0496	FCC Report 43–08	03/31/02
3060–0500	Sec. 76.607	07/31/01
3060–0501	Sec. 76.206	07/31/01
3060–0502	Sec. 73.1942	07/31/01
3060–0506	FCC 302–FM	12/31/00
3060–0508	Rewrite and Update of Part 22	01/31/01
3060–0511	ARMIS Access Report, FCC Report 43–04	03/31/02
3060–0512	ARMIS Annual Summary Report, FCC Report 43–01	03/31/02
3060–0513	ARMIS Joint Cost Report, FCC Report 43–03	03/31/02
3060–0514	Sec. 43.21(c)	02/29/00
3060–0515	Sec. 43.21(d)	(1)
3060–0519	Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991	12/31/01
3060–0526	Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Facilities (CC Docket 91–141)	10/31/99
3060–0531	Local Multipoint Distribution Service (LMDS)	06/30/00
3060–0532	Sec. 2.975(A)(8) and 2.1033(B)(12)	08/31/02
3060–0536	FCC 431	01/31/00
3060–0537	Sec. 13.217	05/31/02
3060–0540	Tariff Filing Requirement for Nondominant Common Carriers	05/31/02
3060–0543	Sec. 21.913	10/31/99
3060–0544	Sec. 76.701	10/31/00
3060–0546	Sec. 76.59	12/31/99
3060–0548	Sec. 76.302 and 76.56	10/31/01
3060–0549	FCC 329	12/31/99
3060–0550	FCC 328	(1)
3060–0551	Sec. 76.1002 & 76.1004	05/31/00
3060–0552	Sec. 76.1003 & 76.1004	05/31/00
3050–0554	Section 87.199	06/30/02
3060–0556	Sec. 80.1061	06/30/02
3060–0560	Sec. 76.911	07/31/01
3060–0561	Sec. 76.913	08/31/00
3060–0562	Sec. 76.916	04/30/01
3060–0563	Sec. 76.915	06/30/00
3060–0564	Sec. 76.924	11/30/99
3060–0565	Sec. 76.944	08/31/00
3060–0567	Sec. 76.962	02/28/02
3060–0568	Commercial Leased Access Rates, Terms, & Conditions, Sec. 76.970	04/30/00
3060–0569	Sec. 76.975	06/30/00
3060–0570	Sec. 76.982	04/30/01
3060–0572	Filing Manual for Annual International Circuit Status Reports	(1)
3060–0573	FCC 394	12/31/99
3060–0574	FCC 395–M	06/30/02
3060–0577	Expanded Interconnection with Local Telephone Company Facilities	09/30/00
3060–0579	Expanded Interconnection with Local Telephone Company Facilities for Interstate Switched Transport Service	09/30/00
3060–0580	Sec. 76.504	06/30/00
3060–0581	Sec. 76.503	01/31/00
3060–0584	FCC 45 FCC 44	10/31/99
3060–0589	FCC 159, and 159C	12/31/00
3060–0594	FCC 1220	05/31/01

OMB Control No.	FCC Form Number or 47 CFR Section or Part, Docket Number or Title identifying the collection	OMB Expiration Date
3060–0595	FCC 1210	07/31/01
3060–0599	Implementation of Sections 3(n) and 322 of the Communications Act, GN 93–253	06/30/00
3060–0600	FCC 175 and 175–DS	06/30/02
3060–0601	FCC 1200	05/31/01
3060–0602	Sec. 76.917	04/30/00
3060–0607	Sec. 76.922	08/31/00
3060–0609	Sec. 76.934(D)	04/30/01
3060–0610	Sec. 76.958	04/30/01
3060–0611	Sec. 74.783	07/31/00
3060–0613	Expanded Interconnection with Local Telephone Company Facilities, CC Docket 91–141	09/30/99
3060–0621	Rules and Requirements for Broadband PCS Licenses	01/31/01
3060–0623	FCC 600	01/31/02
3060–0624	Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services, Sec. 24.103(f)	10/31/00
3060–0625	Amendment of the Commission's Rules to Establish New Personal Communications Services, Sec. 24.237	11/30/00
3060–0626	Regulatory Treatment of Mobile Services	12/31/00
3060–0627	FCC 302–AM	04/30/01
3060–0629	Sec. 76.987	05/31/01
3060–0630	Sec. 73.62	06/30/01
3060–0633	Sec. 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.965 and 74.1265	06/30/01
3060–0634	Sec. 73.691	04/30/01
3060–0635	FCC 610–V	03/31/01
3060–0636	Equipment Authorization—Declaration of Compliance—Amendment of Parts 2 and 15	(1)
3060–0638	Sec. 76.934(F)(1)	02/28/02
3060–0639	Implementation of Section 309(J) of the Communications Act Competitive Bidding, PP 93–253	09/30/01
3060–0640	FCC 800I	08/31/01
3060–0641	FCC 218–I	09/30/99
3060–0644	FCC 1230	02/28/02
3060–0645	Antenna Registration, Part 17	04/30/02
3060–0646	Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers: CC Docket 94–129	01/31/01
3060–0647	Annual Survey of Cable Industry Prices	01/31/00
3060–0648	Sec. 21.902	09/30/99
3060–0649	Sec. 76.58	12/31/01
3060–0652	Sec. 76.309 and 76.964	10/31/01
3060–0653	Sec. 64.703(b)	01/31/02
3060–0654	FCC 304	10/31/01
3060–0655	Request for Waivers of Regulatory Fees Predicated on Allegations of Financial Hardship, MM Docket 94–19	(1)
3060–0656	FCC 175–M	11/30/01
3060–0657	Sec. 21.956	09/30/01
3060–0658	Sec. 21.960	11/30/01
3060–0660	Sec. 21.937	09/30/01
3060–0661	Sec. 21.931	10/31/01
3060–0662	Sec. 21.930	09/30/01
3060–0663	Sec. 21.934	09/30/99
3060–0664	FCC 304A	10/31/01
3060–0665	Sec. 64.707	01/31/02
3060–0667	Sec. 76.630	10/31/01
3060–0668	Sec. 76.936	03/31/02
3060–0669	Sec. 76.946	05/31/02
3060–0673	Sec. 76.956	03/31/02
3060–0674	Sec. 76.931 and 76.932	06/30/02
3060–0678	FCC 312	05/31/01
3060–0681	Toll-Free Service Access Codes, Part 52	09/30/00
3060–0683	Direct Broadcast Satellite Service	10/31/99
3060–0684	Cost Sharing Plan for Microwave Relocation	11/30/99
3060–0685	FCC 1240	05/31/01
3060–0686	Streamlining the International Section 214 Authorization Process and Tariff Requirements	08/31/02
3060–0687	Access to Telecommunications Equipment and Services by Persons with Disabilities	05/31/02
3060–0688	FCC 1235	07/31/02
3060–0690	Rules Regarding the 37.0–38.6 GHz and 38.6–40.0 GHz Bands	06/30/01
3060–0691	Amendment to Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHZ Bands Allotted to Specialized Mobile.	09/30/99
3060–0692	Home Wiring Provisions	03/31/01
3060–0695	Sec. 87.219	03/31/02
3060–0697	Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems	03/31/00
3060–0698	Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico	01/31/01
3060–0700	FCC 1275	07/31/00
3060–0701	CC Docket No. 96–23	11/30/99
3060–0702	Amendment to Part 20 and 24 of the Commission's Rules, Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap	11/30/99
3060–0703	FCC 1205	09/30/99
3060–0704	Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended—CC Doc. 96–61	03/31/01

OMB Control No.	FCC Form Number or 47 CFR Section or Part, Docket Number or Title identifying the collection	OMB Expiration Date
3060–0706	Cable Act Reform	06/30/02
3060–0707	Over-the Air Reception Devices	05/31/02
3060–0709	Revision of Part 22 and Part 90 to Facilitate Future Development of the Paging System and Implementation of Section 309(j) of the Communications Act	01/31/00
3060–0710	Policy and Rules Concerning the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996—CC Doc. 96–98	02/29/00
3060–0711	Implementation of Section 34(a)(1) of the Public Utility Holding Act of 1935, as amended by the Telecommunications Act of 1996—GC Doc. 96–101	10/31/99
3060–0712	Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force	10/31/99
3060–0713	Alternative Broadcast Inspection Program (ABIP)	08/31/02
3060–0714	Antenna Registration Number Required as Supplement to Application Forms	09/30/99
3060–0715	Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information—CC Doc. 96–115	06/30/01
3060–0716	Section 73.1630	11/30/99
3060–0717	CC Docket No. 92–77	05/31/01
3060–0718	Part 101 Governing the Terrestrial Microwave Fixed Radio Service	09/30/99
3060–0719	Quarterly Report of IntraLATA Carriers Listing Pay Phone Automatic Numbering Identifications (ANIs)	12/31/99
3060–0720	Proposed Report of Bell Operating Companies of Modified Comparably Efficient Interconnection Plans	09/30/99
3060–0721	One-Time Report of Local Exchange Companies of Cost Accounting Studies	12/31/99
3060–0722	Proposed Initial Report of Bell Operating Companies of Comparably Efficient Interconnect Plans	11/30/99
3060–0723	Public Disclosure of Network Information by Bell Operating Companies	12/31/99
3060–0724	Annual Report of Interexchange Carriers Listing the Compensation Amount Paid to Pay Phone Providers and the Number of Payees	12/31/99
3060–0725	Proposed Annual Filing of Nondiscrimination Reports (on Quality of Service, Installation, and Maintenance) by BOC's	11/30/99
3060–0726	Proposed Quarterly Report of Interexchange Carriers Listing the Number of Dial-Around Calls for which Compensation is Being Paid to Pay Phone Owners	12/31/99
3060–0727	Sec. 73.213	11/30/00
3060–0728	Supplemental Information Requesting Taxpayer Identifying Numbers for Debt Collection	05/31/00
3060–0729	Bell Operating Provision of Out-of-Region Interexchange Services (Affiliated Company Recordkeeping Requirements)	12/31/99
3060–0730	Toll-Free Service Access Codes, 800/888 Number Release Procedures	02/29/00
3060–0731	Telecommunications Relay Services (TRS)	09/30/99
3060–0732	Consumer Education Concerning Wireless 911	10/31/99
3060–0734	Implementation of the Telecommunications Act of 1996: Accounting Safeguards under the Telecommunications Act of 1996	03/31/00
3060–0735	Partitioning and Disaggregation	09/30/99
3060–0736	Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended—CC Docket 96–149	10/31/01
3060–0737	Disclosure Requirements for Information Services Provided under a Presubscription or Comparable Arrangement	09/30/99
3060–0738	Implementation of the Telecommunications Act of 1996: Electronic Publishing and Alarm Monitoring Services	04/30/00
3060–0739	Amendment of the Commission's Rules to Establish Competitive Safeguards for Local Exchange Carrier Provisions of Commercial Mobile Radio Service	01/31/01
3060–0740	Sec. 95.1015	10/31/99
3060–0741	Implementation of the Local Competition Provisions on the Telecommunications Act of 1996—CC Docket No. 96–96, Second Report and Order and Memorandum Opinion and Order	10/31/99
3060–0742	Part 52, Subpart C, Sec. 52.21—52.31	12/31/99
3060–0743	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996—CC Docket No. 96–128	12/31/99
3060–0745	Implementation of the Local Exchange Carrier Tariff Streamlining Provisions—CC Docket No. 96–187	12/31/00
3060–0746	FCC 900	06/30/00
3060–0747	FCC 415	12/31/99
3060–0748	Sec. 64.1504, CC Docket No. 96–146	12/31/99
3060–0749	Sec. 64.1509	01/31/00
3060–0750	Sec. 73.673	12/31/99
3060–0751	Regulation of International Accounting Rates: CC Docket No. 90–337	01/31/00
3060–0752	Billing Disclosure Requirements for Pay-Per-Call and Other Information Services, Sec. 64.1510	01/31/00
3060–0753	Policy and Rules Concerning the Interstate, Inter-exchange Marketplace, CC Docket 9661 (Integrated Rate Plans)	01/31/00
3060–0754	FCC 398	06/30/02
3060–0755	Infrastructure Sharing—CC Docket 96–237	05/31/00
3060–0756	Procedural Requirements and Policies for Commission Processing of Bell Operating Company Applications for the Provision of In-Region, InterLATA Services under Section 271 of the Communications Act	06/30/01
3060–0757	FCC Auctions Customer Survey	09/30/00
3060–0758	Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations—ET Docket No. 96–256 (Proposed Rule)	03/31/00
3060–0759	Implementation of Section 273 of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996	04/30/00
3060–0760	Access Charge Reform—CC Docket No. 96–272	12/31/01
3060–0761	Closed Captioning of Video Programming	12/31/00
3060–0762	Sec. 274 (b)(3)(B), CC Docket No. 96–152 (FNPRM)	04/30/00
3060–0763	ARMIS Customer Satisfaction Report, FCC 43–06	03/31/02

OMB Control No.	FCC Form Number or 47 CFR Section or Part, Docket Number or Title identifying the collection	OMB Expiration Date
3060–0765	Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems (Further Notice of Proposed Rulemaking)	05/31/00
3060–0767	Auction Forms and License Transfer Disclosures—Supplement for the 2nd R&O, Order on Reconsideration, and 5th NPRM in CC Docket No. 92–297	10/31/01
3060–0768	28 GHz Band Segmentation Plan Amending the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band, and to Establish . . .	06/30/00
3060–0769	Aeronautical Services Transition Plan	06/30/00
3060–0770	Price Cap Performance Review for Local Exchange Carriers—CC Docket No. 94–1	06/30/00
3060–0771	Sec. 5.56	10/31/00
3060–0773	Sec. 2.803	07/31/00
3060–0774	Federal-State Joint Board on Universal Service—CC Docket No. 96–45, Secs. 36.611–36.612 and 47 CFR Part 54	01/31/02
3060–0775	47 CFR 64.1901–64.1903	07/31/00
3060–0777	Access Charge Reform–CC Docket No. 92–262 (Further Notice of Proposed Rulemaking	08/31/00
3060–0779	Amendment to Part 90 of the Commission's Rules to Provide for Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, PR Doc. 89–552	08/31/00
3060–0780	Uniform Rate-Setting Methodology	09/30/00
3060–0782	Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations	01/31/01
3060–0783	Coordination Notification Requirements on Frequencies Below 512 MHz—Sec. 90.176	09/30/00
3060–0785	FCC 457	09/30/99
3060–0786	Petitions for LATA Association Changes by Independent Telephone Companies	01/31/01
3060–0787	Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996	04/30/02
3060–0788	DTV Showings/Interference Agreements	07/31/01
3060–0789	Modified Alternative Plan, CC Doc. 90–571, Order (''1997 Suspension Order'')	06/30/01
3060–0790	Section 68.110(c)	11/30/00
3060–0791	CC Docket No. 93–240	11/30/00
3060–0793	Procedures for States Regarding Lifeline Consent, Adoption of Intrastate Discount Matrix for Schools and Libraries, and Designation of Eligible Telecommunications Carriers	07/31/01
3060–0794	DTV Report on Construction Progress	11/30/00
3060–0795	ULS TIN Registration and FCC 606	08/31/02
3060–0796	Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket No. 92–237	12/31/00
3060–0798	FCC 601	11/30/99
3060–0799	FCC 602	02/28/02
3060–0800	FCC 603	01/31/02
3060–0801	Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees	08/31/02
3060–0802	Message Intercept Requirement, CC Docket No. 92–237	08/31/01
3060–0804	Universal Service: Health Care Providers Universal Service Program—FCC 465, 466, 467, and 468	05/31/02
3060–0805	Sec. 90.527	12/31/01
3060–0806	Universal Service: Schools and Libraries Program, FCC 470 and 471	03/31/00
3060–0807	Petitions for Preemption—47 CFR 51.803 and Supplemental Procedures for Petitions to Section 252(e)(5) of the Communications Act of 1934, as amended	04/30/01
3060–0808	Amendments to Uniform System of Accounts for Interconnection, CC Docket No. 97–212	02/28/01
3060–0809	Communications Assistance for Law Enforcement Act (CALEA), CC Docket No. 97–213	02/28/01
3060–0810	Procedures for Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended	05/31/01
3060–0812	Assessment and Collection of Regulatory Fees	08/31/02
3060–0811	Implementation of Section 309(j) of the Communications Act, MM Docket No. 97–234	02/28/01
3060–0813	Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems	06/30/01
3060–0814	Local Switching Support and Local Switching Support Data Collection Form and Instructions, Section 54.301	09/30/01
3060–0815	FCC 496	09/30/01
3060–0816	Local Competition in the Local Exchange Telecommunications Services Report	11/30/99
3060–0817	Computer III Further Remand Proceedings: BOC Provision of Enhanced Services (ONA Requirements), CC Docket No. 95–20	11/30/99
3060–0819	Lifeline Assistance/Lifeline Connection Assistance (Link Up) Reporting Worksheet and Instructions, 47 CFR 54.40–54.417, FCC 497	09/30/01
3060–0820	Transfers of Control Involving Telecommunications Carriers	09/30/01
3060–0823	Pay Telephone Reclassification, Memorandum Opinion and Order, CC Docket No. 96–128	12/31/01
3060–0824	FCC 498	09/30/01
3060–0825	Requirements for Toll-Free Service Access Codes 888/877	09/30/99
3060–0827	Request for Radio Station License Update	09/30/01
3060–0829	Streamlining of Mass Media Applications, Rules and Processes	07/31/01
3060–0831	MDS and ITFS Two-Way Transmissions	07/31/01
3060–0832	Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance, CC Docket No. 98–56	07/31/01
3060–0833	Notice of Proposed Rulemaking (NPRM) Regarding Implementation of Section 255 of the Telecommunications Act of 1996: Access to Telecommunications Services	08/31/01
3060–0834	Reconsideration of Rules and Policies for the 220–222 MHz Radio Service	12/31/01
3060–0835	Ship Inspection Certificates, FCC 806, 824, 827 and 829	03/31/02
3060–0837	Application for DTV Broadcast Station License—FCC 302–DTV	08/31/01

OMB Control No.	FCC Form Number or 47 CFR Section or Part, Docket Number or Title identifying the collection	OMB Expiration Date
3060–0838	Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules	08/31/01
3060–0840	Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation—CC Docket No. 98–77	09/31/01
3060–0841	Public Notice, Additional Processing Guidelines for DTV	04/30/02
3060–0844	Carriage of the Transmissions of Digital Television Broadcast Stations	10/31/01
3060–0845	1998 Annual Biennial Review of ARMIS Reporting Requirements	10/31/01
3060–0846	Amendment of the Commission's Rules to Provide for Use of Radio Frequencies Above 40 GHz for New Radio Applications	10/31/01
3060–0847	1998 Biennial Regulatory Review, Review of Accounting and Cost Allocation Requirements, CC Docket No. 98–81	10/31/01
3060–0848	Deployment of Wireline Services Offering Advanced Telecommunications Capability—CC Docket No. 98–147	11/30/99
3060–0849	Commercial Availability of Navigation Devices	10/31/01
3060–0850	Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Servies, FCC 605	10/31/99
3060–0851	FCC 305	12/31/01
3060–0852	FCC 306	12/31/01
3060–0853	FCC 486	05/31/02
3060–0855	FCC 499	01/31/00
3060–0856	FCC 472, FCC 473, FCC 474	05/31/02
3060–0857	Annual Reporting Requirement for Blanket Licensing of Ka-band Satellite Earth Station	12/31/01
3060–0858	State Public Safety Plan Requirements and Year 2000 Readiness	01/31/02
3060–0859	Suggested Guidelines for Petitions for Ruling under Section 253 of the Communications Act	11/30/99
3060–0861	Goodman/Chan Receivership Licensees	11/30/99
3060–0862	Handling Confidential Information	05/31/02
3060–0863	Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act	07/31/02
3060–0864	Data to Determine Percentage of Interstate Telecommunications Revenues from Wireless Carriers and Submission of Data to Determine Eligibility	02/28/02
3060–0865	Wireless Telecommunications Bureau Universal Licensing System Recordkeeping and Third-Party Disclosure Requirements	01/31/02
3060–0866	Year 2000 Assessments	09/30/99
3060–0867	Request for Waiver of Section 20.18(c) of the Commission's Rules Regarding Compatibility with Enhanced 911 Emergency Calling Systems	07/31/02
3060–0868	Construction of Grandfathered Multilateration Locating Monitoring Service (LMS) Sites	11/30/99
3060–0869	Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding	02/28/02
3060–0870	Outside Plant Structure and Cable Costs Data Collection (Forms and Instructions)	09/30/99
3060–0874	FCC 475, FCC 476	09/30/99
3060–0875	Long-Term Number Portability Cost Classification Proceeding and Telephone Number Portability—CC Docket No. 95–116	09/30/99
3060–0876	USAC Board of Directors Nomination Process—Section 54.703 and Review of Administrator's Decision—Sections 54.719–54.725	09/30/99
3060–0877	1999 Central Office Code Utilization Survey (COCUS)	10/31/99
3060–0878	Wireless E911 Rule Waivers for Handset-Based Approaches to Phase II ALI Requirements	08/31/02
3060–0881	Sec. 95.861	04/30/02
3060–0882	Sec. 95.833	04/30/02
3060–0883	Wireless Telecommunications Bureau Year 2000 Survey	09/30/99
3060–0885	Telephone Number Portability, Local Number Portability Worksheet and Recordkeeping Requirement—CC Docket No. 95–116	11/30/99
3060–0886	Sec. 73.3534	05/31/02
3060–0887	Study of Whether Capital Market Discrimination Affects Minority and Women-Owned Broadcast and Wireless Business; and the Estimation of Utilization Ratios/Probabilities of Success Auctions or Minorities, Women and Non-Minorities	12/31/99
3060–0888	Cable Television Service Pleading and Complaint Rules—Part 76	06/30/02
3060–0889	Notification of Antenna Structure Registration Status	11/30/99
3060–0890	Settlement Agreements Among Parties in Contested Licensing Cases	10/31/99
3060–0891	FCC 330–A	07/31/02
3060–0892	Direct Broadcast Satellite Public Interest Obligations	07/31/02
3060–0893	Universal Licensing Service (ULS) Pre-Auction Data Base Corrections	12/31/99
3060–0896	Broadcast Auction Form Exhibits	07/31/02
3060–0898	Incumbent Local Exchange Carrier Anti-Cramming Best Practices Statistics	12/31/99
3060–0900	Compatibility of Wireless Services with Enhanced 911—CC Docket No. 94–102	09/30/99
3060–0901	Reports of Common Carriers and Affiliates	01/31/00
3060–0902	Line Count Data Request	01/31/00
3060–0904	Local Television Ownership Rules (Report and Order)—Existing Conditional Waivers and LMAs	12/31/99

[1] Pending OMB approval.

[FR Doc. 99–26312 Filed 10–12–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–240; RM–8946, RM–9019]

Radio Broadcasting Services; Lockport and Amherst, NY.

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document denies a petition for reconsideration of the *Report and Order,* 62 FR 66030 (December 17, 1997), in this proceeding that allotted Channel 221A to Amherst, New York, as that community's first local FM service. The proposal decision to add the channel to Amherst was preferred over adding the same channel to Lockport, New York, because the Amherst allotment provides local service to a community that has four times the population of Lockport.

EFFECTIVE DATE: October 13, 1999.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MM Docket No. 96–240, adopted September 1, 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26419 Filed 10–12–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–1945; MM Docket No. 99–235; RM–9643]

Radio Broadcasting Services; Ingram, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 243A at Ingram, Texas, in response to a petition filed by Ingram Radio Broadcasting Company. *See* 64 FR 36323, July 6, 1999. The coordinates for Channel 243A at Ingram are 30–04–30 NL and 99–14–06 WL. Mexican concurrence has been received for the allotment of Channel 243A at Ingram. With this action, this proceeding is terminated. A filing window for Channel 243A at Ingram will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective November 8, 1999.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–235, adopted September 15, 1999, and released September 24, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

47 CFR PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Ingram, Channel 243A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26688 Filed 10–12–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 980331080–9269–02; I.D. 091799A]

RIN 0648–AK66

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Interim final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) is issuing this interim final rule to amend the regulations that require most shrimp trawlers to use turtle excluder devices (TEDs) in the southeastern Atlantic, including the Gulf of Mexico, to reduce the incidental capture of endangered and threatened sea turtles during shrimp trawling. Specifically, we are extending for one additional year the approved use of the Parker soft TED.

DATES: This rule is effective October 13, 1999. Comments on this rule are requested, and must be received by December 13, 1999.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 727–570–5312.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of these species, as a result of shrimp trawling activities, have been documented in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation regulations (50 CFR 223.206 and 223.207) require most shrimp trawlers operating in the Gulf and Atlantic Areas, defined at 50 CFR 222.102, to have a NMFS-approved TED installed in each net rigged for fishing, year round. Current TEDs approved by NMFS for shrimp trawling include single-grid hard TEDs, hooped hard TEDs conforming to a generic description, two types of special hard TEDs, and one type of soft TED–the Parker soft TED.

NMFS approved the Parker TED through an April 13, 1998, interim final rule (63 FR 17948). Without an extension, that rule would lapse on October 13, 1999. NMFS limited the duration of that rule to 18-months so that if an evaluation of the effectiveness of the Parker TED in commercial use showed that the Parker TED was not effective at excluding sea turtles, NMFS could allow the Parker TED to lapse. If the Parker TED was found to be effective at excluding sea turtles, the interim rule would be adopted as final incorporating any necessary technical changes that might result from the TED testing and commercial use during the 18-month period. At this time, NMFS' data are inconclusive, and NMFS is unable to make a final determination regarding the effectiveness of Parker TEDs under commercial fishing condition. To provide for further data collection, NMFS is extending the effectiveness of the interim rule for 12 months.

Evaluation of the Parker TED

NMFS looked at many aspects of the Parker soft TED's performance over the past 2 years in both the Gulf of Mexico and the South Atlantic. Observers placed aboard commercial trawlers have documented sea turtle capture rates and finfish bycatch reduction. Intensive law enforcement efforts have been used to ensure and document fishermen's compliance with the technical requirements for using the Parker TED. NMFS' gear specialists have traveled extensively throughout the Southeast to provide training to net shops and trawler fleets in the proper installation and use of the Parker TED. The gear specialists have also provided follow-up assistance to fishermen and net makers.

Observer Information

NMFS' observer information generally shows that the Parker TED does not have a problem with sea turtle captures. In 1997–1998, observers documented three turtle captures in nets equipped with Parker TEDs in nearshore waters in the South Atlantic area. A total of 190 tows were observed, for 515 hours of trawling. The resulting turtle catch rate (Catch per unit effort, or CPUE) was 0.005 turtles per 100 ft. (30.5 m) headrope-hour. In 1997, observers documented 62 tows in the South Atlantic area aboard trawlers equipped with hard TEDs. One turtle was observed captured in 161 hours of trawling, for a CPUE of 0.005 turtles per 100 ft (30.5 m) headrope-hour. Observations in the Gulf of Mexico revealed a similar situation, although turtle catch rates in the Gulf are much lower overall. In 1998, 133 tows using Parker TEDs, totaling 1,352 trawl hours, were observed in the offshore waters of the Gulf of Mexico: no turtle captures were observed. We also observed 2,081 offshore shrimp tows using hard TEDs, for a total of 9,632 hours. Two turtles were captured, representing a CPUE of 0.0001. The observed catch rates for shrimp trawlers using hard TEDs and Parker TEDs are small and, therefore, it is difficult to make definitive comparisons. Observers experienced difficulty in finding vessels using Parker TEDs to make trips with, contributing somewhat to the small number of Parker TED tows observed. Still, the available observer data indicates that the Parker TED's turtle catch rate is probably comparable to the catch rates of hard TEDs.

Several observer trips have also been made specifically to test the Parker TED's potential as a bycatch reduction device (BRD). The tests are made by comparing the catches from two nets pulled simultaneously by a trawler—one net is equipped with a Parker TED and the other with a hard TED. The Gulf and South Atlantic Fisheries Development Foundation (GSAFDF) and the South Carolina Department of Natural Resources (SCDNR) conducted independent tests of the Parker TED in the Atlantic in the fall of 1997. The GSAFDF and SCDNR tests showed a greater shrimp loss compared to standard tests in for hard TED-equipped net. The bycatch reduction rates for weakfish and Spanish mackerel, the two primary bycatch species of concern in the Atlantic, were 32.1 and 45.96 percent from the GSAFDF data and 25.02 and 79.78 percent from the SCDNR data. These tests showed that the Parker TED is effective for excluding Spanish mackerel but does not meet the 40 percent exclusion rate for weakfish that is a criterion for certification as a BRD under the South Atlantic Shrimp Fishery Management Plan. The GSAFDF also did considerable testing of the Parker TED in 1998 and 1999 in the Gulf of Mexico where red snapper is the bycatch species of concern. That testing revealed a 7 percent shrimp loss, compared to a hard TED. A preliminary analysis of the red snapper catch rate shows a 33 percent reduction, which would not meet the criterion for certification as a BRD in the Gulf. Currently a modified Parker TED, using a 4 x 6 inch (10.2 X 15.2 cm) panel, is being tested as a BRD off South Carolina through a permit issued by NMFS, to determine whether the smaller-mesh panel can increase the bycatch reduction rate.

Observations by Law Enforcement

The Protected Resources Enforcement Team (PRET) is a specially-equipped team of NMFS law enforcement officers that was formed to focus enforcement attention on protected resources issues–primarily TEDs–in the Southeast. The PRET has placed priority on ensuring compliance with the requirements for the newly introduced Parker TED. The PRET has not encountered many shrimp trawlers actually using the Parker TED, despite intensive patrol efforts. In 1998, the PRET's first year in operation, the team logged 488 hours of at-sea patrols, boarding 261 vessels as part of the TED compliance project. PRET boardings in 1998 focused on nearshore shrimping grounds along the coasts of Texas, Louisiana, Georgia, and South Carolina. A large portion of the PRET's efforts in 1999 have been dedicated to patrols along the Texas coast, due to the continuing concern over the number of dead sea turtles that strand on Texas beaches. From March 16, 1999, through August 19, 1999, the PRET boarded 241 vessels along the Texas and Louisiana coasts.

Only two boats using Parker TEDs have been encountered by the PRET during 449 boardings in the Gulf of Mexico over 2 years. Both boats were operated by the same company which had installed Parker TEDs on its boats in 1998. When one of the boats was encountered in the summer of 1998, the recently-installed Parker TEDs were in good condition and in full compliance with the regulations. When the second boat was boarded in the summer of 1999, the boat's Parker TEDs were in bad disrepair and had apparently received no maintenance in a long time, possibly not since being installed a year

earlier. The boat was cited for the violation.

Enforcement efforts in the South Atlantic also indicate that use of the Parker TED in the shrimp fleet may be very low. The PRET only documented one trawler equipped with Parker TEDs during 53 boardings in 1998. NMFS gear specialists accompanied SCDNR enforcement officers on patrols of state waters during May 1999. Out of approximately 40 trawlers boarded at sea, two were using Parker TEDs. The U.S. Coast Guard Group in Charleston, SC, reports boarding only 4 boats with Parker TEDs over the past 2 years. No violations were reported from these seven boardings.

Observations of Gear Specialists

The installation specifications for the Parker TED included an unprecedented level of technical detail compared to previous soft TED regulations. The specifications included new requirements such as limiting installation to only certain styles of nets, exact mesh counts for fixing the location of the soft TED panel in the net, and detailed sewing instructions for attaching the panel to the net. As discussed in the April 13, 1998 interim final rule (63 FR 17948), NMFS believes that this level of technical specificity is required for the Parker TED to achieve a proper shape and exclude turtles effectively.

NMFS provided intensive technical training to assist the shrimp industry to adopt these stringent technical requirements. During 1998 and 1999, NMFS gear specialists held training sessions throughout the southeastern United States to improve TED technical operation and compliance. Technology transfer methodology included the development of improved training and educational materials which were distributed through the Coast Guard, Sea Grant, by direct mailouts, and through TED skill building workshops. Workshops included multimedia presentations and hands-on instruction which have proven highly effective in transferring technical information. TED operational manuals were distributed to assist fishermen in complying with TED regulations and to assist in solving TED operational problems. In spring 1998, the training specifically focused on net shops around the entire Atlantic and Gulf coasts. Those training sessions reviewed the new Parker TED regulatory requirements and included hands-on training installing Parker TEDs. Generally, the net makers were able to learn how to install the Parker TED according to the regulations quickly. Gear specialists provided follow-up visits to work with some net makers who had difficulties. Subsequent workshops in 1998 and 1999 have been primarily addressed to the fishermen and to ensuring proper commercial use of TEDs.

The gear specialists also held workshops for NMFS, Coast Guard, and state law enforcement personnel. The purpose of these workshops was to review the complete enforcement process for TEDs, including descriptions of TEDs, establishing at-sea protocols for boarding vessels, checking Parker TEDs and hard TEDs for correct installation, and conducting training of new enforcement officers. NMFS gear experts also accompanied NMFS, Coast Guard, and state law enforcement personnel during at-sea and dockside boardings to provide hands-on technical training and assistance and to collect information on TED technical performance and compliance. This assistance was provided in North Carolina, South Carolina, Georgia, Florida, Alabama and Louisiana, and Texas.

During the period May-July 1999, three NMFS gear specialists provided 22 days of assistance to fishermen in North Carolina, South Carolina and Georgia in modifying their TEDs to comply with actions implemented under the leatherback turtle contingency plan (64 FR 25460, May 12, 1999; 64 FR 27206, May 19, 1999; 64 FR 28761, May 27, 1999; 64 FR 29805, June 3, 1999). Although almost all fishermen used hard TEDs with a large escape opening to comply with the leatherback contingency plan, the gear specialists found 10 vessels in McClellanville, SC, that were equipped with Parker TEDs modified to use the leatherback escape opening. The fishermen reported little difficulty in successfully making the leatherback modification to their Parker TEDs.

During the months of March, April and May, 1999, NMFS gear specialists visited net shops along the Texas coast to provide follow-up Parker TED training if necessary, but found no net shops still making Parker TEDs in Texas. On the East Coast, the gear specialists have confirmed with one net shop in each state (Florida, Georgia, South Carolina, and North Carolina) that they were still installing Parker TEDs in 1999. Those shops reported no ongoing technical problems. One of those net shops has also made a practice of selling uninstalled TED excluder panels directly to fishermen. NMFS has not encountered any trawlers, however, that had one of these do-it-yourself Parker TEDs.

Comments on the April 13, 1998 Interim Final Rule

NMFS received one letter on the April 13, 1998, interim final rule that allowed the use of the Parker soft TED. The commenter supported the approval of the Parker TED, but expressed several qualifying concerns.

Comment 1: The commenter questioned whether the TED testing conducted on the Parker TED was risk-averse enough, considering the known problems with testing soft TEDs. Specifically, NMFS had not tested every net-TED combination with a full sample of 25 test turtles.

Response: The April 13, 1998, interim final rule provided a detailed discussion of the two TED testing sessions that were used to approve the Parker soft TED. Those TED testing sessions included several changes to the testing protocol from previous tests that significantly increased the test's risk-aversion for approving new TEDs. The most significant change was to limit the approval of successful candidate soft TEDs to demonstrably compatible net sizes and styles. The 1998 TED tests included 107 turtle exposures to Parker TEDs in various net configurations. All 107 turtles escaped the nets. NMFS also considered the installation compatibility of the Parker TED in various nets. On that basis, NMFS excluded 2–seam, balloon trawls with bibs and trawls in which the body taper is greater than 4 bars - 1 point from use with the Parker TED. Parker TEDs installed in those trawl styles were observed to curl upwards into the 8–inch (20.3–cm) mesh section of the excluder panel, creating an area where turtles might become entangled. NMFS also excluded triple-wing trawls, which were not tested. The current testing protocol, which combines diver observations with exposure of small turtles to candidate TEDs, provides a risk-averse method for approving new soft TED candidates, such as the Parker TED, in a variety of appropriate net combinations.

The experimental TED testing conducted in 1998 provides a further example of that risk-averse approach. NMFS conducted additional testing on the Parker TED in net styles that had previously been excluded from approval with the Parker TED. A triple-wing net and two sizes of mongoose nets, all with 6 bars - 1 point (6b1p) body tapers, were tested. All three net-TED combinations had a strong rolling-up of the outer edges of the 4 inch (10.2 cm) and the 8 inch (20.3 cm) mesh of the Parker TED excluder panel. In a test with a 68 ft (20.7 m) headrope-length the 6b1p

mongoose net, no turtles were captured. Additional industry and possibly NMFS' testing will be required, however, before this design can be approved.

Comment 2: The commenter was concerned that the turtles used for TED testing in 1997 may not have been properly conditioned and that standardized physiological tests to confirm the turtles' fitness were not conducted.

Response: NMFS agrees that proper conditioning of the turtles used for TED testing is important. More vigorous escape behaviors by the test turtles are probably more representative of natural turtle behavior. The current practice is to try to condition the turtles in large, free-swimming pens for at least 4 weeks prior to using the turtles for TED testing. Physiological data have been collected to help determine how different conditioning regimes affect the turtles' stress response to the TED tests, such as blood pH and blood lactate levels. The analysis of those data, however, has not been completed, and we do not know whether different conditioning regimes result in different physiological stress levels. The goals in conducting the TED test are to provide a meaningful examination of candidate TEDs while minimizing stress and risk to the turtles. Current practices, which include 5–minute limits on the exposure to TEDs, limits on the safe water temperatures, and full-time care from animal husbandry experts, have resulted in a perfect safety record for the turtles used in TED testing. Even with these practices, there will always be natural variability in the environmental conditions and the fitness of the turtles. For that reason, every TED testing session is based on the performance of the turtles in a control TED, not on comparisons with previous TED testing sessions. While NMFS continues to investigate the role of various physiological measures on the turtles' fitness and behavior, the controls ensure that the 1997 TED tests, as well as future tests, are a rigorous examination of candidate TEDs.

Comment 3: The commenter recommended that NMFS adopt a regulatory certification process for net installers, stating this would be a more efficient way of ensuring proper installation of the Parker TED than NMFS proposed use of technical assistance to fishermen and net makers and enforcement surveillance for correct TED use.

Response: NMFS explicitly considered adopting a net maker certification program in the Environmental Assessment/Regulatory Impact Review (EA/RIR) for the interim final rule. In summary, NMFS determined that a certification program would create a large administrative and bureaucratic burden on the government and a clumsy regulatory requirement affecting the net makers and the fishermen. The TED regulations already include prohibitions on selling or using non-approved TEDs (50 CFR 223.250(b)). Also, the technical specifications for what constitutes an approved Parker TED are extremely detailed. Therefore, there would be little advantage for enforcement from an additional regulatory certification requirement. NMFS believes that the limited enforcement resources for ensuring compliance with the TED regulations are best spent by conducting at-sea patrols and boardings of actively fishing trawlers and by providing dockside assistance to fishermen.

Comment 4: The commenter was concerned about the durability of soft TEDs and their installation over time.

Response: The commenter is referring to two separate problems with soft TEDs that inherently result from the use of soft, flexible webbing for the TED. The first is the soft TED's fragile material relative to hard TEDs. The webbing in a soft TED may easily be cut or damaged during normal trawling activities; for example, from encountering small sharks, shell fragments, rocks, corals, and wood debris. The second is that tensions on the soft TED and the net during trawling may eventually stretch the net or the excluder panel so that pockets or slack webbing appear and cause turtle entanglements.

NMFS is also aware of, and concerned by, these problems which, in part, is why the Parker TED was approved for a limited, 18-month period. Part of the goal of the enforcement and training programs has been to document the extent to which these problems do occur with the Parker TED in commercial use. NMFS believes that the design of the Parker TED and its stringent installation requirements make it much less susceptible to losing its shape than previous styles of soft TEDs. NMFS enforcement and training programs, in fact, have not discovered that stretching has been a problem with Parker TEDs. NMFS has only observed a few Parker TEDs in commercial use, however, and further evaluation of the durability and installation of this design over time is needed.

NMFS recognized from the outset that no soft TED, constructed of polyethylene or polypropylene webbing, would be immune to routine damage. Shrimpers who use soft TEDs must continually inspect their TEDs and repair holes and damage as soon as they appear. Inspecting the panel of a soft TED is a difficult and time-consuming task, especially compared to inspecting a hard TED. Most shrimpers can check the condition of their hard TEDs visually before every tow, but a soft TED cannot be inspected through the outside of a wet trawl. The one boat using a Parker TED in the Gulf of Mexico that NMFS encountered apparently did not perform proper maintenance on the soft TEDs, and these TEDs had deteriorated badly over the course of a year. Even with proper maintenance, NMFS estimates that soft TED panels need to be replaced once a year, on average. Anecdotal reports from fishermen and net makers in Texas indicate that virtually no one uses Parker TEDs in that area because the fishermen do not want the time burden or the responsibility of checking and repairing the panels. In the Atlantic, the few Parker TEDs observed did not have problems with holes or damage and likely were receiving proper maintenance.

Provisions of this Interim Final Rule

This interim final rule extends the approved use of the Parker TED through October 13, 2000. This interim final rule makes no changes to the technical requirements for the Parker TED nor to the restrictions on the styles of net in which it may be installed.

NMFS initially limited the approval of the Parker TED to an 18-month period for two reasons. First, NMFS limited the duration so that if an evaluation of the effectiveness of the Parker TED in commercial use showed that the Parker TED was not effective at excluding sea turtles, NMFS could allow the approval to lapse. If the Parker TED was found to be effective at excluding sea turtles, the interim rule would be adopted as final incorporating any necessary technical changes that might result from the TED testing and commercial use during the 18-month period. Second, NMFS expected that there would be additional commercial testing by industry of the Parker TED in other net sizes and styles, under NMFS authorization. If additional net sizes and styles were found to be compatible with the Parker TED, NMFS would expand the authorized use of the Parker TED in finalizing the rule. NMFS observations of commercial use of the Parker TED do generally indicate that it effectively excludes turtles. This conclusion is tempered, however, by the small number of vessels with Parker TEDs that have actually been observed and by the troubling lack of maintenance seen in one of those cases. The anticipated commercial testing of

additional net sizes and styles has also not taken place. One vessel is currently collecting information on a Parker TED with a modified panel, to determine whether the modified panel excludes more finfish bycatch. NMFS believes that extending the approved use of the Parker TED for an additional year will allow additional information to be collected for a better final decision. This extension will allow fishermen currently using Parker TEDs to continue to do so and will give more time for testing additional modifications. The small number of fishermen using Parker TEDs and the apparently high effectiveness of the Parker TED mean that this extension will not unnecessarily impact sea turtles.

Request for Comments

NMFS is requesting input and will accept written comments (see **ADDRESSES**) on this interim final rule until December 13, 1999. Any comments, suggestions, or additional data and information on this action will be taken into consideration before a final determination is made on a final rule.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists, under 5 U.S.C. 553(b)(B), to waive prior notice and an opportunity for public comment on this rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment because the shrimp fishery is currently underway in the offshore and eastern Gulf of Mexico with virtually all of those shrimp trawlers required to use TEDs. The provisions of this rule allow those fishermen the continued option of a soft TED design, to comply with the TED requirement. In addition, a small number of fishermen are presently using the Parker TED. This rule will allow those fishermen to continue to use their existing gear beyond October 12, 1999. Otherwise, they would be forced to remove their soft TEDs by that date and replace them with hard TEDs. Because this final rule does not create any new regulatory burden, but instead relieves regulatory restrictions by continuing an additional option for complying with existing sea turtle conservation requirements, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effective date.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

The AA prepared an EA/RIR for the April 13, 1998, interim final rule (63 FR 17948) that approved the use of the Parker TED. The EA concluded that the rule will have no significant impact on the human environment. A copy of the EA/RIR is available (see **ADDRESSES**).

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: October 7, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 - 1543; subpart B, § 223.12 also issued under 16 U.S.C. 1361 *et seq.*

§ 223.207 [Amended]

2. In § 223.207, paragraph (c) introductory text, remove the text ''October 13, 1999'' and add in its place, ''October 13, 2000''.

[FR Doc. 99–26693 Filed 10–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 100699B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1999 pollock total allowable catch (TAC) specified to the inshore component in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.) October 6, 1999, until 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with section 206(b)(1) of the American Fisheries Act (AFA), 50 percent of the remainder of the pollock TAC in the BSAI, after the subtraction of the allocation to the pollock Community Development Quota and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other groundfish species, shall be allocated as a directed fishing allowance to catcher vessels harvesting pollock for processing by the inshore component. Pursuant to the AFA, the final 1999 amount of pollock allocated as a directed fishing allowance for processing by the inshore component of the Bering Sea subarea is 423,187 metric tons (64 FR 12103, March 11, 1999).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent exceeding the final 1999 pollock TAC specified to the inshore component in the Bering Sea subarea of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a

delay in the effective date is hereby waived.

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

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

Dated: October 6, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–26596 Filed 10–6–99; 4:42 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 197
Wednesday, October 13, 1999

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.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 102, and 104

[Notice 1999–20]

Rulemaking Petition: Reporting by Political Action Committees; Notice of Availability

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition: notice of availability.

SUMMARY: On September 20, 1999, the Commission received a Petition for Rulemaking from the Project on Government Oversight (''POGO''). The Petition urges the Commission to revise various rules concerning reports filed by political action committees (''PACs''). The Petition is available for inspection in the Commission's Public Records Office, through its FAXLINE service, and on its Internet site, www.FEC.gov.

DATES: Statements in support of or in opposition to the Petition must be filed on or before November 12, 1999.

ADDRESSES: All comments should be addressed to Rosemary C. Smith, Acting Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up. Electronic mail comments should be sent to PACreports@fec.gov. Commenters sending comments by electronic mail should include their full name and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered.

FOR FURTHER INFORMATION CONTACT: Rosemary C. Smith, Acting Assistant General Counsel, or Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694–1650 or (800) 424–9530 (toll free).

SUPPLEMENTARY INFORMATION: The Federal Election Commission (''FEC'' or ''Commission'') has received a Petition for Rulemaking from the Project on Government Oversight, asking that it take six actions with regard to reports filed by Political Action Committees. Several of these recommended actions address, in whole or in part, internal Commission procedures that are not properly the subject of a rulemaking. The Commission is therefore seeking comments on only the following portions of the Petition, which address valid rulemaking concerns. The parenthetical numbers reflect the numbering contained in the Petition.

The issues on which comments are sought include (1) revising 11 CFR 100.6 to require PACs to list as an affiliated organization on their Statement of Organization any soft money account to which they forward checks; [1] (3) revising 11 CFR 102.9(a)(3) to require candidates who receive PAC contributions to maintain records that list each PAC's full name and Commission identification number, and 11 CFR 100.12 to require them to include this information on their FEC reports; [2] (5) revising 11 CFR 104.8(d)(4) to require PACs to notify the Commission within ten days of receiving a returned contribution; and (6) revising 104.13(2) to require PACs to notify candidates within ten days of any in-kind contribution.

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, N.W., Washington, DC 20463, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m., and on the Commission's Internet site, www.FEC.gov. Interested persons may also obtain a copy of the Petition by dialing the Commission's FAXLINE service at (202) 501–3413 and following its instructions, at any time of the day and week. Request document #243.

Consideration of the merits of the Petition will be deferred until the close of the comment period. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. Any subsequent action taken by the Commission will be announced in the **Federal Register**.

[1] The Commission notes that this proposal may also implicate 11 CFR 102.2, which addresses Statements of Organization.

[2] The Commission notes that this proposal may also implicate 11 CFR 104.3(a), which states what information about campaign receipts must be reported to the Commission.

Dated: October 7, 1999.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 99–26638 Filed 10–12–99; 8:45 am]

BILLING CODE 6715–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–131–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF–340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to Saab Model SAAB SF–340 series airplanes. That action would have required replacement of the existing pneumatic de-icing boot pressure indicator switch with a newly designed switch. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has received new data that demonstrates that the unsafe condition cannot occur. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to Saab Model SAAB SF–340 series airplanes, was published in the **Federal Register** as a Notice of Proposed Rulemaking (NPRM) on July 22, 1999 (64 FR 39450). The proposed rule would have required replacement of the existing pneumatic de-icing boot pressure indicator switch with a newly designed switch. That action was prompted by an occurrence on a similar airplane model in which the pneumatic de-icing boot indication light may have provided the flightcrew with misleading information as to the proper functioning

of the de-icing boots. The proposed actions were intended to prevent ice accumulation on the airplane leading edges, which could reduce controllability of the airplane.

Actions That Occurred Since the NPRM Was Issued

Since the issuance of that NPRM, the manufacturer has provided the Federal Aviation Administration (FAA) with test and analytical data that substantiate that Saab Model SAAB SF–340 series airplanes feature a pneumatic boot de-icing system that assures the proper pneumatic threshold has been reached for effective pneumatic de-ice boot operation prior to illuminating the indication light. The FAA concludes that the de-icing boot design on Saab Model SAAB SF–340 series airplanes includes sufficient robust features to preclude the unsafe condition addressed in the NPRM.

FAA's Conclusions

Upon further consideration, the FAA has determined that the proposed actions of the NPRM (Docket 99–NM–131–AD) are unnecessary because the identified unsafe condition does not exist on Saab Model SAAB SF–340 series airplanes. Accordingly, the proposed rule is hereby withdrawn.

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

Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 99–NM–131–AD, published in the **Federal Register** on July 22 (64 FR 39450), is withdrawn.

Issued in Renton, Washington, on October 6, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26714 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 207

Navigation Regulations

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

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers is proposing to amend the regulations which establish restricted areas at Bonneville Lock and Dam, at McNary Lock and Dam, at Ice Harbor Lock and Dam, at Lower Monumental Lock and Dam, at Little Goose Lock and Dam, and at Lower Granite Lock and Dam on the Columbia and Snake Rivers, Oregon and Washington. The Corps is making adjustments in the restricted area boundaries to provide a greater margin of vessel safety from sudden dangerous currents, turbulence, and whirlpools caused by the operation of spillways, electrical generators, and navigation locks. Vessels, except Government vessels, are prohibited within the restricted areas. The restricted areas upstream and downstream from the spillways can be extremely dangerous should vessels be in the restricted area when water is released. The operation of electrical generators and spillway gates are remotely controlled from Portland and not operated by personnel at the facility. The equipment can be activated within seconds, creating very dangerous water currents, turbulence, and whirlpools. Operation of the navigation lock also creates a very dangerous condition in the downstream area. Water that is discharged from the lock discharge culvert can create waves up to 6 feet. Therefore, the downstream areas are being reclassified from ''hazardous'' to ''restricted'' at McNary Lock and Dam, Columbia River, River Mile 292.0; at Ice Harbor Lock and Dam, Snake River, River Mile 9.7; at Lower Monumental Lock and Dam, Snake River, River Mile 41.6; at Little Goose Lock and Dam, Snake River, River Mile 70.3; and at Lower Granite Lock and Dam, Snake River, River Mile 107.5. A change in alignment of the downstream restricted area at Bonneville Lock and Dam, and the upstream restricted areas at McNary Lock and Dam and at Ice Harbor Lock and Dam are being made to protect the boating public.

DATES: Comments must be submitted on or before November 29, 1999.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OD, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000. Comments may also be faxed to (202) 761–1685 or e-mail to: James.D.Hilton@usace.army.mil.

FOR FURTHER INFORMATION CONTACT: Mr. James Hilton, Dredging and Navigation Branch, CECW–OD at (202) 761–8830, or Mr. Jim Runkles, (541) 374–8344, ext. 254 for Bonneville Lock and Dam or Ms. Ann Glassley at (509) 527–7115 for McNary, Ice Harbor, Lower Monumental, Little Goose, and Lower Granite Locks and Dams.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 4, 7, and 28 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps proposes to amend the regulations in 33 CFR 207.718. The Corps is proposing to amend the regulations in 33 CFR 207.718(v), (w)(1), (w)(4), (w)(5), (w)(6), (w)(7), and (w)(8). Paragraph (v) is being deleted since the area below the dams at McNary, Ice Harbor, Lower Monumental, Little Goose, and Lower Granite is being changed from ''hazardous'' to ''restricted''. Signs will mark the restricted areas. The redisignation of the downstream area from ''hazardous'' to ''restricted'' is to prohibit vessels, except government vessels, from entering the area. Under a hazardous designation, vessels could enter at their own risk. An increase in fishing vessels into the hazardous area in pursuit of adult salmon and steelhead is of great concern, since the electrical generators and spillway gates are operated remotely from Portland. There are no personnel at the dam to warn boaters of an immediate release of water. Paragraph (w)(1) is being amended to provide an additional margin of safety for recreational boaters operating below Bonneville Lock and Dam during the discharge of water from the Juvenile Bypass System outfall structures. Paragraph (w)(4), (w)(5), (w)(6), (w)(7), and (w)(8) are being amended to provide a greater margin of safety for recreational boaters from sudden dangerous currents, turbulence and whirlpools caused by the operation of spillways, electrical generators, and navigation locks. Operation of the electrical generators and spillway gates are remotely controlled from Portland, Oregon. The regulation governing the navigation locks and approach channels, Columbia and Snake Rivers, Washington and Oregon, 33 CFR 207.718 was adopted on January 23,

1978 (43 FR 3115). The last amendment to 33 CFR 207.718 was April 4, 1991 (56 FR 13765). This proposed rule is not a major rule for the purposes of Executive Order 12866. As required by the Regulatory Flexibility Act, the Corps of Engineers certifies that this proposed rule would not have a significant impact on small business entities.

List of Subjects in 33 CFR Part 207

Navigation (water), Vessels, Water transportation.

For the reasons set out in the preamble, Title 33, Chapter II of the Code of Federal Regulations is proposed to be amended, as follows:

PART 207—NAVIGATION REGULATIONS

1. The authority citation for Part 207 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1).

2. Section 207.718 is amended by removing and reserving paragraph (v) and revising paragraphs (w)(1), (w)(4), (w)(5), (w)(6), (w)(7), and (w)(8) to read as follows.

§ 207.718 Navigation locks and approach channels, Columbia and Snake Rivers, Oreg. and Wash.

* * * * *

(w) * * *

(1) *At Bonneville Dam*. The water restricted to only Government vessels are described as all waters of the Columbia River and Bradford Slough within 1,000 feet above the first powerhouse, spillway, and second powerhouse (excluding the new navigation lock channel) and all waters below the first powerhouse, spillway, second powerhouse, and old navigation lock. The downstream boundary commences from the westernmost tip of Robins Island on the Oregon side of the river and runs in a South 65 degrees West direction a distance of approximately 2,100 feet to a point 50 feet upstream of the Hamilton Island Boat Ramp on the Washington Shore. Signs will designate the restricted areas. The approach channel to the New Navigation Lock is outside the restricted area.

* * * * *

(4) *At McNary Dam*. The waters restricted to all vessels, except to Government vessels, are described as all waters commencing at the upstream end of the Oregon fish ladder thence running in the direction of 39° 28′ true for a distance of 540 yards; thence 7° 49′ true for a distance 1,078 yards; thence 277° 10′ for a distance of 468 yards to the upstream end of the navigation lock guidewall. The downstream limits commence at the downstream end of the navigation lock guidewall thence to the south (Oregon) shore at right angles and parallel to the axis of the dam.

(5) *At Ice Harbor Lock and Dam*. The waters restricted to all vessels except, Government vessels, are described as all waters commencing at the upstream of the navigation lock guidewall; thence running in the direction of 90° 10′ true for a distance of 137 yards; thence 167° 18′ true or a distance of 693 yards to the south shore. The downstream limits commence at the downstream end of the guidewall; thence to the south shore, at right angles and parallel to the axis of the dam.

(6) *At Lower Monumental Lock and Dam*. The waters restricted to all vessels, except Government vessels, are described as all waters commencing at the upstream of the navigation lock guidewall and running in a direction of 46° 25′ true for a distance of 344 yards; thence 289° 58′ true for a distance of 712 yards to the north shore. The downstream limits commence at the downstream end of the navigation lock guidewall; thence to the south shore, at right angles and parallel to the axis of the dam.

(7) *At Little Goose Lock and Dam*. The waters restricted to all vessels, except Government vessels, are described as all waters commencing at the upstream of the navigation lock guidewall and running in a direction of 60° 37′ true for a distance of 676 yards; thence 345° 26′ true for a distance of 620 yards to the north shore. The downstream limits commence 512 yards downstream and at right angles to the axis of the dam on the south shore; thence parallel to the axis of the dam to the north shore.

(8) *At Lower Granite Lock and Dam*. The waters restricted to all vessels, except Government vessels, are described as all waters commencing at the upstream of the navigation lock guidewall thence running in the direction of 131° 31′ true or a distance of 608 yards; thence 210° 46′ true for a distance of 259 yards to the south shore. The downstream limits commence at the downstream end of navigation lock guidewall; thence to the south shore, at right angles and parallel to the axis of the dam.

* * * * *

Dated: October 5, 1999.

Joseph L. Gilbreath,

Colonel, U.S. Army, Assistant Director of Civil Works, Executive Operations/Planning.

[FR Doc. 99–26526 Filed 10–12–99; 8:45 am]

BILLING CODE 3710–GB–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[TX–112–1–7421b; FRL–6449–6]

Approval and Promulgation of Air Quality Implementation Plans; Texas: Redesignation Request and Maintenance Plan for the Collin County Lead Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: We are proposing to approve a request from the Texas Natural Resource Conservation Commission to redesignate Collin County, Texas, to attainment for the lead National Ambient Air Quality Standard (NAAQS). This request was submitted to us by the Governor on August 31, 1999. The request was accompanied by a demonstration from TNRCC that continued compliance with the lead NAAQS can reasonably be expected. The maintenance plan also includes a summary of the measured lead concentrations from 1995–1998, an inventory of the annual lead emissions in the County, the permitted and enforceable conditions responsible for continued compliance with the lead NAAQS, and contingency measures, should a future violation occur. In the final rules section of this **Federal Register**, we are approving this redesignation request and maintenance plan as a direct final rule without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If we receive adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please see the direct final rule of this action located elsewhere in today's **Federal Register** for a detailed description of the Texas State Plan.

DATES: Comments must be received by November 12, 1999.

ADDRESSES: You should address comments to Lt. Mick Cote, EPA Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202. Copies of all materials

considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 6 offices, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, and at the Texas Natural Resource Conservation Commission offices, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote at (214) 665–7219.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 24, 1999.

Pamela Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 99–26330 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–6455–2]

Hazardous Waste Management System; Proposed Exclusion for Identifying and Listing Hazardous Waste

AGENCY: Environmental Protection Agency.(EPA)

ACTION: Proposed rule and request for comment.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is proposing to grant a petition submitted by General Motors Corporation, Lansing Car Assembly—Body Plant (GM) in Lansing, Michigan, to exclude (or ''delist'') certain solid wastes generated by its wastewater treatment plant (WWTP) from the lists of hazardous wastes contained in Subpart D of Part 261.

GM submitted the petition under 40 CFR 260.20 and 260.22(a). Section 260.20 allows any person to petition the Administrator to modify or revoke any provision of §§ 260 through 266, 268 and 273. Section 260.22 (a) specifically provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator specific'' basis from the hazardous waste lists.

The Agency has tentatively decided to grant the petition based on an evaluation of waste-specific information provided by GM. This proposed decision, if finalized, conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

We conclude that GM's petitioned waste is nonhazardous with respect to the original listing criteria.

DATES: We will accept public comments on this proposed decision until November 29, 1999. We will stamp comments postmarked after the close of the comment period as ''late.'' These ''late'' comments may not be considered in formulating a final decision.

Your request for a hearing must reach EPA by October 28, 1999. The request must contain the information prescribed in § 260.20(d).

ADDRESSES: Please send two copies of your comments to Peter Ramanauskas, Waste Management Branch (DW–8J), Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL, 60604.

Any person may request a hearing on this proposed decision by filing a request with Robert Springer, Director, Waste, Pesticides and Toxics Division, Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL, 60604.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, contact Peter Ramanauskas at the address above or at 312–886–7890. The RCRA regulatory docket for this proposed rule is located at the U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. Call Peter Ramanauskas at (312) 886–7890 for appointments. The public may copy material from the regulatory docket at $0.15 per page.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Overview Information
- A. What action is EPA proposing?
- B. Why is EPA proposing to approve this delisting?
- C. How will GM manage the waste if it is delisted?
- D. When would EPA finalize the proposed delisting exclusion?
- E. How would this action affect States?

II. Background
- A. What is the history of the delisting program?
- B. What is a delisting petition, and what does it require of a petitioner?
- C. What factors must EPA consider in deciding whether to grant a delisting petition?

III. EPA's Evaluation of the Waste Information and Data
- A. What waste did GM petition EPA to delist?
- B. What information and analyses did GM submit to support this petition?
- C. How does GM generate the petitioned waste?
- D. How did GM sample and analyze the data in this petition?
- E. What were the results of GM's analysis?
- F. How did EPA evaluate the risk of delisting this waste?
- G. What other factors did EPA consider in its evaluation?
- H. What did EPA conclude about GM's analysis?
- I. What is EPA's final evaluation of this delisting petition?

IV. Conditions for Exclusion
- A. What are the maximum allowable concentrations of hazardous constituents in the waste?
- B. How frequently must GM test the waste?
- C. What must GM do if the process changes?
- D. What data must GM submit?
- E. What happens if GM's waste fails to meet the conditions of the exclusion?

V. Regulatory Impact

VI. Regulatory Flexibility Act

VII. Paperwork Reduction Act

VIII. Unfunded Mandates Reform Act

IX. Executive Order 12875

X. Executive Order 13045

XI. Executive Order 13084

XII. National Technology Transfer And Advancement Act

I. Overview Information

A. What Action Is EPA Proposing?

The EPA is proposing to grant GM's petition to have its wastewater treatment sludge excluded, or delisted, from the definition of a hazardous waste. We used a fate and transport model to predict the concentration of hazardous constituents released from the petitioned waste once it is disposed to evaluate the potential impact of the petitioned waste on human health and the environment.

B. Why is EPA Proposing to Approve This Delisting?

GM petitioned EPA to exclude, or delist, the wastewater treatment sludge because GM believes that the petitioned waste does not meet the RCRA criteria for which EPA listed it. GM also believes there are no additional constituents or factors which could cause the wastes to be hazardous.

Based on our review described below, we agree with the petitioner that the waste is nonhazardous with respect to the original listing criteria. If our review had found that the waste remained hazardous based on the factors for which we originally listed the waste, we would have proposed to deny the petition.

In reviewing this petition, we considered the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See § 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4). We evaluated the petitioned waste against the listing criteria and factors cited in §§ 261.11(a)(2) and (3).

We also evaluated the waste for other factors or criteria which could cause the waste to be hazardous. These factors included: (1) Whether the waste is considered acutely toxic; (2) the toxicity

of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the hazardous constituents to migrate and to bioaccumulate; (5) its persistence in the environment once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

We believe that the petitioned waste does not meet the criteria for which the waste was listed, and therefore, should be delisted. Our tentative decision to delist waste from GM's Lansing facility is based on the description of the process which generates the waste and the analytical data submitted to support today's proposed rule.

C. How Will GM Manage the Waste If It Is Delisted?

If the petitioned waste is delisted, GM must dispose of it in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste.

D. When Would EPA Finalize the Proposed Delisting Exclusion?

HSWA specifically requires the EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not make a final decision or grant an exclusion until it has addressed all timely public comments (including those at public hearings, if any) on today's proposal.

This rule, if finalized, will become effective upon demonstration that the waste is in full compliance with land disposal restrictions. Since this rule would reduce the existing requirements for persons generating hazardous wastes, the regulated community does not need a six-month period to come into compliance in accordance with Section 3010 of RCRA as amended by HSWA.

E. How Would This Action Affect the States?

Because EPA is issuing today's exclusion under the federal RCRA delisting program, only states subject to federal RCRA delisting provisions would be affected. This exclusion may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements, or in states which have received our authorization to make their own delisting decisions.

EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the state regulatory authority to establish the status of their wastes under the state law.

EPA has also authorized some states to administer a delisting program in place of the federal program, that is, to make state delisting decisions. Therefore, this exclusion does not apply in those authorized states. If GM transports the petitioned waste to or manages the waste in any state with delisting authorization, GM must obtain delisting authorization from that state before it can manage the waste as nonhazardous in the state.

II. Background

A. What Is the History of the Delisting Program?

The EPA published an amended list of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA. The EPA has amended this list several times and published it in 40 CFR 261.31 and § 261.32.

We list these wastes as hazardous because: (1) They typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (that is, ignitability, corrosivity, reactivity, and toxicity) or (2) they meet the criteria for listing contained in §§ 261.11(a)(2) or (3).

Individual waste streams may vary depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be.

For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows persons to demonstrate that EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

B. What Is a Delisting Petition, and What Does It Require of a Petitioner?

A delisting petition is a request from a facility to EPA or an authorized state to exclude wastes from the list of hazardous wastes. The facility petitions the Agency because it does not consider the wastes hazardous under RCRA regulations.

In a delisting petition, the petitioner must show that wastes generated at a particular facility do not meet any of the criteria for listed wastes. The criteria for which EPA lists a waste are in 40 CFR 261.11 and in the background documents for the listed wastes.

In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (See § 260.22, 42 U.S.C. 6921(f) and the background documents for the listed wastes.)

Generators remain obligated under RCRA to confirm that their waste remains nonhazardous based on the hazardous waste characteristics even if EPA has ''delisted'' the wastes.

C. What Factors Must EPA Consider in Deciding Whether To Grant a Delisting Petition?

Besides considering the criteria in 40 CFR 260.22(a), 42 U.S.C. 6921(f), and in the background documents for the listed wastes, EPA must consider any factors (including additional constituents) other than those for which we listed the waste if these additional factors could cause the waste to be hazardous. (See The Hazardous and Solid Waste Amendments (HSWA) of 1984.)

EPA must also consider as hazardous wastes mixtures containing listed hazardous wastes and wastes derived from treating, storing, or disposing of listed hazardous waste. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. These wastes are also eligible for exclusion and remain hazardous wastes until excluded.

The ''mixture'' and ''derived-from'' rules are now final, after having been vacated, remanded, and reinstated.

III. EPA's Evaluation of the Waste Information and Data

A. What Wastes Did GM Petition EPA To Delist?

In November 1998, GM petitioned EPA to exclude an annual volume of 1,250 cubic yards of F019 WWTP filter press sludge generated at its Lansing Car Assembly—Body Plant located in Lansing, Michigan from the list of hazardous wastes contained in 40 CFR 261.31. The EPA reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate the estimated waste generation rate. EPA accepts GM's estimate. F019 is defined as ''Wastewater treatment sludges from the chemical conversion coating of

aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.'' GM believes that the petitioned waste does not meet the criteria for which F019 was listed (i.e., hexavalent chromium and complexed cyanide).

B. What Information and Analyses Did GM Submit To Support This Petition?

To support its petition, GM submitted (1) descriptions and schematic diagrams of its manufacturing and wastewater treatment processes; (2) results of analyses for the characteristics of ignitability, corrosivity, and reactivity; (3) total constituent analyses and Extraction Procedure for Oily Wastes (OWEP, SW–846 Method 1330A) analyses for the eight toxicity characteristic metals listed in 40 CFR 261.24, plus antimony, beryllium, cobalt, copper, hexavalent chromium, nickel, tin, thallium, vanadium, and zinc; (4) total constituent and Toxicity Characteristic Leaching Procedure (TCLP), SW–846 Method 1311 analyses for 56 volatile and 117 semi-volatile organic compounds and formaldehyde; (5) total constituent and TCLP analyses for sulfide, cyanide, and fluoride; (6) total constituent and TCLP analyses for organochlorine pesticides and chlorinated herbicides; and (7) analysis for oil and grease, and percent solids.

C. How Does GM Generate the Petitioned Waste?

GM's automobile assembly process includes the treatment of automobile bodies by alkaline cleaning and phosphating in preparation for a cathodic electrodeposited paint film (*i.e.*, electrocoat). Prior to phosphate coating, GM cleans, rinses, and conditions the automobile bodies to promote phosphate crystal refinement. The automobile bodies then pass through a 5,050 gallon zinc-nickel phosphate spray tank where the phosphate coating solution is applied. The phosphate coating provides a micro-crystalline corrosion resistant base required for the application of electro-deposited paint. Following phosphate coating, the automobile bodies are rinsed, sprayed with a trivalent chromium sealer and rinsed again. The wastewater from the rinse spray overflows to the general wastewater stream. After leaving the phosphate process line, the automobile bodies enter the electro-deposition process line where the automobile bodies are rinsed, dipped in a 68,000 gallon tank where an electro-deposited paint film is applied, rinsed, and then baked in an oven at 325 degrees Fahrenheit for 20 minutes. The automobile body then goes to the paint shop process line where primer paint and basecoats, antichip coats, and clearcoats are applied in spraybooths.

The WWTP treats the assembly plant's general industrial waste stream, electro-deposition process line waste stream, and deionized water system waste stream. The general industrial waste stream is composed primarily of car washing and plant clean-up and maintenance water, wastewater generated by the phosphate process line, spraybooth recirculation system blowdown, welding wastewater, non-contact cooling water blowdown, boiler blowdown, and boiler condensate. The electro-deposition waste stream is composed of a deionized water rinse overflow stream and the deionized water system waste stream is composed of deionized water system regenerate and deionized water reject.

Treatment at the WWTP is a batch operation. General wastewater from the assembly plant enters one of two solids separators. Each separator has a surface skimmer for removing floating and settleable solids. The wastewater discharges to one of three process wastewater holding tanks where the general industrial waste stream blends with the electro-deposition and deionized water waste streams. Sulfuric acid may be added to the holding tanks as necessary to break metal chelates. A cationic polymer coagulant is added to the wastewater as it is pumped from the holding tanks to a blend basin. Caustic is added to the wastewater within the blend basin to raise wastewater pH to 9.5–9.8. From the blend basin, wastewater discharges to a flash mix tank where an anionic polymer is added to floc the suspended solids. Two clarifiers in parallel separate the liquid and solid phases of the wastewater. The settled sludge is pumped to either a sludge thickener or a sludge conditioning tank and the supernatant passes through one of two rapid sand filters operating in parallel and before discharging to the Lansing Publicly Owned Treatment Works sewer system. In the sludge thickener tank, the sludge is thickened with a sludge rake and then pumped to the sludge conditioning tank. The conditioned sludge is then pumped to one of two filter presses. Filtrate from the filter presses, as well as supernatant generated in the sludge thickener, is returned to the WWTP influent wet well. After dewatering, the filter press cake falls into 23 cubic yard roll-off boxes beneath the filter presses. Once a roll-off box is filled, GM disposes of the waste in a land-based management facility as a hazardous waste.

D. How Did GM Sample and Analyze the Data in This Petition?

GM developed a list of analytical constituents based on a review of facility processes, Material Safety Data Sheets for raw materials and chemical additives used in the manufacturing process, and recommendations contained in EPA delisting guidance. See Petitions to Delist Hazardous Wastes, A Guidance Manual, dated March 1996.

For GM's petition, GM sampled the WWTP filter press sludge from four separate roll-off boxes on December 19, 1997 and January 29, 1998. Each roll-off box contained WWTP filter press sludge generated over a period of approximately one week and the four boxes were filled on consecutive weeks. GM collected one composite and one grab sample of sludge from each roll-off box during each sampling event. Composite samples consisted of four individual full-depth core grab samples mixed together to form one sample. GM analyzed composite samples for semi-volatile organic compounds, organochlorine pesticides, chlorinated herbicides, and inorganic constituents and analyzed full-depth core grab samples for volatile organic compounds (VOC). Grab samples were collected for VOC analysis to eliminate the possibility of VOC loss due to volatilization which may occur during preparation of composite samples.

To quantify the total constituent and leachate concentrations, GM used the following SW–846 Methods: 6020 for antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, nickel, selenium, silver, thallium, tin, vanadium, and zinc; 7471A for total mercury; 7470A for leachate mercury; 7196A for hexavalent chromium; 9013 for total cyanide; 9012 for amenable cyanide; 9030A for sulfide; 8260A for volatile organic compounds; 8270B for semi-volatile organic compounds; 8081 for organochlorine pesticides; and 8151 for chlorinated herbicides. GM used the following SW–846 Methods for characteristic testing of the samples: 7.3.3.2 for reactive cyanide; 7.3.4.2 for reactive sulfide; 1010 for ignitability; and 9045C for corrosivity. GM used method 9071 to determine oil and grease content. Based on results of 149,000 mg/kg to 193,000 mg/kg, GM used the Extraction Procedure for Oily Wastes (OWEP, SW–846 Method 1330A) and the Toxicity Characteristic Leaching Procedure (TCLP, SW–846 Method 1311), as described below, to determine leachate concentrations. GM used EPA

Methods 9056 & 340.2 to detect fluoride, Association of Official Analytical Chemists (AOAC) Method 931.08 to detect formaldehyde, and EPA Method 160.3 to determine percent solids.

E. What Were the Results of GM's Analysis?

Table 1 presents the maximum total and leachate concentrations for 18 metals, total cyanide, total sulfide, reactive sulfide, and fluoride. Reactive cyanide was not detected in any of the samples.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1]

[WWTP Filter Cake]

Inorganic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/l)
Antimony	7.4	0.053
Arsenic	7.2	0.048
Barium	727.0	0.239
Beryllium	1.1	0.013
Cadmium	1.2	0.009
Chromium (total)	1820.0	0.164
Chromium (hexavalent)	0.158	0.003
Cobalt	12.8	0.038
Copper	523.0	0.242
Lead	10800.0	0.794
Mercury	0.15	0.0075
Nickel	3240.0	17.823
Selenium	4.6	0.044
Tin	2310.0	35.441
Vanadium	43.9	0.348
Zinc	17400.0	3.941
Cyanide (total)	2.34	0.0122
Sulfide (total)	1780.0	1.53
Fluoride	403.0	0.898

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

GM analyzed the samples of petitioned waste for 173 volatile and semi-volatile organic compounds. Table 2 presents the maximum total and leachate concentrations for all detected organic constituents in GM's waste samples.

TABLE 2.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1]

[WWTP Filter Cake]

Organic constituents	Total constituent analyses (Mg/kg)	TCLP leachate analyses (mg/l)
Acetone	<11.4 UJ	0.170
Allyl Chloride	0.067	ND
Beta-BHC	<0.88 U	0.00005
2-Butanone	0.618	ND
m,p-Cresol	<587 U	0.0223
Chloroform	0.013	ND
DDT	<1.76 U	0.000045
1,1-Dichloroethane	<0.08 U	0.0087
Ethylbenzene	0.457	0.0044
Formaldehyde	1520.0	0.508
Methylene Chloride	1.680	ND
Oil & Grease	193,000	NA
Phenol	<587 U	0.339
Toluene	0.19	0.0031
1,1,1-Trichloroethane	<0.08 UJ	0.0494
Trichloroethene	0.0436	ND
Xylenes, Total	6.58	0.0399

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

UJ, U—Constituent not detected above quantitation limit.

ND—Denotes that the constituent was not detected.

NA—Not Applicable.

EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with the petition binds the petitioner to present truthful and accurate results. GM submitted a signed Certification of Accuracy and Responsibility statement presented in 40 CFR 260.22(i)(12).

F. How Did EPA Evaluate the Risk of Delisting this Waste?

For this delisting determination, we used information gathered to identify plausible exposure routes (*i.e.*, ground water, surface water, air) for hazardous constituents present in the petitioned waste. We determined that disposal in a Subtitle D landfill is the most reasonable, worst-case disposal scenario for GM's petitioned waste, and that the major exposure route of concern would be ingestion of contaminated ground water. We, therefore, evaluated GM's petitioned waste using the modified EPA Composite Model for Landfills (EPACML) which predicts the potential for ground water contamination from landfilled wastes. See 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991). We believe this model is appropriate when evaluating whether a waste should be delisted from RCRA Subtitle C (Parts 260 through 266 and 268).

Specifically, we used the maximum estimated waste volume and the maximum reported extract concentrations as inputs to estimate the constituent concentrations in the ground water at a hypothetical receptor well down gradient from the disposal site. The calculated receptor well concentration was then compared directly to the health-based level at an assumed risk of 1×10^{-6} for each hazardous constituent of concern. For the petitioned waste, none of the calculated values at the receptor well exceeded the health based level (HBL) at the target risk level of 1×10^{-6}. The HBL was then used to back calculate the maximum allowable concentration in the waste extract which would not exceed protective levels at the receptor well for each constituent of concern.

We used GM's maximum annual waste volume to derive a petition-specific dilution-attenuation factor (DAF) of 96. In our evaluation, we used a DAF of 96 times the health based level to determine the maximum allowable leachate concentration for GM's waste (see Table 3).

Table 3.—EPACML: Maximum Allowable Leachate Concentrations

[WWTP Filter Cake]

Inorganic and Organic Constituents	TCLP leachate analyses (mg/l)	Levels of regulatory concern [1] (mg/l)
Antimony	0.053	0.576
Arsenic	0.048	4.8
Barium	0.239	100.0
Beryllium	0.013	0.384
Cadmium	0.009	0.48
Chromium	0.164	5.0
Cobalt	0.038	201.6
Copper	0.242	124.8
Lead	0.794	1.44
Mercury	0.0075	0.192
Nickel	17.823	67.2
Selenium	0.044	1.0
Silver	0.028	5.0
Thallium	0.020	0.192
Tin	35.441	2016.0
Vanadium	0.348	28.8
Zinc	3.941	960.0
Cyanide (total)	0.0122	19.2
Fluoride	0.898	384.0
Acetone	0.170	336.0
Beta-BHC	0.00005	0.00454
m,p-Cresol	0.0223	19.2
DDT	0.000045	0.024
1,1-Dichloroethane	0.0087	0.0864
Ethylbenzene	0.0044	67.2
Formaldehyde	0.508	672.0
Phenol	0.3390	1920.0
Toluene	0.0031	96.0
1,1,1-Trichloroethane	0.0494	19.2
Xylenes	0.0399	960.0

[1] See ''Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions,'' May 1996, located in the RCRA public docket for today's notice.

Note: See the RCRA public docket for today's notice for the specific reference doses and the calculation of the health-based levels of regulatory concern.

For inorganic constituents, the maximum reported leachate concentrations for metals, cyanide, and fluoride in the WWTP filter press sludge were well below the health-based levels of concern used in decision-making for delisting. We also evaluated the potential hazards of the organic constituents detected in the TCLP extract of GM's samples. The maximum detected leachate concentrations were significantly below the respective levels of concern. We believe that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in our modeling efforts if the non-detectable value was obtained using the appropriate analytical method.

G. What Other Factors Did EPA Consider in Its Evaluation?

We also considered the applicability of ground-water monitoring data during the evaluation of delisting petitions. In this case, we determined that it would be inappropriate to request ground-water monitoring data because GM currently disposes of the petitioned waste off-site. For petitioners using off-site management, EPA believes that, in most cases, the ground water monitoring data would not be meaningful. Most commercial land disposal facilities accept waste from numerous generators. Any ground water contamination or leachate would be characteristic of the total volume of waste disposed of at the site. In most cases, EPA believes that it would be impossible to isolate ground water impacts associated with any one waste disposed of in a commercial landfill. Therefore, we did not request ground water monitoring data from GM.

During the evaluation of GM's petition, we also considered the potential impact of the petitioned waste via air emission and storm water run-off.

We evaluated the exposure to waste particles and volatile emissions released from the surface of an open landfill. We considered exposure to hazardous constituents through (1) inhalation of particulates and absorption into the lungs; (2) ingestion of particulates eliminated from respiratory passages and subsequently swallowed; (3) inhalation of gas from the release of volatile compounds; and (4) air deposition of particulates and subsequent ingestion of the soil/waste mixture.

The estimated levels of the hazardous constituents of concern released into the air are below health-based levels for ingestion and inhalation levels of concern, and the EPA Concentration-Based Exemption Criteria for Soils (57 FR 21450, May 20, 1992), with the singular exception of formaldehyde. The concentration of formaldehyde in all waste samples exceeded a 1×10^{-6} cancer risk level for inhalation with the maximum value estimated at 3.58×10^{-6}.

Formaldehyde is present in resins used in the automotive painting process. The maximum formaldehyde levels in the waste are deemed acceptable for the following reasons: (1) Formaldehyde is not a constituent for which this waste was listed; (2) the estimated cancer risk from the maximum formaldehyde level was still within the 10^{-4} to 10^{-6} range; (3) the volatile emissions model may have been overly conservative by ignoring competing fate and transport phenomenon; and (4) formaldehyde was the only constituent exceeding target risk levels. Although the waste as tested is deemed acceptable, we are imposing a limit on the maximum allowable concentration of formaldehyde to ensure that risks posed by the waste do not increase. A delisting limit of 2100 mg/kg total formaldehyde corresponds with a cancer risk of 5×10^{-6} at the receptor, based on the modeling in this evaluation. This concentration is well above the average and maximum values observed in the current samples evaluated (921 and 1520 mg/kg, respectively).

We believe that exposure to airborne contaminants from GM's petitioned wastes is unlikely. The results of this worse-case analysis suggested no substantial hazard to human health from airborne exposure to constituents in GM's wastewater treatment sludge.

For a description of EPA's assessment of the potential impact of airborne dispersion from GM's waste, see the RCRA public docket for today's proposed rule.

We evaluated the potential hazards resulting from exposure to hazardous constituents released into surface water as a result of land disposal of the wastewater treatment sludge. We investigated the potential hazard from exposure of ecological receptors to dissolved hazardous constituents in a small stream considered large enough to support a fishery. We also evaluated the potential hazard from human consumption of aquatic organisms from the stream. A larger stream was evaluated based on the same criteria and the potential hazards from ingestion of contaminated drinking water. The larger stream size was deemed large enough to support a public water supply. We assumed an amount of uncovered waste would be exposed to soil erosion losses through run-off. We modeled soil containing waste particles to flow into a nearby stream followed by complete dissolution of hazardous constituents into the water column. No resultant concentrations of hazardous constituents in the surface water exceeded water quality criteria for ecological or human exposures.

Based on this worst case evaluation, we conclude that GM's wastewater treatment sludge is not a substantial or potential hazard to human health and the environment via surface water exposure.

For a description of EPA's assessment of the potential impact of runoff from GM's waste, see the RCRA public docket for today's proposed rule.

H. What Did EPA Conclude About GM's Analysis?

After reviewing GM's processes, the EPA concludes that (1) no hazardous constituents of concern are likely to be present in GM's waste; and (2) the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23, respectively.

I. What Is EPA's Final Evaluation of This Delisting Petition?

The descriptions of the GM hazardous waste process and analytical characterization, with the proposed verification testing requirements (as discussed later in this notice), provide a reasonable basis for EPA to grant the exclusion.

We have reviewed the sampling procedures used by GM and have determined they satisfy EPA criteria for collecting representative samples of constituent concentrations in the wastewater treatment sludge.

We believe the data submitted in support of the petition show that GM's waste will not pose a threat when disposed of in a Subtitle D landfill. We therefore, propose to grant GM an exclusion for its WWTP sludge.

If we finalize the proposed rule, the Agency will no longer regulate the petitioned waste under 40 CFR Parts 262 through 268 and the permitting standards of Part 270.

IV. Conditions for Exclusion

A. What Are the Maximum Allowable Concentrations of Hazardous Constituents in the Waste?

Concentrations measured in the TCLP (or OWEP, where appropriate) extract of the waste of the following constituents must not exceed the following levels (mg/l): Antimony—0.576; Arsenic—4.8; Barium—100; Beryllium—0.384; Cadmium—0.48; Chromium—5; Cobalt—201.6; Copper—124.8; Lead—1.44; Mercury—0.192; Nickel—67.2; Selenium—1; Silver—5; Thallium—0.192; Tin—2016; Vanadium—28.8; Zinc—960; Cyanide—19.2; Fluoride—384; Acetone—336; m,p,-Cresol—19.2; 1,1-Dichloroethane—0.0864; Ethylbenzene—67.2; Formaldehyde—672; Phenol—1920; Toluene—96; 1,1,1-Trichloroethane—19.2; Xylene—960; Beta-BHC—0.00454; DDT—0.024.

GM may not dispose of the excluded waste in a Subtitle D landfill until it has demonstrated compliance with land disposal restrictions of 11.0 mg/l for nickel and 0.75 mg/l for lead as measured in a TCLP extract.

The total concentration of formaldehyde in the waste must not exceed 2100 mg/kg.

Analysis for determining reactivity must be added to the required verification testing when an EPA-approved method becomes available.

B. How Frequently Must GM Test the Waste?

GM must demonstrate on an annual basis that the constituents of concern in the petitioned waste do not exceed the levels of concern in Section IV.A above. In addition, GM must demonstrate compliance with land disposal restrictions for Nickel and Lead on a monthly basis. GM must analyze four representative samples of the WWTP filter press sludge using methods with appropriate detection levels and quality control procedures.

C. What Must GM Do If the Process Changes?

If GM significantly changes the manufacturing or treatment process or the chemicals used in the manufacturing or treatment process, GM may not handle the WWTP filter press sludge generated from the new process under this exclusion until it has demonstrated to the EPA that the waste meets the levels set in Section IV.A and that no new hazardous constituents listed in Appendix VIII of 40 CFR Part 261 have been introduced. GM must manage wastes generated after the process change as hazardous waste until GM has received written approval from EPA.

D. What Data Must GM Submit?

GM must submit the data obtained through annual verification testing to U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, within 60 days of sampling. GM must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. GM must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(I)(12).

E. What Happens If GM Fails To Meet the Conditions of the Exclusion?

If GM violates the terms and conditions established in the exclusion, the Agency may start procedures to withdraw the exclusion.

If the annual testing of the waste does not meet the delisting levels described in Section IV.A above, GM must notify the Agency according to Section IV.D. The exclusion will be suspended and the waste managed as hazardous until GM has received written approval for the exclusion from the Agency. GM may provide sampling results which support the continuation of the delisting exclusion.

The EPA has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. § 551 (1978) *et seq.* (APA), to reopen a delisting decision if we receive new information indicating that the conditions of this exclusion have been violated.

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from today's proposed rule, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (that is, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, the Agency certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511, 44 USC 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with federal mandates that may result in estimated costs to state, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for EPA rules, under section 205 of the UMRA EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law.

Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, EPA must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local, or tribal governments or the private sector.

The EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any state, local, or tribal governments or the private sector. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a

mandate upon a state, local, or tribal government, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

X. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XI. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects that communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments.

If the mandate is unfunded, EPA must provide to the Office Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XII. National Technology Transfer and Advancement Act

Under Section 12(d) if the National Technology Transfer and Advancement Act, the Agency is directed to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where EPA does not use available and potentially applicable voluntary consensus standards, the Act requires that Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards, and thus the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: September 21, 1999.

Robert Springer,

Director, Waste, Pesticides and Toxics Division.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of Appendix IX of Part 261 it is proposed to add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* * *	* * *	* * *
General Motors Corporation	Lansing, Michigan	Wastewater treatment plant (WWTP) sludge from the chemical conversion coating (phosphate coating) of aluminum (EPA Hazardous Waste No. F019) generated at a maximum annual rate of 1,250 cubic yards per year and disposed of in a Subtitle D landfill, after (insert publication date of the final rule).

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		1. Delisting Levels: (A) The constituent concentrations measured in the TCLP extract may not exceed the following levels (mg/L): Antimony—0.576; Arsenic—4.8; Barium—100; Beryllium—0.384; Cadmium—0.48; Chromium (total)–5; Cobalt—201.6; Copper—124.8; Lead—1.44; Mercury—0.192; Nickel—67.2; Selenium—1; Silver—5; Thallium—0.192; Tin—2016; Vanadium—28.8; Zinc—960; Cyanide—19.2; Fluoride—384; Acetone—336; m,p-Cresol—19.2; 1,1—Dichloroethane—0.0864; Ethylbenzene—67.2; Formaldehyde—672; Phenol—1920; Toluene—96; 1,1,1—Trichloroethane—19.2; Xylene—960; Beta-BHC—0.00454; DDT—0.024. (B) The total concentration of formaldehyde in the waste may not exceed 2100 mg/kg. (C) Analysis for determining reactivity must be added to verification testing when an EPA-approved method becomes available. 2. Verification Testing: GM must implement an annual testing program to demonstrate that the constituent concentrations measured in the TCLP extract (or OWEP, where appropriate) of the waste do not exceed the delisting levels established in Condition (1). GM must also demonstrate compliance with LDR treatment standards for Nickel and Lead on a monthly basis. 3. Changes in Operating Conditions: If GM significantly changes the manufacturing or treatment process or the chemicals used in the manufacturing or treatment process, GM must notify the EPA of the changes in writing. GM must handle wastes generated after the process change as hazardous until GM has demonstrated that the wastes meet the delisting levels set forth in Condition 1 and that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced and GM has received written approval from EPA. 4. Data Submittals: GM must submit the data obtained through annual verification testing or as required by other conditions of this rule to U.S. EPA Region 5, 77 W. Jackson Blvd. (DW–8J), Chicago, IL 60604, within 60 days of sampling. GM must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. GM must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(I)(12). 5. Reopener Language—(a) If, anytime after disposal of the delisted waste, GM possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in Condition (1) is at a level in the leachate higher than the delisting level established in Condition (1), or is at a level in the ground water or soil higher than the level predicted by the CML model, then GM must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data. (b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify GM in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing GM with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. GM shall have 10 days from the date of the Regional Administrator's notice to present the information. (d) If after 10 days GM presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.
*	*	* * * * *

[FR Doc. 99–26662 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2800 and 2880

[WO–350–2800 24 1A]

RIN 1004–AC74

Rights-of-Way, Principles and Procedures; Rights-of-Way Under the Mineral Leasing Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed regulations, extension of comment period.

SUMMARY: On June 15, 1999, the Bureau of Land Management (BLM) published a document in the **Federal Register** announcing a proposed rule to amend its right-of-way regulations by: revising the rent and cost recovery procedures and policies, adjusting cost recovery fees to reflect cost increases since the current regulations became effective in July 1987, and reorganize the regulations to better reflect the sequence in which BLM accepts and processes applications and monitors right-of-way grants once they are issued. The 120-day comment period ends on October 13, 1999. BLM has received several requests for an extension of the comment period and is extending the comment period for 30 days.

DATES: Submit comments on the proposed regulations by November 12, 1999.

ADDRESSES: If you want to comment, you may:

(1) Hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, N.W., Washington, D.C.;

(2) Mail comments to: Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C St., N.W., Washington, D.C. 20240; or

(3) Send comments by way of the Internet to: *WoComment@blm.gov*. If you submit your comments electronically, please submit them as an ASCII file to minimize computer problems and include ''Attn: AC74'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–0350.

You can review the public comments received on the proposed rule at BLM's Regulatory Affairs Group office, 1620 L St., N.W., Room 401, Washington, D.C., during regular business hours (7:45 am to 4:15 pm) Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Ron Montagna, (202) 452–7782, *ron—montagna@blm.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339, 24 hours a day, 7 days a week.

Dated: October 6, 1999.

Michael H. Schwartz,

Group Manager, Regulatory Affairs Group.

[FR Doc. 99–26615 Filed 10–12–99; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1946, MM Docket No. 99–127; RM–9521]

Radio Broadcasting Services; Kanarraville, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; withdrawal.

SUMMARY: This document denies the allotment of Channel 268C2 at Kanarraville, Utah, in response to a petition filed by Victor A. Michael d/b/a Mountain West Broadcasting. *See* 64 FR 23254, November 30, 1999. The *Notice* questioned community status and requested additional information. Based on the information supplied by petitioner, it was determined that Kanarraville did not qualify as a community for allotment purposes.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–127, adopted September 15,1999, and released September 24, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26421 Filed 10–12–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1954, MM Docket No. 99–137; RM–9571]

Radio Broadcasting Services; Amazonia, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document denies the allotment of Channel 273A at Amazonia, Missouri, in response to a petition filed by Victor A. Michael d/b/a Mountain West Broadcasting. *See* 64 FR 24998, May 10, 1999. The *Notice* questioned community status and requested additional information. Based on the information supplied by petitioner, it was determined that Amazonia did not qualify as a community for allotment purposes.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–137, adopted September 15, 1999, and released September 24, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26420 Filed 10–12–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2000; MM Docket No. 99–121; RM–9552]

Radio Broadcasting Services; Eagle Nest, New Mexico

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of.

SUMMARY: The Commission denies the request of Mountain West Broadcasting to allot Channel 284C2 to Eagle Nest, New Mexico, finding that it is not a community for allotment purposes. *See* 64 FR 18872, April 16, 1999. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–121, adopted September 22, 1999, and released October 1, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26417 Filed 10–12–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF ENERGY

48 CFR Parts 909 and 970

RIN 1991–AB52

Acquisition Regulations; Purchasing by DOE Management and Operating Contractors From Contractor Affiliated Sources

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend its acquisition regulations by altering its coverage on organizational conflicts of interest and purchases by DOE's management and operating contractors from affiliated entities to protect the Department when DOE's management and operating contractors are involved in teaming arrangements or mergers or acquisitions and with respect to the award and administration of affiliated transactions.

DATES: Written comments on the proposed rulemaking must be received on or before close of business November 12, 1999.

ADDRESSES: Comments (3 copies) should be addressed to: Robert M. Webb, U.S. Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Robert M. Webb at (202) 586–8264.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Section by Section Analysis.
III. Procedural Requirements.
A. Review Under Executive Order 12866.
B. Review Under Executive Order 12988.
C. Review Under the Regulatory Flexibility Act.
D. Review Under the Paperwork Reduction Act.
E. Review Under the National Environmental Policy Act.
F. Review Under Executive Order 12612.
G. Review Under the Unfunded Mandates Reform Act of 1995.

I. Background

The purpose of this proposed rulemaking is to provide additional guidance to DOE contracting officers with respect to organizational conflicts of interest considerations in the award and administration of DOE's management and operating contracts. Specifically, this proposed rule would: (1) require contracting officers to acquire an organizational conflicts of interest disclosure from all members of a proposing ''team;'' (2) require the identification and treatment of organizational conflicts of interest issues prior to the contracting officer's consent to merger, sale or novation involving a management and operating contractor or its parent; and (3) clarify existing rules with respect to transactions between management and operating contractors and affiliated entities.

DOE regulations already recognize the risks associated with management and operating contractors doing business with affiliates. It is specifically discussed at 970.7105. The necessity of providing notice of a proposed transaction with an affiliate is covered at 970.7109. The clause at 970.5204–22 requires that the M&O contractor comply with 970.7105.

However, in recent years the matter has become complex as a result of increased incidence of corporate mergers and acquisitions and the teaming of organizations as offerors under a DOE contract. For example, as a result of a management and operating contractor's merger with the corporate parent of an existing subcontractor, the new prime contractor could be put in the position of administering a preexisting subcontract with its affiliate. Similarly, if award of a management and operating contractor were to go to a ''team,'' one participant, not the contractor of record, could be an affiliate of a pre-existing subcontractor. In both of these situations, the subcontract would exist before the merger or contract award that would give rise to the potential conflict of interest in the administration of the subcontract.

Without the changes proposed in this rulemaking, the cognizant operations office involved would not have the necessary information to assure that these two situations are recognized and treated. As a result, DOE's interests may not be protected by the management and operating contractor's administration of such subcontracts. This rule is intended to provide the contracting officer with complete information on potential organizational conflicts with respect to mergers and acquisitions and teaming arrangements to allow their identification and mitigation.

Further, the proposed rule would modify existing coverage which governs the transacting of business by management and operating contractors with affiliated entities. The Department recognizes that M&O contractors may appropriately acquire specialized services or purchase goods from affiliated organizations. This rulemaking proposes to revise the Department's acquisition regulation to identify and clarify these situations.

The first situation involves an affiliate with special or unique scientific expertise or facilities (e.g., test facilities) of use to the M&O in the performance of some portion of the contract. In this case, the affiliate transaction would be accomplished through an intercompany transaction at cost with no fee. The second situation arises when the affiliate sells goods in the commercial market for which the M&O contractor has a need. In this second case, the affiliate may receive the award only after competition and under terms and conditions that are consistent with arms length negotiations.

The organizational conflict of interest clause at 952.209–72 prevents entities affiliated with the prime from proposing on subcontracts. This prohibition was established to address the potential for

unfair competitive advantage. This risk is avoided by prohibiting affiliate transactions, except for the purchase of commercial items in accordance with 970.7105 and gaining access to special or unique scientific expertise or test equipment on a cost, no fee basis.

II. Section-by-Section Analysis

The Department of Energy proposes to change the organizational conflicts of interest (OCI) regulations at subsection 909.507–1 and section 970.0905 to require an OCI disclosure from the proposer and all other members of the team when a proposer ''teams,'' either formally or informally, with other entities in responding to a solicitation and to require a special OCI review of existing subcontracts if an M&O contractor or its parent proposes to merge with another corporation.

This proposed rule would also amend section 970.7105 to make clear that there are only two situations in which a management and operating contractor may do business with an affiliated entity. The first involves an affiliate's selling commercial items, not commercial services, following a competitive selection and under enforceable, arms length terms and conditions. The second situation involves an affiliate with special or unique scientific facilities to be made available on a cost, no fee basis.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, this proposed rule is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, these proposed regulations meet the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment and that is likely to have significant economic impact on a substantial number of small entities. The proposed rule establishes restrictions that would avoid organizational conflicts of interest in the performance of management and operating contracts. DOE management and operating contracts have not been awarded to small entities. The proposed constraints on the subcontracting of an M&O contractor with its affiliates may lead to more subcontracting opportunities for small businesses. There would not be an adverse economic impact on small entities.

Accordingly, DOE certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

This proposed rule would amend 48 CFR §§ 909.507–1 and 970.0905 to require an organizational conflicts of interest disclosure from team members of the apparent successful offeror. This disclosure is necessary to provide the contracting officer with complete information on potential organizational conflicts involved in teaming arrangements. This proposed collection of information has been submitted to the Office of Management and Budget for review and approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

DOE estimates the maximum number of respondents subject to the disclosure requirement, in any one year, to be 20 and the number of hours required for record-keeping and preparation of the disclosure reports to be approximately 5 hours per respondent. The total annual burden hours from compliance is expected to be 100 hours (20×5 hours per year). The collection of information contained in this proposed rule is considered the least burdensome for obtaining the needed organizational conflict of interest information.

DOE invites public comments concerning: (1) The need for the reporting requirement; (2) the accuracy of DOE's estimate of the reporting burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents. Send comments regarding this proposed collection of information to the contact person named in this notice.

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this proposed rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this proposed rule is categorically excluded from NEPA review because the amendments to the DEAR would be strictly procedural (categorical exclusion A6). Therefore, this proposed rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 12612

Executive Order 12612, (52 FR 41685, October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among the various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires the preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a

policy action. This proposed rule would merely govern organizational conflicts of interest in merger and joint venture or teaming arrangements and the awarding of subcontracts by DOE management and operating contractors. States which contract with DOE will be subject to this rule. However, DOE has determined that this proposed rule would not have a substantial direct effect on the institutional interests or traditional functions of the States.

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a detailed assessment of costs and benefits of any rule imposing a Federal Mandate with costs to State, local or tribal governments, or to the private sector, of $100 million or more. This proposed rulemaking would only affect private sector entities, and the impact is less than $100 million.

List of Subjects in 48 CFR Parts 909 and 970

Government procurement.

Issued in Washington, D.C. on September 22, 1999.

Richard H. Hopf,

Director, Office of Procurement and Assistance Management.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 909—[AMENDED]

1. The authority citation for Part 909 continues to read as follows:

42 U.S.C. 7254; 40 U.S.C. 486(c).

2. Subsection 909.507–1 is amended by revising paragraph (e) as follows:

909.507–1 Solicitation provisions. (DOE coverage-paragraph (e)).

(e) The contracting officer shall insert the provision at 48 CFR 952.209–8, Organizational Conflicts of Interest-Disclosure, in solicitations for advisory and assistance services expected to exceed the simplified acquisition threshold. The disclosure requirement applies to all entities that join, either formally (e.g., through a joint venture or similar legal arrangement) or informally, with the offeror in responding to a solicitation. In individual procurements, the Head of the Contracting Activity may increase the period subject to disclosure in 952.209–8(c)(1) up to 36 months.

PART 970—[AMENDED]

3. The authority citation for Part 970 continues to read:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254).

4. At 970.0905 the existing paragraph is designated as paragraph (a) and paragraphs (b) and (c) are added as follows:

970.0905 Organizational conflicts of interest.

(a) * * *

(b) The contracting officer shall insert the provision at 48 CFR 952.209–8, Organizational Conflicts of Interest-Disclosure, in solicitations for management and operating contracts. The disclosure requirements applies to all entities that join, either formally (e.g., through a joint venture or similar legal arrangement) or informally, with the offeror in responding to the solicitation. In individual procurements, the Head of the Contracting Activity may increase the period subject to disclosure in 952.209–8(c)(1) up to 36 months.

(c) Before approving a proposed sale of assets, merger, or other action that would result in the assignment to another entity of contractual obligations of the management and operating contractor, the contracting officer shall review existing subcontracts to ascertain whether any improper relationships would result and, if so, to ensure that those situations are appropriately resolved.

5. Section 970.7105 is revised to read as follows:

970.7105 Purchasing from contractor-affiliated sources.

(a) A management and operating contractor may purchase commercial items, but not commercial services, from sources affiliated with the contractor (any division, subsidiary, or affiliate of the contractor or its parent company) in the same manner as from other sources, provided:

(1) The management and operating contractor's purchasing function is independent of the proposed contractor-affiliated source;

(2) The same terms and conditions would apply if the purchase were from an unaffiliated third party;

(3) Award is made in accordance with policies and procedures designed to permit effective competition which have been approved by the contracting officer; and

(4) The award is legally enforceable if the entities are separately incorporated.

(b) A management and operating contractor may acquire technical services from an affiliated source only if that source has special or unique scientific facilities, the need for their use is documented, and the services are provided on a cost, no fee basis.

[FR Doc. 99–26549 Filed 10–12–99; 8:45 am]

BILLING CODE 6450–01–P

Notices

Federal Register
Vol. 64, No. 197
Wednesday, October 13, 1999

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.

COMMISSION ON CIVIL RIGHTS

Notice of Cancellation of Public Meeting of the West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission which was to have convened at 12:30 p.m. and adjourned at 5:00 p.m. on Thursday, October 21, 1999, has been canceled. The meeting was to be held at the State Capitol Building, Governor's Conference Room, Office of the Secretary of State, Room 157, 1900 Kanawha Boulevard, Charleston, West Virginia 25305.

The original notice for the meeting was announced in the **Federal Register** on October 1, 1999, FR Doc. 99–25523, 64 FR, No. 190, p. 53317.

Persons desiring additional information should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116).

Dated at Washington, DC, October 6, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–26657 Filed 10–12–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Computer System Security and Privacy Advisory Board; Request for Nominations

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Request for nominations of members to serve on the Computer System Security and Privacy Advisory Board.

SUMMARY: NIST invites and requests nominations of individuals for appointment to the Computer System Security and Privacy Advisory Board (CSSPAB). The terms of some of the members will soon expire. NIST will consider nominations received in response to this notice for appointment to the Board, in addition to nominations already received.

DATES: Please submit nominations on or before November 15, 1999.

ADDRESSES: Please submit nominations to Edward Roback, CSSPAB Secretary, NIST, 100 Bureau Drive, M.S. 8930, Gaithersburg, MD 20899–8930. Nominations may also be submitted via fax to 301–948–2733, Attn: CSSPAB Nominations.

Additional information regarding the Board, including its charter and current membership list, may be found on its electronic home page at: <http://csrc.nist.gov/csspab/>.

FOR FURTHER INFORMATION CONTACT: Edward Roback, CSSPAB Secretary and Designated Federal Official, NIST, 100 Bureau Drive, M.S. 8930, Gaithersburg, MD 20899–8930; telephone 301–975–3696; telefax: 301–926–2733; or via email at ''edward.roback@nist.gov''.

SUPPLEMENTARY INFORMATION:

I. CSSPAB Information

Objectives and Duties

The CSSPAB was chartered by the Department of Commerce pursuant to the Computer Security Act of 1987 (P.L. 100–235). The objectives and duties of the CSSPAB are:

1. The Board shall identify emerging managerial, technical, administrative, and physical safeguard issues relative to computer systems security and privacy.

2. The Board shall advise the National Institute of Standards and Technology (NIST) and the Secretary of Commerce on security and privacy issues pertaining to Federal computer systems.

3. To report its findings to the Secretary of Commerce, the Director of the Office of Management and Budget, the Director of the National Security Agency, and the appropriate committees of the Congress.

4. The Board will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

Membership

The CSSPAB is comprised of twelve members, in addition to the Chairperson. The membership of the Board includes:

(1) Four members from outside the Federal Government eminent in the computer or telecommunications industry, at least one of whom is representative of small or medium sized companies in such industries;

(2) Four members from outside the Federal Government who are eminent in the fields of computer or telecommunications technology, or related disciplines, but who are not employed by or representative of a producer of computer or telecommunications equipment; and

(3) Four members from the Federal Government who have computer systems management experience, including experience in computer systems security and privacy, at least one of whom shall be from the National Security Agency.

Miscellaneous

Members of the CSSPAB are not paid for their service, but will, upon request, be allowed travel expenses in accordance with Subchapter I of Chapter 57 of Title 5, United States Code, while otherwise performing duties at the request of the Board Chairperson, while away from their homes or a regular place of business.

Meetings of the Board take place in the Washington, DC metropolitan area, usually at the NIST headquarters in Gaithersburg, MD. Meetings are two to three days in duration and are held quarterly.

Board meetings are open to the public and members of the press usually attend. Members do not have access to classified or proprietary information in connection with their Board duties.

II. Nomination Information

Nominations are sought in all three categories described above, including a small business representative in the first category.

Nominees should have specific experience related to computer security or electronic privacy issues, particularly as they pertain to federal information technology. The category of membership for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular

category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination. Also include (where applicable) current or former service on federal advisory boards and federal employment. Each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the CSSPAB, and will actively participate in good faith in the tasks of the CSSPAB. Besides participation at meetings, it is desired that members be able to devote the equivalent of two days between meetings to developing draft issue papers, researching topics of potential interest, and so forth in furtherance of their Board duties.

Selection of CSSPAB members will not be limited to individuals who are nominated. Nominees must be U.S. citizens.

The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse CSSPAB membership.

Dated: October 5, 1999.

Karen H. Brown,

Deputy Director, NIST.

[FR Doc. 99–26598 Filed 10–12–99; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100599F]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting via conference call of the Red Drum Stock Assessment Panel (RDSAP).

DATES: This meeting will be via conference call on October 27, 1999, beginning at 10:00 a.m. EST.

ADDRESSES: A listening station will be available at NMFS Southeast Regional Office, 9721 Executive Center Drive, North, St. Petersburg, FL 33702; Contact: Georgia Cranmore at 727–570–5305.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The RDSAP will continue their review of a stock assessment on the status of the red drum stocks in the Gulf of Mexico prepared by NMFS. The RDSAP will consider available information, including but not limited to, commercial and recreational catches, natural and fishing mortality estimates, recruitment, fishery-dependent and fishery-independent data, and data needs. These analyses will be used to determine the condition of the stocks and the levels of acceptable biological catch (ABC). The RDSAP may also review estimates of stock size (biomass at maximum sustainable yield [Bmsy]) and minimum stock size thresholds (MSST). Currently it is illegal to harvest or possess red drum in Federal waters.

The conclusions of the RDSAP will be reviewed by the Council's Standing and Special Reef Fish Scientific and Statistical Committee (SSC), and Red Drum Advisory Panel (RDAP)at meetings later that week.

A copy of the agenda can be obtained by contacting the Council (see **ADDRESSES**).

Although non-emergency issues not on the agenda may come before the RDSAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the RDSAP will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

The listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 20, 1999.

Dated: October 7, 1999.

Richard W. Surdi,

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

[FR Doc. 99–26691 Filed 10–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100599H]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a one-day closed meeting, with a session open to the public before and after the closed portion of the meeting.

DATES: The meeting will be held on Wednesday, October 27, 1999, at 9:00 a.m.

ADDRESSES: The meeting will be held at the Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923, telephone: (978) 777–2500.

Council address: New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422.

SUPPLEMENTARY INFORMATION: The Council will convene this previously unscheduled meeting specifically to address a number of administrative and personnel issues. Decisions on fishery management plan measures will not be considered. The meeting will be open to the public before and after the closed session for the purpose of providing the public with overviews of the closed meeting discussions.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 7, 1999.

Richard W. Surdi,

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

[FR Doc. 99–26690 Filed 10–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100599I]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling public meetings of its ad hoc Capacity Committee, Enforcement Committee and a joint meeting of its Groundfish Committee and Groundfish Advisory Panel in October, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will held between Tuesday, October 26, 1999 and Friday, October 29, 1999. See SUPPLEMENTARY INFORMATION for specific dates and times.

ADDRESSES: The meetings will be held in Danvers and Saugus, MA. See SUPPLEMENTARY INFORMATION for specific locations.

Council address: New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, October 26, at 9:30 a.m.—Enforcement Committee Meeting

Location: New England Fishery Management Council Office, 5 Broadway, Saugus, MA 01906; telephone: (781) 231–0422.

The committee will discuss the enforceability of several mesh size/possession limit enrollment program alternatives and net strengthener options being proposed as management measures in the whiting fishery. The committee also will discuss the scallop exempted fisheries under consideration for the Georges Bank closed areas during the year 2000. There will be a brief closed session to select industry advisors.

Tuesday, October 26, at 10 a.m.—Ad Hoc Capacity Committee Meeting

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923, telephone: (978)777–2500.

The committee will discuss various issues related harvesting capacity in New England fisheries. The agenda may include whether there is an appropriate amount of fishing capacity available and what measures may be necessary to manage capacity. The committee will also discuss its role and planned future projects.

Friday, October 29, 1999, 9:30 a.m.—Groundfish Committee and Groundfish Advisory Panel Joint Meeting

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923, telephone: (978)777–2500.

The committee and advisory panel will begin to develop options regarding exemptions for access to groundfish closed areas for consideration in the Northeast Multispecies Fishery Management Plan annual adjustment. Discussion may address exemptions for recreational party/charter vessels, sea scallop gear, raised footrope trawls, and fishing gear currently listed as ''exempted gear'' with respect to the multispecies fishery. The committee will also conduct a closed session to review Groundfish Advisory Panel applications.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: October 6, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–26692 Filed 10–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

Title, Associated Form, and OMB Number: Application for Commission or Warrant Rank, USN or USNR; NAVCRUIT 1100/1; OMB Number 0703–0029.

Type of Request: Reinstatement.

Number of Respondents: 20,000.

Responses per Respondent: 1.

Annual Responses: 20,000.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 10,000.

Needs and Uses: All persons interested in entering the U.S. Navy or Naval Reserve in a commissioned status must provide various personal data in order for a Selection Board to determine their qualifications for naval service and for specific fields of endeavor which the applicant intends to pursue. This information is used to recruit and select applicants who are qualified for commission in the U.S. Navy or Naval Reserve.

Affected Public: Individuals or Households.

Frequency: On Occasion.

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

OMB Desk Officer: Mr. Edward C. Springer.

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

DoD Clearance Officer: Mr. Robert Cushing.

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

Dated: October 6, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–26635 Filed 10–2–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

Title and OMB Number: Defense Federal Acquisition Regulation Supplement Part 217, Special Contracting Methods, and Related Provisions and Clauses in DFARS 252.217; OMB Number 0704–0214.

Type of Request: Extension.

Number of Respondents: 72,586.

Responses per Respondent: 1.3.

Annual Responses: 95,520.

Average Burden per Response: 14.4 hours.

Annual Burden Hours: 1,372,401.

Needs and Uses: DFARS Part 217 prescribes policies and procedures for acquiring supplies and services by special contracting methods. Contracting officers use the required information as follows:

The clause at DFARS 252.217–7012 is used in master agreements for repair and alteration of vessels. Contracting officers use the information required by paragraph (d) of the clause to determine that the contractor is adequately insured. This requirement supports prudent business practice because it limits the Government's liability as a related party to the work the contractor performs. Contracting officers use the information required by paragraphs (f) and (g) of the clause to keep informed of lost or damaged property for which the Government is liable, and to determine the appropriate course of action for replacement or repair of the property.

Contracting officers use the information required by the clause at DFARS 252.217–7018 to determine the place of performance under contracts for bakery and dairy products. This represents prudent business practice because it helps to ensure that food products are manufactured and processed in sanitary facilities.

Contracting officers use the information required by the provision at DFARS 252.217–7026 to identify the apparently successful offeror's sources of supply so that competition can be enhanced in future acquisitions. This collection complies with 10 U.S.C. 2384, Supplies: Identification of Supplier and Sources, which requires the contractor to identify the actual manufacturer or all sources of supply for supplies furnished under contract to DoD.

Contracting officers use the information required by the clause at 252.215–7028 to determine the extent of ''over and above'' work before the work commences. This requirement supports prudent business practice because it allows the Government to review the need for pending work before the contractor begins performance.

Affected Pubic: Business or Other For-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

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

DOD Clearance Officer: Mr. Robert Cushing.

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

Dated: October 6, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Dense.

[FR Doc. 99–26637 Filed 10–12–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DoD Healthcare Quality Initiatives Review Panel

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the ongoing schedule and for the next three meetings of the DoD Healthcare Quality Initiatives Review Panel. Meetings will be open to the public. Notice of this meeting is required under the Federal Advisory Committee (FAC) Act (Pub. L. 92–463).

DATES: October 28, 1999; November 16, 1999; December 17, 1999.

ADDRESSES: Marriott Wardman Park Hotel, 2660 Woodley Road, NW, Washington, DC 20008.

Proposed Schedule and Agenda

Agenda will be posted on the homepage located @ *http://corpweb.skyline.stic2.com/HQIRP* The DoD Healthcare Quality Initiatives Review Panel (HQIRP) will meet in open session from approximately 8:30 am to 5:30 pm.

- There will be 20 minute period allowed for Public Commentary.

FOR FURTHER INFORMATION: Public seating for this meeting is limited and is available on a first-come, first-served basis. For information please contact Gia Edmonds at (703) 933–8325.

Dated: October 6, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–26636 Filed 10–12–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Deauthorization of Water Resources Projects

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of project deauthorizations.

SUMMARY: The Corps of Engineers is publishing the lists of water resources projects deauthorized under the provisions of section 1001(b)(2), Pub. L. 99–662, 33 U.S.C 579a(b)(2); projects removed from deauthorization lists due to obligations of funds, reauthorization, or specific deauthorization; projects reauthorized under the provisions of section 364, Pub. L. 106–53, 113 Stat. 269, 313; and projects deauthorized under the provisions of section 115(b), Pub. L. 102–580, 106 Stat. 4797, 4821. Previous **Federal Register** notices were published on October 5, 1990 (Vol. 55, No. 194, 40906–40912), December 15, 1992 (Vol. 57, No. 241, 59335–59337), September 9, 1994 (Vol. 59, No. 174, 46624–46625), December 18, 1996 (Vol. 61, No. 244, 66654–66656), January 22, 1997 (Vol. 62, No. 14, 3271), and August 15, 1997 (Vol. 62, No. 158, 43713–43714). This notice also includes a correction to the notice of December 15, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. John Micik, Headquarters, U.S. Army Corps of Engineers, Attention: CECW–B,

Washington, DC 20314–1000. Tel. (202) 761–0705.

SUPPLEMENTARY INFORMATION:

The Water Resources Development Act of 1986, Pub. L. 99–662, 100 Stat. 4082–4273, as amended, provides for the automatic deauthorization of water resource projects and separable elements of projects.

Section 1001(b)(2), 33 U.S.C. 579a(b)(2), requires the Secretary of the Army to submit to the Congress a biennial list of unconstructed water resources projects and separable elements of projects for which no obligations of funds have been incurred for planning, design or construction during the prior seven full fiscal years. If funds are not obligated within thirty months from the date the list was submitted, the project/separable element is deauthorized. Notwithstanding these provisions, projects may be specifically deauthorized or reauthorized by law.

For purposes of the Water Resources Development Act of 1986, ''separable element'' is defined in section 103(f), Pub. L. 99–662, 33 U.S.C. 2213(f).

In accordance with section 1001(b)(2), the Assistant Secretary of the Army (Civil Works) submitted a list of 27 projects and separable elements to Congress on October 31, 1994 (1994 List). From this list, 24 projects/separable elements were deauthorized on May 1, 1997, 2 were removed due to obligations of funds, and 1 was reauthorized by section 328 of the Water Resources Development Act of 1996, Pub. L. 104–303, 110 Stat. 3658, 3717.

Also in accordance with section 1001(b)(2), the Assistant Secretary of the Army (Civil Works) submitted a list of 32 projects and separable elements to Congress on October 4, 1996 (1996 List). From this list, 27 projects/separable elements were deauthorized on April 5, 1999; 2 were removed due to obligations of funds; 2 were reauthorized by section 364 of the Water Resources Development Act of 1999, Pub. L. 106–53, 113 Stat. 269, 313, subject to a Secretarial determination (see explanation below); and 1 was specifically deauthorized by section 361(b)(7) of the Water Resources Development Act of 1996, Pub. L. 104–303, 110 Stat. 3658, 3729.

Six projects were reauthorized by section 364 of Pub. L. 106–53, subject to a Secretarial determination that each project is technically sound, environmentally acceptable, and economically justified. Two of these projects were on the 1996 List, as stated above, and one, Indian River County, FL, was never deauthorized.

Four projects reauthorized by section 115(a) of the Water Resources Development Act of 1992, Pub. L. 102–580, 106 Stat. 4797, 4821, were subsequently deauthorized on November 1, 1997, under the provisions of section 115(b).

The **Federal Register** notice of December 15, 1992, erroneously listed the Waikiki Beach, Oahu, HI, beach erosion control project as deauthorized. Since planning funds were obligated in fiscal year 1991, the project should have been removed from the list.

Authority: This notice is required by the Water Resources Development Act of 1986, Pub. L. 99–662, section 1001(c), 33 U.S.C. 579a(c), and the Water Resources Development Act of 1988, Pub. L. 100–676, section 52(d), 102 Stat. 4012, 4045.

Dated: September 27, 1999.

Approved:

Joseph W. Westphal,

Assistant Secretary of the Army (Civil Works).

1994 LIST: PROJECTS/SEPARABLE ELEMENTS DEAUTHORIZED ON MAY 1, 1997 UNDER SECTION 1001(b)(2), PUB. L. 99–662

District	Project name	Primary state	Purpose
NAE	TRUMBULL LAKE	CT	FC
SAJ	C&SF, WATER CONSERVATION AREA—CANAL 301	FL	FC
SAJ	C&SF, WATER CONSERVATION AREA—CANAL 303	FL	FC
SAJ	C&SF, WATER CONSERVATION AREA—CANAL 310	FL	FC
SAJ	C&SF, WATER CONSERVATION AREA—S12 SPREADER	FL	FC
SAJ	C&SF, WATER CONSERVATION AREA—STRUCTURE 125	FL	FC
SAJ	C&SF, WATER CONSERVATION AREA—STRUCTURE 320	FL	FC
SAJ	C&SF, WATER CONSERVATION AREA—STRUCTURE 321	FL	FC
SAJ	C&SF, WATER CONSERVATION AREA—STRUCTURE 322	FL	FC
SAJ	C&SF, WATER CONSERVATION AREA—STRUCTURE 323	FL	FC
LRC	LITTLE CALUMET RIVER (1974 ACT)	IL	FC
LRL	LOUISVILLE LAKE (1968 ACT)	IL	FC
MVN	GULF INTRACOASTAL WATERWAY (16-FT CHANNEL SECTION)	LA	N
MVN	MISSISSIPPI DELTA REGION, BOHEMIA	LA	FC
MVN	MISSISSIPPI DELTA REGION, HOMEPLACE	LA	FC
MVN	MORGAN CITY AND VICINITY, FRANKLIN AREA (1965 ACT)	LA	FC
NAE	PHILLIPS LAKE	MA	FC
LRE	SAGINAW RIVER, MIDLAND	MI	FC
NWO	MILES CITY	MT	FC
NWO	OAHE DAM—LAKE OAHE (WILDLIFE RESTORATION) (N. DAKOTA)	ND	MP
SPA	SANTA FE RIVER AND ARROYO MASCARAS (1976 ACT)	NM	FC
LRH	NEWARK (INTERIOR DRAINAGE)	OH	FC
SWT	SHIDLER LAKE	OK	FC
NWP	CHETCO RIVER	OR	N
	Total: 24.		

1996 LIST: PROJECTS/SEPARABLE ELEMENTS DEAUTHORIZED ON APRIL 5, 1999 UNDER SECTION 1001(b)(2), PUB. L. 99–662

District	Project name	Primary state	Purpose
MVK	TENSAS BASIN, BOEUF TENSAS LESS TENSAS RIVER	AR	FC

1996 LIST: PROJECTS/SEPARABLE ELEMENTS DEAUTHORIZED ON APRIL 5, 1999 UNDER SECTION 1001(b)(2), PUB. L. 99–662—Continued

District	Project name	Primary state	Purpose
MVR	ROCK RIVER AGRICULTURAL LEVEE	IL	FC
MVR	SAVANNA SMALL BOAT HARBOR	IL	N
NWK	FORT SCOTT LAKE	KS	FC
NWK	LAWRENCE, KS, SOUTH LAWRENCE UNIT	KS	FC
LRL	FALMOUTH LAKE	KY	FC
NAE	LYNN-NAHANT BEACH	MA	BE
MVS	PINE FORD LAKE	MO	FC
SAM	TOMBIGBEE RIVER & TRIBUTARIES, TIBBEE RIVER	MS	FC
SAM	TOMBIGBEE RIVER & TRIBUTARIES, CATALPA CREEK	MS	FC
SAM	TOMBIGBEE RIVER & TRIBUTARIES, SAKATONCHEE CREEK	MS	FC
SAM	TOMBIGBEE RIVER & TRIBUTARIES, LINE CREEK	MS	FC
SAM	TOMBIGBEE RIVER & TRIBUTARIES, NORTH CANAL	MS	FC
SAM	TOMBIGBEE RIVER & TRIBUTARIES, SOUTH CANAL	MS	FC
SAM	TOMBIGBEE RIVER & TRIBUTARIES, JOHNSON CREEK	MS	FC
SAM	TOMBIGBEE RIVER & TRIBUTARIES, TRIM CANE CREEK	MS	FC
SAM	TOMBIGBEE RIVER & TRIBUTARIES, SUN CREEK	MS	FC
MVK	YAZOO RIVER NAVIGATION	MS	N
SAW	AIWW-MASONBORO INLET—TRAINING WALL	NC	N
LRB	DANSVILLE & VICINITY	NY	FC
LRB	CUYAHOGA RIVER BASIN	OH	FC
SWT	SAND LAKE	OK	FC
NAP	HAY CREEK, BIRDSBORO (SCHUYLKILL RIVER BASIN)	PA	FC
SWF	BELTON LAKE HYDROPOWER	TX	MP
SWG	HIGHLAND BAYOU, LOWER 8.6 MILE CHANNEL RECTIFICATION	TX	FC
MVK	MCKINNEY BAYOU (INACTIVE PORTION)	TX	FC
LRE	GREEN BAY HARBOR, BROWN COUNTY (1962 MODIFICATION)	WI	N
	Total: 27.		

PROJECTS/SEPARABLE ELEMENTS REMOVED FROM 1994 AND 1996 DEAUTHORIZATION LISTS IN ACCORDANCE WITH SECTION 1001(b)(2) OF PUBLIC LAW 99–662 DUE TO OBLIGATIONS OF FUNDS

District	Project name	Primary state	Purpose
SWL	PINE MOUNTAIN LAKE (1996 List)	AR	FC
SAJ	LEE COUNTY, ESTERO ISLAND (1994 List)	FL	BE
SAJ	LEE COUNTY, GASPARILLA ISLAND (1994 List)	FL	BE
MVS	WOOD RIVER DRAINAGE & LEVEE DISTRICT (1996 List)	IL	FC
	Total: 4.		

PROJECT REMOVED FROM 1994 DEAUTHORIZATION LIST DUE TO REAUTHORIZATION

District	Project name	Primary state	Purpose
LRE	CROSS VILLAGE HARBOR (1966 ACT)	MI	N

NOTE: The following project was reauthorized by Section 328 of Public Law 104–303, October 12, 1996; with a five-year limitation. The authorization will expire on October 13, 2001, unless Federal funds are obligated for planning, design or construction.

PROJECTS REMOVED FROM 1996 DEAUTHORIZATION LIST DUE TO REAUTHORIZATION

District	Project name	Primary state	Purpose
LRE	CASS RIVER, SAGINAW RIVER BASIN, VASSAR (1958 ACT)	MI	FC
LRE	SAGINAW RIVER, SHIAWASSEE FLATS (1958 ACT)	MI	FC
	Total: 2.		

NOTE: The following projects were among the projects reauthorized by Section 364 of Public Law 106–53, August 17, 1999, subject to determination by the Secretary of the Army that they are technically sound, environmentally acceptable, and economically justified.

OTHER PROJECTS REAUTHORIZED BY LAW

District	Project name	Primary state	Purpose
SAJ	INDIAN RIVER COUNTY (1986 ACT)*	FL	BE
SAJ	LIDO KEY BEACH, SARASOTA (1970 ACT)	FL	BE

OTHER PROJECTS REAUTHORIZED BY LAW—Continued

District	Project name	Primary state	Purpose
MVP	PARK RIVER, GRAFTON (1986 ACT)	ND	FC
MVM	MEMPHIS HARBOR, MEMPHIS (1986 ACT)	TN	N
	Total: 4.		

*Although reauthorized by law, the Indian River County, FL, project was never deauthorized.

NOTE: In addition to the two projects listed above, the following projects also were reauthorized by Section 364 of Public Law 106–53, August 17, 1999, subject to determination by the Secretary of the Army that they are technically sound, environmentally acceptable, and economically justified.

PROJECT ON 1996 LIST THAT WAS SPECIFICALLY DEAUTHORIZED

District	Project name	Primary state	Purpose
MVP	LAFARGE LAKE & CHANNEL IMPROVEMENT (1962 ACT)	WI	FC

NOTE: The following project was specifically deauthorized by Section 361(b)(7) of Public Law 104–303, October 12, 1996, with the exception of named relocation and restoration features that remain authorized.

PROJECTS REAUTHORIZED IN 1992 AND DEAUTHORIZED ON NOVEMBER 1, 1997 UNDER SECTION 115(B), PUB. L. 102–580

District	Project name	Primary state	Purpose
MVN	LAKE PONTCHARTRAIN, NORTH SHORE (1986 ACT)	LA	FC
NAN	DEAL LAKE, MONMOUTH COUNTY (1986 ACT)	NJ	FC
NAB	TYRONE (1944 ACT)	PA	FC
SWT	BIG PINE LAKE (1962 ACT)	TX	FC
	Total: 4.		

Key to Abbreviations

MVD *MISSISSIPPI VALLEY DIVISION*
MVM MEMPHIS DISTRICT
MVN NEW ORLEANS DISTRICT
MVS ST. LOUIS DISTRICT
MVK VICKSBURG DISTRICT
MVR ROCK ISLAND DISTRICT
MVP ST. PAUL DISTRICT
NAD *NORTH ATLANTIC DIVISION*
NAB BALTIMORE DISTRICT
NAN NEW YORK DISTRICT
NAO NORFOLK DISTRICT
NAP PHILADELPHIA DISTRICT
NAE NEW ENGLAND DISTRICT
NWD *NORTHWESTERN DIVISION*
NWP PORTLAND DISTRICT
NWS SEATTLE DISTRICT
NWW WALLA WALLA DISTRICT
NWK KANSAS CITY DISTRICT
NWO OMAHA DISTRICT
LRD *GREAT LAKES & OHIO RIVER DIVISION*
LRH HUNTINGTON DISTRICT
LRL LOUISVILLE DISTRICT
LRN NASHVILLE DISTRICT
LRP PITTSBURGH DISTRICT
LRB BUFFALO DISTRICT
LRC CHICAGO DISTRICT
LRE DETROIT DISTRICT
POD *PACIFIC OCEAN DIVISION*
POA ALASKA DISTRICT
POH HONOLULU DISTRICT
SAD *SOUTH ATLANTIC DIVISION*
SAC CHARLESTON DISTRICT
SAJ JACKSONVILLE DISTRICT
SAM MOBILE DISTRICT
SAS SAVANNAH DISTRICT
SAW WILMINGTON DISTRICT
SPD *SOUTH PACIFIC DIVISION*
SPL LOS ANGELES DISTRICT
SPK SACRAMENTO DISTRICT
SPN SAN FRANCISCO DISTRICT
SPA ALBUQUERQUE DISTRICT
SWD *SOUTHWESTERN DIVISION*
SWF FORT WORTH DISTRICT
SWG GALVESTON DISTRICT
SWL LITTLE ROCK DISTRICT
SWT TULSA DISTRICT
BE Beach Erosion Control
FC Flood Control
MP Multiple Purpose Power
N Navigation
AIWW Atlantic Intracoastal Waterway
C&SF Central & Southern Florida

[FR Doc. 99–26628 Filed 10–12–99; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by November 4, 1999. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before December 13, 1999.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The

Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: October 6, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Title: Ed-Flex Application Guidance.

Abstract: P.L. 106–25, the Education Flexibility Partnership Act of 1999, permits States, which do not currently have Ed-Flex authority, to submit an application to the Secretary of Education to request Ed-Flex authority. Thirty-eight states, plus the outlying areas, will voluntarily apply for the authority to waive Federal regulations for seven USDE programs, as delineated under the law. In the application, the State must demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes: a description of the process the State will use to evaluate applications from school districts or schools requesting waivers, how the State has met the eligibility requirements, a description of the State's evaluation process, and how the Ed-Flex plan will assist in implementing the State's reform plan.

Additional Information: Timely preparation and approval of an Ed-Flex application is needed if a State is to use Ed-Flex waiver authority effectively during the 1999–2000 school year. Once a State is granted Ed-Flex authority, the SEA must establish its procedures to review and approve waiver requests from school districts and schools. If normal procedures were to be followed, it would cause public harm to the schools who participate in these waivers.

Frequency: On occasion.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses—45; *Burden Hours*—800.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

Written comments or questions regarding burden and/or the collection activity requirements, contact Kathy Axt at 703–426–9692 or by e-mail at kathy__axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–26617 Filed 10–12–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 13, 1999.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 7, 1999.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Robert C. Byrd Honors Scholarship Program Performance Report.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 59.

Burden Hours: 148.

Abstract: This information is required of State agencies that administer the Robert C. Byrd Honors Scholarship Program under Title IV, Part A, Subpart 6 of the Higher Education Act of 1965, as amended and administered under 34 CFR Part 654. This information is used to monitor the compliance of the state educational agencies.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department

of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

Written comments or questions regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at 202–708–9266 or by e-mail to joe—schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–26681 Filed 10–12–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 12, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 6, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Title: Applications for Assistance Under the Impact Aid Program.

Frequency: Annually.

Affected Public: Individuals or households; Federal Government; State, local or Tribal Gov't, SEAs or LEAs

Reporting and Recordkeeping Hour Burden:

Responses: 602,237

Burden Hours: 631,534

Abstract: A local educational agency must submit an application to the Department to receive Impact Aid payments under Sections 8002 or 8003 of the Elementary and Secondary Education Act (ESEA), and a State requesting certification under Section 8009 of the ESEA must submit data for the Secretary to determine whether the State has a qualified equalization plan and may take Impact Aid payments into consideration in allocating State aid.

Requests for copies of this information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov should be faxed to 202–708–9346.

Written comments or questions regarding burden and/or the collection activity requirements, contact Kathy Axt at 703–426–9692. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–26616 Filed 10–12–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

National Center on Education Statistics (NCES)

AGENCY: U.S. Department of Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics (ACES). Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: October 28–29, 1999.

TIMES: October 28, 1999—Full Council, 9:00 a.m.–1:00 p.m. (closed 10:30 a.m.–1;00 p.m.); Statistics Committee and Policy Committee, 1:00 p.m.–5:00 p.m. (closed 1:00 p.m. to 2:30 p.m.); Management Committee, 1:00 p.m. to 5:00 p.m. (closed 1:00 p.m.–3:30 p.m.). October 29, 1999—Statistics Committee, Policy Committee, and Management Committee, 8:30 a.m.–12:00 noon (closed 10:30 a.m.–12:00 noon); Full Council, 12:00 noon–2:30 p.m. (closed 12:00 noon–2:00 p.m.).

LOCATION: The Hotel Washington, 515 15th Street, NW, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Audrey Pendleton, National Center for Education Statistics, 555 New Jersey Avenue, NW, Room 400e, Washington, DC 20208–5530.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under Section 406(c)(1) of the Education Amendments of 1974, Public Law 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement (OERI) and is responsible for advising on standards to ensure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. In addition, ACES is required to advise the Commissioner of NCES and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress (NAEP). The meeting of the Council is open to the public.

The proposed agenda includes the following:

- A status report from the NCES Commissioner on major Center initiatives, including draft language for the reauthorization of NCES and ACES;
- New member swearing-in;
- A discussion of NCES activities mandated by the Higher Education Act;
- The presentation of Committee reports, including implications of draft language for the reauthorization of NCES.

Individual meetings of the three ACES Committees will focus on specific topics:

- The agenda for the Statistics Committee includes a discussion of draft language for the reauthorization of NCES and ACES, the revision of NCES statistical standards, inclusion of disabled and limited-English proficient students in NAEP, linking of NAEP with other NCES assessments and surveys, and changes in Office of Management and Budget required race/ethnicity questions.
- The agenda for the Policy Committee includes a discussion of draft language for the reauthorization of NCES and ACES, development of measures of instruction practices, issues in teacher licensure definitions, progress on the Early Childhood Longitudinal Survey, and findings on the collection and validation of teacher SAT/ACT scores.
- The agendas for the Management Committee includes a discussion of draft language for the reauthorization of NCES and ACES, the Commissioner's management report, the Office of the Inspector General's report on NCES' Y2K readiness, the status of the Customer Service Survey, NCES training plans, operations and performance measures of other federal statistical agencies.

A large part of the agenda involves presentation of draft language for reauthorization of NCES and ACES and discussion of its implications for NCES and ACES. Since the proposed legislative changes have not yet been sent to Congress, NCES and ACES are precluded from discussion of this information in a public meeting. Bills proposed by the Department of Education cannot be disclosed to the public until after they are officially transmitted to Congress. Such matters are protected by exemption (9)(B) of Section 552b(c) of Title 5 U.S.C., which states that the premature disclosure of such information is likely to significantly frustrate implementation of proposed agency's action. ACES are therefore planning to close the portions of the plenary sessions and Committee meetings that pertain to the reauthorization of NCES and ACES. Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW, Room 400e, Washington, DC 20208.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 99–26697 Filed 10–12–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, October 27 1999, 6:00 p.m.–9:00 p.m.

ADDRESSES: Santa Clare Pueblo, Pueblo Council Conference Room, Governor's Office, Route 30, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ann DuBois, Northern New Mexico Citizens' Advisory Board, 1640 Old Pecos Trail, Suite H, Santa Fe, NM 87505. Phone:505–989–1662; Fax: 505–989–1752; E-mail: *adubois@doeal.gov;* or Internet http:www.nmcab.org

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Public Comment, 6:30 p.m.–7:00 p.m.
2. Committee Reports:
   Environmental Restoration
   Monitoring and Surveillance
   Waste Management
   Community Outreach
   Budget
3. Election of Officers for FY 2000
4. Other Board business will be conducted as necessary

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ann DuBois at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 528 35th Street, Los Alamos, NM 87544. Hours of operation for the Public Reading Room are 9:00 a.m. and 4:00 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Ann DuBois at the Board's office address or telephone number listed above.

Issued at Washington, DC on October 6, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–26709 Filed 10–12–99; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

American Statistical Association Committee on Energy Statistics

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the American Statistical Association Committee on Energy Statistics, a utilized Federal Advisory Committee. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), requires that public notice of these meetings be announced in the **Federal Register**.

DATE AND TIME: Thursday, November 4, 1999 8:30 am–4:30 pm; Friday, November 5, 1999, 8:30 am–12:00 noon.

PLACE: U. S. Department of Energy, Forrestal Building, 1000 Independence Ave., S.W., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Mr. William I. Weinig, EI–70, Committee Liaison, Energy Information Administration, U.S. Department of Energy, Washington, DC 20585, Telephone: (202) 426–1101. Alternately, Mr. Weinig may be contacted by email at william.weinig@eia.doe.gov or by FAX at (202) 426–1083.

Purpose of Committee: To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy-related statistical matters.

Tentative Agenda

Thursday, November 4, 1999

A. Opening Remarks by the Chairman, Room 8E–089
B. Major Topics
1. Strategic Planning, Room 8E–089
2. Cognitive Testing and Survey Development, Room GH-019
3. System for Analysis of Global Energy (SAGE) Markets, Room GH–027
4. Common Data Definitions, Room GH–035
5. Electricity: An Assessment of Transmission Constraint Costs: Northeast U.S. Case Study, Room 8E–089
6. An Update on Using Cognitive Interviewing to Evaluate the EIA Web Site, Room 8E–089

Friday, November 5, 1999

C. Major Topics
1. Addressing Accuracy in the Monthly Forecasting Process, Room 8E–089
2. Implementation of the Graphical Editing Analysis Query System, Rooms 8E–089
3. Discussing the Charge of the Senior Mathematical Statistician at EIA, Room 8E–089
D. Closing Remarks by the Chairman, GE–016

Public Participation: The meeting is open to the public. The Chairperson of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. If there are any questions, please contact Mr. William I. Weinig, EIA Committee Liaison, at the address or telephone number listed above.

Minutes: Available for public review and copying at the Public Reading Room, (Room 1E–190), 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

Issued at Washington, DC, on October 7, 1999.

Rachel M. Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. 99–26708 Filed 10–12–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–625–000]

Columbia Gas Transmission Corporation; Notice of Application

October 6, 1999.

Take notice that on September 27, 1999, Columbia Gas Transmission Corporation (Columbia), Post Office Box 1273, Charleston, West Virginia 25325–1273 in Docket No. CP99–625–000 an application, as supplemented on September 28, 1999, pursuant to Section 7(c) of the Natural Gas Act to permit Columbia to use firm capacity on Tennessee Gas Pipeline Company (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.us/online/rims.htm* (call 202–208–2222).

Columbia proposes to use firm capacity on Tennessee of up to 16,476 dt per day from Broad Run, Kanawha County, West Virginia, to Highland, Elk County, Pennsylvania, for a period beginning October 1, 1999, and ending March 31, 2000. Columbia indicates that, as a result of corrosion revealed by recently completed and analyzed in-line inspection of two line segments on Columbia's system in Clinton and McKean Counties, Pennsylvania, Columbia has elected to remove the two pipelines from service prior to October 1, 1999. To find an alternate means of maintaining capacity to serve its contractual obligations during the 1999–2000 winter heating season, Columbia indicates that it has arranged to use capacity on Tennessee's system. Columbia indicates that, because it needs to maintain normal operating pressures on those pipelines to meet its service obligations, it cannot reduce its line pressure on those facilities as a long term option. Columbia also states that it has not had sufficient time to complete the analysis of the two pipelines to determine if the pipelines or segments of the pipelines may have to be replaced or abandoned.

Columbia states that no construction of facilities is required to implement the transaction. It is stated that the total cost of the transaction will be between $600,000 and $650,000, which will be accounted for pursuant to the provisions of its tariff concerning Transportation Cost Recovery Adjustment Filings.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1999, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission for abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26648 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–030]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

October 6, 1999.

Take notice that on September 30, 1999, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective October 1, 1999:

Thirty-seventh Revised Sheet No. 25
Thirty-seventh Revised Sheet No. 26

Thirty-seventh Revised Sheet No. 27
Thirty-fifth Revised Sheet No. 28
Third Revised Sheet No. 28B
Fourteenth Revised Sheet No. 29
Sixteenth Revised Sheet No. 30A

Columbia asserts that the purpose of this filing is to implement revised base rates reflecting the settlement approved by the Commission on September 15, 1999 in Docket No. RP95–408 (Phase II). The settlement established environmental cost recovery through unit components of base rates, all as more fully set forth in article VI of the settlement filed April 5, 1999. Columbia states further that it and the other Sponsoring Parties to the settlement unanimously agreed to implement the settlement without waiting for the expiration of the 30-day rehearing period. If rehearing is sought and the Commission modifies its previous unconditional approval of the settlement, Columbia states that it will invoice and collect from customers the difference between these lower settlement levels and the now currently effective collection levels and all other amounts necessary to return everyone to the same monetary position that existed prior to the early implementation of the settlement.

Columbia states that a copy of the filing have been served by mail to all parties to the proceeding, as well as all customers and affected 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, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26652 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1698–000]

The Detroit Edison Company; Notice of Filing

October 6, 1999.

Take notice that on August 24, 1999, The Detroit Edison Company (Detroit Edison), tendered for filing a Service Agreement (the Service Agreement) and Specifications for Long-term Firm Point-to-Point Transmission Service under the Open Access Transmission Tariff of Detroit Edison, FERC Electric Tariff No. 1, between Detroit Edison and Detroit Edison Merchant Operations dated as of December 22, 1998. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of January 23, 1999.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 16, 1999. Protests will be considered by the Commission to determine 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26646 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–030]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 6, 1999.

Take notice that on October 1, 1999, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheet to become effective October 1, 1999:

Eighteenth Revised Sheet No. 31
First Revised Sheet No. 31A

El Paso states that the above tariff sheets are being filed to implement one negotiated rate contract pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95–6–000 and RM96–7–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26653 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP96–152–019 and CP96–152–021]

Kansas Pipeline Company; Notice of Revised Tariff Filings

October 6, 1999.

Take notice that on September 17, 1999, Kansas Pipeline Company (Applicant) tendered for filing corrections to the FERC Gas Tariff, Original Volume No. 1 to be effective May 11, 1999. Take further notice that the sheet, Third Substitute Original Sheet No. 16A, contained an error in the statement of the volumetric firm capacity release maximum rate per dth stated at 100% load factor. Accordingly, on September 24, 1999, Applicant filed Fourth Substitute Original Sheet No.

16A and requested that Third Substitute Original Sheet No. 16A be withdrawn. These filings may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance).

Applicant states that the corrected tariff includes changes directed by the Commission's August 26, 1999, Order in the above-captioned docket (88 FERC ¶ 61,192 (1999)). Applicant further states that a copy of this filing is available for public inspection during regular business hours at Applicant's offices located at 8325 Lenexa Drive, Lenexa 66214. It is indicated that the contact person for this filing is Mr. James Armstrong at (918) 888–7139. Applicant indicates that copies of this filing are being served on all parties to the proceeding in Docket No. CP96–152.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest on or before October 18, 1999, 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. 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. This application may be viewed on the Commission's website at *http://ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26647 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

[Docket No. TM00–1–166–000]

Kansas Pipeline Company; Notice of Revised Tariff Filing

October 6, 1999.

Take notice that on October 1, 1999, Kansas Pipeline Company (KPC) tendered for filing a revision to its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1999. The revised tariff sheets, listed below, reflect revisions to KPC's fuel reimbursement percentages, pursuant to Section 23 of the General Terms and Conditions of KPC's Tariff. The revised tariff sheets are:

Second Substitute Third Revised Sheet No. 15
Fifth Substitute Original Sheet No. 16A
Second Substitute Third Revised Sheet No. 21
Second Substitute Second Revised Sheet No. 26
Second Subsititute Second Revised Sheet No. 28
Second Substitute Second Revised Sheet No. 30
Fourth Substitute Original Sheet No. 31A
Sheet No. 31B [Reserved]
Fourth Substitute Original Sheet No. 31C

KPC further states that copies of this filing are being served on KPC's affected customers and relevant state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 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 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26656 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–008]

Natural Gas Pipeline Company of America; Notice of Proposed Change in FERC Gas Tariff

October 6, 1999.

Take notice that on October 1, 1999, Natural Gas Pipeline Company of America (Natural) tendered for filing to be a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Substitute First Revised Sheet No. 26A, to be effective September 25, 1999.

On September 27, 1999, Natural filed First Revised Sheet No. 26A at Docket No. RP99–176–007 to implement a negotiated rate formula transaction under Rate Schedule FTS with Aquila Energy Marketing Corp. Subsequently, it was discovered that the volume amounts for Natural's Gulf Coast Leg and Amarillo Leg were inadvertently transposed on First Revised Sheet No. 26A. Therefore, Natural is now submitting Substitute First Revised Sheet No. 26A reflecting the corrected volume amounts to be accepted in lieu of First Revised Sheet No. 26A previously submitted on September 27, 1999.

Natural requested waiver of the Federal Energy Regulatory Commission's Regulations, including the 30-day notice requirement of Section 154.207, to the extent necessary to permit Substitute First Revised Sheet No. 26A to become effective September 25, 1999.

Natural states that copies of the filing are being mailed to its customers, interested state regulatory commissions and all parties set out on the official service list at Docket No. RP99–176.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary,

[FR Doc. 99–26654 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–13–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 6, 1999.

Take notice that on October 1, 1999, 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 November 1, 1999:

Sixteenth Revised Sheet No. 5
Second Revised Sheet No. 232–C
Fourth Revised Sheet No. 232–D
Fifth Revised Sheet No. 236
Third Revised Sheet No. 237
Original Sheet No. 237–A.01

Northwest states that the purpose of this filing is to propose four related changes to Northwest's tariff: (1) An increase in Northwest's unauthorized overrun charges for shippers that fail to remain within declared entitlement levels during critical operational periods; (2) a clarification to the provision identifying exceptions to a shipper's responsibility to pay unauthorized overrun and underrun charges; (3) a new provision that would waive unauthorized overrun and underrun charges under certain circumstances; and (4) a change to the pricing index on which the penalty for non-compliance with operational flow orders is based.

Northwest states that a copy of this filing has been served upon Northwest'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, NE, Washington, DC 20426, in accordance with Sections 385.214 or 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 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26655 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–1–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

October 6, 1999.

Take notice that on October 1, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective October 1, 1999:

Sixth Revised Sheet No. 5
Fourth Revised Sheet No. 6A
Fifth Revised Sheet No. 375

Williston Basin states that in order for it to accommodate a receipt point change for a local producer, a piping change was made at the Cabin Creek Compressor Station. This change meant that the receipt of the producer's gas was moved from Line Section 11 to Line Section 5. Both the system map and the West Mondak Sub-system map have been revised to indicate that the Cedar Creek Pool has been expanded to accommodate this point. Fifth revised Sheet No. 375 has been revised to indicate that the Cedar Creek Pool also includes Line Section 5.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Lindwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26649 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–1–000, et al.]

PP&L Colstrip, II LLC, et al.; Electric Rate and Corporate Regulation Filings

October 5, 1999.

Take notice that the following filings have been made with the Commission:

1. PP&L Colstrip, II LLC

[Docket No. EG00–1–000]

Take notice that on October 1, 1999, PP&L Colstrip II LLC (Applicant), 11350 Random Hills Road, Fairfax, Virginia, 22030–6044, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant, a limited liability company organized under the laws of the State of Delaware, is acquiring interests held by Portland General Electric Company in Units 3 and 4 of the Colstrip Generation Station located in Montana. The facilities will be used to make sales of electric energy exclusively at wholesale.

Copies of the application have been served upon the Montana Public Service Commission, the Public Utility Commission of Oregon, and the Securities and Exchange Commission.

Comment date: October 26, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. New England Power Pool

[Docket No. ER99–4572–000]

Take notice that on September 30, 1999, the New England Power Pool Participants Committee tendered for filing for acceptance five signature pages to the New England Power Pool (NEPOOL) Agreement dated September 1, 1971, as amended, signed by Middletown Power LLC (Middletown Power), Montville Power LLC (Montville Power), Norwalk Power LLC (Norwalk Power), Devon Power LLC (Devon Power) and Connecticut Jet Power LLC (Connecticut Jet Power). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of the signature pages of Middletown Power, Montville Power, Norwalk Power, Devon Power and Connecticut Jet Power (the NRG Subsidiaries) would permit NEPOOL to expand its membership to

include the NRG Subsidiaries. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make the NRG Subsidiaries a member in NEPOOL.

The Participants Committee requests an effective date of October 1, 1999, for commencement of participation in NEPOOL by the NRG Subsidiaries.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Wolverine Power Supply Cooperative, Inc.

[Docket No. ER99–4588–000]

Take notice that on September 30, 1999, Wolverine Power Supply Cooperative, Inc., tendered for filing an executed Service Agreement for Point-to-Point Transmission Service with Great Lakes Energy under its Open Access Transmission Tariff.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Barton Villages, Inc., Village of Enosburg Falls Water & Light Department, Village of Orleans, and Village of Swanton, Vermont v. Citizens Utilities Company

[Docket No. EL92–33–007]

Take notice that on October 1, 1999, Citizens Utilities Company (Citizens), tendered for filing in the above-referenced proceeding a supplement to its September 2, 1999, compliance filing containing Incremental Power Supply Cost Data for the period of 1963–1975.

Comment date: October 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Pool

[Docket No. ER99–4573–000]

Take notice that on September 30, 1999, the New England Power Pool Participants Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL) Agreement dated September 1, 1971, as amended, signed by Lowell Cogeneration Company Limited Partnership (Lowell Cogeneration Company). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of Lowell Cogeneration Company's signature page would permit NEPOOL to expand its membership to include Lowell Cogeneration Company. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Lowell Cogeneration Company a member in NEPOOL.

The Participants Committee requests an effective date of October 1, 1999, for commencement of participation in NEPOOL by Lowell Cogeneration Company.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Pool

[Docket No. ER99–4574–000]

Take notice that on September 30, 1999, the New England Power Pool Participants Committee tendered for filing for acceptance a signature page to the New England Power Pool (NEPOOL) Agreement dated September 1, 1971, as amended, signed by Utility.com, Inc. (Utility.com). The NEPOOL Agreement has been designated NEPOOL FPC. No. 2.

The Participants Committee states that the Commission's acceptance of Utility.com's signature page would permit NEPOOL to expand its membership to include Utility.com. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Utility.com a member in NEPOOL.

The Participants Committee requests an effective date of November 1, 1999, for commencement of participation in NEPOOL by Utility.com.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Pool

[Docket No. ER99–4575–000]

Take notice that on September 30, 1999, the New England Power Pool Participants Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL) Agreement dated September 1, 1971, as amended, signed by New York Power Authority (NYPA). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of NYPA's signature page would permit NEPOOL to expand its membership to include NYPA. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make NYPA a member in NEPOOL.

The Participants Committee requests an effective date of October 1, 1999, for the commencement of participation in NEPOOL by NYPA.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER99–4576–000]

Take notice that on September 30, 1999, Illinois Power Company (Illinois Power) tendered for filing a Rate Schedule for Sale, Assignment, or Transfer of Transmission Rights (Rate Schedule). The Rate Schedule will allow Illinois Power to resell transmission rights in accordance with Order Nos. 888 and 888-A.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–4579–000]

Take notice that on September 30, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to New York Power Authority (NYPA).

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–4580–000]

Take notice that on September 30, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to New York Power Authority (NYPA).

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Public Service Corporation

[Docket No. ER99–4581–000]

Take notice that on September 30, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with Aquila Energy providing for firm point-to-point transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Corporation

[Docket No. ER99–4582–000]

Take notice that on September 30, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with Aquila Energy providing for transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Company

[Docket No. ER99–4583–000]

Take notice that on September 30, 1999, New England Power Company (NEP), tendered for filing its Network Operating Agreement and Service Agreement for Network Integration Transmission Service (Agreements) with Western Massachusetts Electric Company. These Agreements were filed pursuant to the New England Power Pool's Offer of Settlement filed on April 7, 1999 in Docket Nos. OA97–237–000, et. al., which was approved by the Commission on July 30, 1999.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Nevada Power Company

[Docket No. ER99–4584–000]

Take notice that on September 30, 1999, Nevada Power Company (NPC), tendered for filing a Service Agreement to provide Firm Point-to-Point Transmission Service under NPC's (Transmission Provider) Open Access Transmission Tariff with Dynegy Marketing and Trade, Inc. (Dynegy) (Transmission Customer).

A copy of this filing has been served on Dynergy (Transmission Customer) and the Nevada Public Service Commission.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Central Vermont Public Service Corporation

[Docket No. ER99–4585–000]

Take notice that on September 30, 1999, Central Vermont Public Service Corporation (Central Vermont), tendered for filing an unexecuted umbrella service agreement with Public Service Electric and Gas Company under Central Vermont's market-based rates tariff, FERC Electric Tariff, Second Revised Volume No. 8.

Central Vermont requests that the service agreement become effective on September 1, 1999, the date service commenced under the tariff.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Company

[Docket No. ER99–4586–000]

Take notice that on September 30, 1999, New England Power Company tendered for filing a Design Support, Review, and Testing Agreement with American National Power, Inc., in connection with the ANP Bellingham Energy project in Bellingham, Massachusetts.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Wolverine Power Supply Cooperative, Inc.

[Docket No. ER99–4587–000]

Take notice that on September 30, 1999, Wolverine Power Supply Cooperative, Inc., tendered for filing an executed Service Agreement for Firm Point-to-Point Transmission Service with Great Lakes Energy under its Open Access Transmission Tariff.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER99–4589–000]

Take notice that on September 30, 1999, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (Companies), tendered for filing an unexecuted unilateral Service Agreement between the Companies and Tenaska Power Services Company under the Companies Rate Schedule MBSS.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER99–4590–000]

Take notice that on September 30, 1999, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (Companies), tendered for filing the cancellation of the bilateral Market-Based Sales Service Agreement between the Companies and Tenaska Power Services Company.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. New England Power Pool

[Docket No. ER99–4591–000]

Take notice that on September 30, 1999, the New England Power Pool Participants Committee tendered for filing an extension of NEPOOL Market Rule and Procedure 15.

Additionally, NEPOOL has requested a waiver of the Commission's notice requirements to permit the extension of Market Rule 15 to become effective on October 1, 1999.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 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 these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–26645 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Joint Request for Waivers and Request for Expedited Treatment

October 6, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Request for Waivers and Expedited Treatment.

b. Project No.: 5–052.

c. Date Filed: September 15, 1999.

d. Applicants: The Montana Power Company (MPC) and the Confederated Salish and Kootenai Tribes of the Flathead Reservation (the Tribes), co-licensees and PP&L Montana, L.L.C. (PPLM), prospective licensee.

e. Name of Project: Kerr Hydroelectric Project.

f. Location: The Kerr Project is located in Lake and Flathead Counties, Montana and partially on lands within the Flathead Indian Reservation.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicants' Contacts: For MPC, Michael P. Manion, 40 East Broadway, Butte, MT 59701, (406) 497–2456; For the Tribes, Joe Hovenkotter, The Confederated Salish and Kootenai Tribes of the Flathead Reservation, Tribal Legal Department, P.O. Box 278, Pablo, MT 58755, (406) 675–2700, Ext. 1169; For PPLM, David R. Poe, LeBoeuf, Lamb, Greene & MacRae LLP, 1875 Connecticut Avenue, NW, Washington, DC 20009, (202) 986–8039.

i. FERC Contact: Heather Campbell, (202) 219–3097, or e-mail address: heather.campbell@ferc.fed.us.

j. Deadline for filing comments and recommendations, motions to intervene, and protests: October 20, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please include the project number on any comments and recommendations, motions to intervene and protests.

k. Description of Application: MPC and the Tribes, present co-licensees of the above-captioned hydroelectric project, and PPLM, prospective licensee with respect to MPC's interest in the project, have filed an application requesting Commission approval of land use provisions in the project license. These provisions would permit MPC to reserve certain land uses for minor access rights on project lands in connection with the proposed transfer of MPC's interest in the project to PPLM. All of these land reservations are being requested prior to the transfer of the MPC's interest in the project license and associated assets to PPLM, a transaction that has already received Commission approval. *The Montana Power Co., et al.,* 88 FERC ¶ 62,010 (1999).

l. Location of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426 or by calling (202) 208–1371. The application may be viewed on the web at *www.ferc.fed.us/online/rims.htm*. Call (202) 208–2222 for assistance.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest or a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.210, 385.211 or 385.214. 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 proceedings. Any comments, protests or motions to intervene must be received on or before the specified comment date for this application.

Filing and Serving of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', or ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project number of the application to which the filing refers. Any of the above-named documents must be filed by providing an original and the number of copies provided by the Commission's regulations to the address listed in Section j. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the application.

Agency Comments—Federal, state and local agencies are invited to file comments on the described application in addition to other interested parties. A copy of the application may be obtained by agencies directly from the Applicants. 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 Applicants' representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26650 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

October 6, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: P–11810–000.

c. Date Filed: September 1, 1999.

d. Applicant: Augusta-Richmond County, GA.

e. Name of Project: Augusta Canal Hydroelectric Project.

f. Location: At the existing Diversion Dam and Augusta Canal on the Savannah River, near the Town of Augusta, Richmond County, Georgia.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Honorable Bob Young, Mayor, Augusta-Richmond County Municipal Bldg., 530 Green Street, Augusta, GA 30911, (706) 821–1714.

i. FERC Contact: Monte TerHaar (202) 219–2768 or E-mail address at monte.terhaar@FERC.fed.us.

j. Deadline for filing motions to intervene and protest: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. Description of Project: The Applicant is not proposing to develop new hydroelectric generation facilities and the proposed project would produce no power. The Applicant is proposing to license parts of the Augusta Canal system which passes flows used by three existing hydroelectric projects located in the Augusta Canal. These projects, which are under separate FERC license, are the Enterprise Project No. 2935, the Sibley Mill Project No. 5044, and the King Mill Project No. 9988. The proposed project would consist of (1) the existing stone-masonry Augusta Diversion Dam, which is approximately 1,600 feet long; (2) the existing Augusta Diversion Dam impoundment; and (3) the existing Augusta Canal.

m. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is

also available by contacting Mr. Charles Oliver, Augusta-Richmond County Administrator, 801 Municipal Building, Augusta, Georgia 30911, phone (706) 821–1714. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—a notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''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. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26651 Filed 10–12–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6454–6]

Proposed Administrative Settlement Under Section 7003 of the Resource Conservation and Recovery Act; Aerovox Incorporated

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement agreement and request for public comment.

SUMMARY: The Environmental Protection Agency (''EPA'') is proposing to enter into a settlement agreement with Aerovox Incorporated of New Bedford, Massachusetts to address claims under Section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and further amended by the Hazardous and Solid Waste Amendments of 1984 (''RCRA''), 42 U.S.C. 6973. Notice is being published to inform the public of the proposed settlement and the opportunity for a public meeting and to comment on the proposed settlement. The settlement is intended to resolve the liability of Aerovox Incorporated under section 7003 of RCRA and sections 16 and 17 of the Toxic Substances and Control Act, as amended, 15 U.S.C. 2615 and 2616, for conditions at its plant and real property located at 740 Belleville Avenue in New Bedford, Massachusetts which may present an imminent and substantial endangerment to health and/or the environment. Under the proposed settlement, Aerovox Incorporated will relocate to a new facility and will demolish and construct a cap over impacted soil at its current facility. In the interim, Aerovox Incorporated will take steps to protect its employees at its current facility and will provide security and maintenance for the facility upon evacuation and relocation. Once Aerovox Incorporated has demolished its current facility; properly disposed of PCB-contaminated building debris; and constructed an engineered cap over the soil to prevent any further spread of PCB contamination, Aerovox Incorporated will receive a covenant not to sue from EPA under Section 7003 of RCRA and Sections 16 and 17 of TSCA for the soils at the 740 Belleville Avenue property and the previous presence of polychlorinated biphenyls in the building to be demolished on that property. The settlement has been approved by EPA Region I, subject to review by the public pursuant to this Notice. EPA will consider all comments received and may modify or withdraw

its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper or inadequate.

DATES: Comments on the proposed settlement and requests for a public meeting in New Bedford must be submitted on or before November 12, 1999.

ADDRESSES: The proposed settlement is available for public inspection at the New Bedford Free Public Library, 613 Pleasant Street, New Bedford, Massachusetts and at the offices of EPA, Region I, One Congress Street, Suite 1100, Boston, Massachusetts 02114–2023. A copy of the proposed settlement may be obtained from Eve S. Vaudo, U.S. Environmental Protection Agency, New England, Region I, One Congress Street, Suite 1100 (SES), Boston, Massachusetts 02114–2023, (617) 918–1089. Comments and requests for a public meeting should be addressed to Marianne Milette, Senior Enforcement Coordinator, U.S. Environmental Protection Agency, New England, Region I, 1 Congress Street, Suite 1100 (SEA), Boston, MA 02114–2023, and should refer to Proposed Administrative Agreement under Section 7003 of the Resource Conservation and Recovery Act; Aerovox Incorporated, New Bedford, Massachusetts; Docket No. RCRA–1–99–0054.

FOR FURTHER INFORMATION CONTACT: Eve S. Vaudo, Enforcement Counsel, U.S. Environmental Protection Agency, New England, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023, (617) 918–1089.

Dated: September 29, 1999.

John P. DeVillars,

Regional Administrator, U.S. EPA, Region I.

[FR Doc. 99–26666 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6456–1; CWA–HQ–99–009]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding the Bell Atlantic Companies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with the Bell Atlantic Companies (''BAC'') to resolve violations of the Clean Water Act (''CWA''), and its implementing regulations. BAC failed to prepare Spill Prevention Control and Countermeasure (''SPCC'') plans for seven facilities where they stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

DATES: Comments are due on or before November 12, 1999.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–1999–011, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Submit comments electronically to *docket.oeca@epa.gov* . Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Davis Jones, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 564–2235; fax: (202) 564–0010; e-mail: jones.davis@epa.gov.

SUPPLEMENTARY INFORMATION: *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the Federal Register—Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

The following Bell Atlantic Companies failed to prepare SPCC plans: Bell Atlantic-Pennsylvania, Inc., a telecommunications company incorporated in the State of Pennsylvania and located at 1717 Arch Street, Philadelphia, PA 19103; Telesector Resources Group, Inc., a telecommunications company incorporated in the State of Delaware and located at 1095 Avenue of the Americas, New York, NY 10036; Bell Atlantic Yellow Pages Company, a company incorporated in the State of Delaware and located at 35 Village Road, Middleton, MA 01949; and Bell Atlantic Global Networks, Inc. and BA Video Services Company both telecommunications companies incorporated in the State of Delaware and located at 1320 N. Court House Road, Arlington, VA 22201. The Bell Atlantic Companies disclosed, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations' (''Audit Policy''), 60 FR 66706 (December 22, 1995), that they failed to prepare SPCC plans for seven facilities where they stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR Part 112. EPA determined that the BAC met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($17,850) and proposed a settlement penalty amount four thousand, eight hundred and eighty-two dollars ($4,882). This is the amount of the economic benefit gained by the BAC, attributable to their delayed compliance with the SPCC regulations. The Bell Atlantic Companies have agreed to pay this amount in civil penalties. EPA and BAC negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR 22.13, on October 6, 1999 (*In Re: The Bell Atlantic Companies*, Docket No. CWA–HQ–99–009). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR Part 22.

The procedures by which the public may comment on a proposed Class II

penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 12, 1999. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: October 6, 1999.

Melissa P. Marshall,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 99–26660 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6456–2; CWA–HQ–99–005]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding MCI WORLDCOM, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with MCI WORLDCOM, Inc. (''MCI WorldCom'') to resolve violations of the Clean Water Act (''CWA''), and its implementing regulations. MCI WorldCom failed to prepare Spill Prevention Control and Countermeasure (''SPCC'') plans for forty-three facilities where it stored diesel oil in above ground tanks and three facilities where it stored diesel oil in underground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

DATES: Comments are due on or before November 12, 1999.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–1999–012, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Submit comments electronically to *docket.oeca@epa.gov*. Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Philip Milton, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (202) 564–2235; fax: (202) 564–0010; e-mail: milton.philip@epa.gov.

SUPPLEMENTARY INFORMATION: *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the **Federal Register**—Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

Respondent's corporate offices are located at 500 Clinton Center Drive, Clinton, Mississippi 39056. In June 1998, EPA began investigating Respondent. As a result of the investigation, Respondent provided information indicating that they had failed to prepare SPCC plans for forty-three facilities where it stored diesel oil in above ground storage tanks and three underground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR Part 112. As a result, EPA proposed a settlement penalty amount of $137,500 dollars. This is the maximum administrative penalty allowable by law. MCI WorldCom has agreed to pay this amount in civil penalties. EPA and MCI WorldCom negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR 22.13, on September 30, 1999 (*In Re: MCI WORLDCOM, Inc.*, Docket No. CWA–HQ–99–005). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR Part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 12, 1999. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: September 30, 1999.

Melissa P. Marshall,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 99–26661 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6455–3]

Proposed Administrative Penalty Assessment and Opportunity To Comment

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Notice of proposed assessment of Clean Water Act Class II administrative penalty and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act (''Act''). EPA is also providing notice of opportunity to comment on the proposed assessment.

EPA is authorized under section 309(g) of the Act, 33 U.S.C. 1319(g), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under section 309(g), any person who without authorization discharges a pollutant to a navigable water, as those terms are defined in section 502 of the Act, 33 U.S.C. 1362, may be assessed a penalty in a ''Class II'' administrative penalty proceeding.

Class II proceedings under section 309(g) are conducted in accordance with the ''Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,'' 40 CFR part 22 (''Consolidated Rules''), published at 64 FR 40138, 40177 (July 23, 1999). The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after publication of this notice.

On September 30, 1999, EPA commenced the following Class II proceeding for the assessment of penalties by filing with Danielle Carr, Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1391, the following Complaint:

In the Matter of Jaxon Enterprises, Buena Ventura Boulevard Extension, City of Redding, Shasta County, California, Docket No. CWA–09–99–0005.

The Complaint proposes a penalty of up to One Hundred Thirty Seven Thousand, Five Hundred Dollars ($137,500) for violations of NPDES Permit No. CAS000002 (issued by the California State Water Resources Control Board (Order No. 92–08–DWQ)) and section 301(a) of the Act, 33 U.S.C. 1311(a), at the Buena Ventura Boulevard Extension, City of Redding, Shasta County, California.

Procedures by which the public may comment on a proposed Class II penalty or participate in a Class II penalty proceeding are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II penalty is thirty days after issuance of public notice. The Regional Administrator of EPA, Region 9 may issue an order upon default if the respondent in the proceeding fails to file a response within the time period specified in the Consolidated Rules.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed assessment, or otherwise participate in the proceeding should contact Danielle Carr, Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1391. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by Jaxon Enterprises is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: September 30, 1999.

Alexis Strauss,

Director, Water Division.

[FR Doc. 99–26664 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6455–6; CWA–HQ–99–008]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding US WEST Communications, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with US WEST Communications, Inc. (''US WEST'') to resolve violations of the Clean Water Act (''CWA''), and its implementing regulations. US WEST failed to prepare a Spill Prevention Control and Countermeasure (''SPCC'') plan for seven (7) facilities where it stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C.1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

DATES: Comments are due on or before November 12, 1999.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–1999–008, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Submit comments electronically to *docket.oeca@epa.gov*. Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Davis Jones, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 564–6035; fax: (202) 564–0010; e-mail: jones.davis@epa.gov.

SUPPLEMENTARY INFORMATION: *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the **Federal Register** Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

US WEST Communications, Inc., 1801 California Street, Suite 390, Denver, CO 80202, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations'' (''Audit Policy''), 60 FR 66706 (December 22, 1995), disclosed to EPA that it failed to prepare SPCC plans for seven facilities where it stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR part 112. EPA determined that US WEST met the criteria set out

in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($59,813) and proposed a settlement penalty amount four thousand seven hundred seventeen dollars ($4,717). This is the amount of the economic benefit gained by US WEST attributable to its delayed compliance with the SPCC regulations. US WEST has agreed to pay this amount in civil penalties. EPA and US WEST negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR 22.13, on September 30, 1999 (*In Re: US WEST Communications, Inc.* Docket No. CWA–HQ–99–008). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 12, 1999. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: September 30, 1999.

Rosemarie A. Kelley,

Acting Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 99–26665 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6455–9; CWA–HQ–99–007]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding Western Wireless Corporation and VoiceStream Wireless Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with Western Wireless Corporation (''Western Wireless'') and VoiceStream Wireless Corporation (''VoiceStream Wireless'') to resolve violations of the Clean Water Act (''CWA''), and its implementing regulations. Western Wireless and VoiceStream Wireless failed to prepare Spill Prevention Control and Countermeasure (''SPCC'') plans for four facilities where they stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

DATES: Comments are due on or before November 12, 1999.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–1999–010, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Submit comments electronically to docket.oeca@epa.gov . Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Philip Milton, Multimedia Enforcement Division (2248-A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 564–2235; fax: (202) 564–0010; e-mail: milton.philip@epa.gov.

SUPPLEMENTARY INFORMATION: *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the **Federal Register**—Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

Western Wireless and VoiceStream Wireless, both located at 3650 131st Avenue, S.E., Suite 400, Bellevue, Washington 98006, disclosed, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations' (''Audit Policy''), 60 FR 66706 (December 22, 1995), that they failed to prepare SPCC plans for four facilities where they stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR Part 112. EPA determined that Western Wireless and VoiceStream Wireless met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($30,525) and proposed a settlement penalty amount one thousand, five hundred and ninety-three dollars ($1,593). This is the amount of the economic benefit gained by Western Wireless and VoiceStream Wireless, attributable to their delayed compliance with the SPCC regulations. Western Wireless and VoiceStream Wireless have agreed to pay this amount in civil penalties. EPA and Western Wireless and VoiceStream Wireless negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR. 22.13, on October 6, 1999 (*In Re: Western Wireless and VoiceStream Wireless,* Docket No. CWA-HQ–99–007). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j),

33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR Part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 12, 1999. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: October 6, 1999.

Melissa P. Marshall,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 99–26667 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6455–8 ; CWA–HQ–99–006]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding Paging Network Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with Paging Network Inc. (''PageNet'') to resolve violations of the Clean Water Act (''CWA''), and its implementing regulations. PageNet failed to prepare a Spill Prevention Control and Countermeasure (''SPCC'') plan for two facilities where it stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

DATES: Comments are due on or before November 12, 1999.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–1999–007, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M Street, SW Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Submit comments electronically to *docket.oeca@epa.gov*. Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Philip Milton, Multimedia Enforcement Division (2248–3A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 564–2235; fax: (202) 564–0010; e-mail: milton.philip@epa.gov.

SUPPLEMENTARY INFORMATION: *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the **Federal Register**—Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

PageNet, 14911 Quorum Drive, Dallas, Texas 75240, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations' (''Audit Policy''), 60 FR 66706 (December 22, 1995), disclosed to EPA that it failed to prepare SPCC plans for two facilities where it stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR Part 112. EPA determined that PageNet met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($15,090) and proposed a settlement penalty amount one thousand, seven hundred and ninety-four dollars ($1,794). This is the amount of the economic benefit gained by PageNet, attributable to its delayed compliance with the SPCC regulations. PageNet has agreed to pay this amount in civil penalties. EPA and PageNet negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR 22.13, on October 6, 1999 (*In Re: Paging Network, Inc.*, Docket No. CWA-HQ–99–006). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A) 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR Part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 12, 1999. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: October 6, 1999.

Melissa P. Marshall,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 99–26668 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6455–7; CWA–HQ–99–004]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding BellSouth Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with BellSouth Corporation (''BellSouth'') to resolve violations of the Clean Water Act (''CWA''), and its implementing regulations. BellSouth failed to prepare a Spill Prevention Control and Countermeasure (''SPCC'') plan for five (5) facilities where it stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

DATES: Comments are due on or before November 12, 1999.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–1999–008, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Submit comments electronically to *docket.oeca@epa.gov*. Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Davis Jones, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 564–6035; fax: (202) 564–0010; e-mail: jones.davis@epa.gov.

SUPPLEMENTARY INFORMATION: *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the **Federal Register**—Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

BellSouth Corporation, 1155 Peachtree Street, N.E., Suite 1700, Atlanta, GA 30309, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations' (''Audit Policy''), 60 FR 66706 (December 22, 1995), disclosed to EPA that it failed to prepare SPCC plans for five facilities where it stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR Part 112. EPA determined that BellSouth met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($14,643) and proposed a settlement penalty amount three thousand, three hundred and sixty-three dollars ($3,363). This is the amount of the economic benefit gained by BellSouth attributable to its delayed compliance with the SPCC regulations. BellSouth has agreed to pay this amount in civil penalties. EPA and BellSouth negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR 22.13, on September 30, 1999 (*In Re: BellSouth Corporation* Docket No. CWA–HQ–99–004). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR Part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 12, 1999. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: September 30, 1999.

Rosemarie A. Kelley,

Acting Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 99–26669 Filed 10–12–99; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 14, 1999, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Vivian L. Portis, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes
   1. September 29, 1999 (Closed); and
   2. September 30, 1999 (Open and Closed)

B. Reports
   1. Report on Regulatory Performance Plan;
   2. Sunset Law;
   3. Report on Credit Conditions and Flooding in North Carolina

Dated: October 7, 1999.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 99–26750 Filed 10–8–99; 11:19 am]

BILLING CODE 6705–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Application for Waiver of the two-year Foreign Residence Requirement of the Exchange Visitor Program—0990–0001—Extension—the application is used by institutions (colleges, hospitals, etc.) To request a favorable recommendation to the USIA for waiver of the two-year Foreign Residence Requirement of the Exchange Visitor Program on behalf of foreign visitors working in areas of interest to HHS. Respondents: Individuals, State or local governments, Businesses or other for-profit, non-profit institutions; Total Number of Respondents: 200; Frequency of Response: one time; Average Burden per Response: 6 hours; Estimated Annual Burden: 1200 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designate above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Hubert H. Humphrey Building, 200 Independence Ave SW, Washington, DC, 20201. Written comemtns should be received within 30 days of this notice.

Dated: October 4, 1999.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 99–26610 Filed 10–12–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Health Care Policy and Research (AHCPR) to request the Office of Management and Budget (OMB) to allow the proposed information collection project: 1999–2001 Medical Expenditure Panel Survey—Insurance Component (MEPS–IC). In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHCPR invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by December 13, 1999.

ADDRESSES: Written comments should be submitted to: Cynthia McMichael, Reports Clearance Officer, AHCPR, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

In accordance with the above cited legislation, comments on the AHCPR information collection proposal are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and costs) of the proposed collection 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 or other forms of information technology.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHCPR Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Cynthia McMichael, AHCPR Reports Clearance Officer, (301) 594–6659.

SUPPLEMENTARY INFORMATION:

Proposed Project

1999–2001 Medical Expenditure Panel Survey—Insurance Component (MEPS–IC).

The MEPS–IC, an annual survey of the characteristics of employer-sponsored health insurance, was first conducted by AHCPR in 1997, seeking data pertaining to the calendar year 1996. The survey has since been conducted annually for calendar years 1997 and 1998. AHCPR proposes to continue this annual survey of establishments for calendar years 1999 through 2001. The survey data for calendar year 1999 will be collected in 2000. Likewise, calendar year 2000 data will be collected in 2001 and calendar year 2001 data in 2002. The survey will collect information from both public and private employers.

This survey will be conducted for AHCPR by the Bureau of the Census using a sample comprised of:

1. Employers selected from Census Bureau lists of private sector employers and government employers (known as the List Sample); and

2. Employers identified by respondents to the MEPS-Household Component (MEPS–HC) for the same calendar year (known as the Household Sample). The MEPS–HC is an annual household survey designed to collect information concerning health care expenditures and related data for individuals.

Data to be collected from each employer will include a description of the business (*e.g.*, size, industry) and descriptions of health insurance plans available, plan enrollments, total plan costs and costs to employees.

Data Confidentiality Provisions

MEPS–IC List Sample data confidentiality is protected under section 9 of Title 13, United States Code (the U.S. Census Bureau statute). MEPS–IC Household Sample data confidentiality is protected under sections 308(d) and 903(c) of the Public Health Service Act (42 U.S.C. 242m and 42 U.S.C. 299a–1). Section 308(d), the confidentiality statute of the National Center for Health Statistics, is applicable because the MEPS–HC sample is derived from respondents of an earlier NCHS survey. Section 903(c) is the confidentiality statute of AHCPR. All data products listed below must fully comply with the data confidentiality statute under which the raw data was collected.

Data Products

Data will be produced in three forms: (1) Files derived from the Household

Sample, which can be linked back to other information from household respondents in the MEPS–HC; (2) files containing employer information from the List Sample (available for use by researchers at the Census Bureau's Research Data Centers); and (3) a large compendium of tables of estimates based on the List Sample (available on the AHCPR website). These tables will contain descriptive statistics, such as, numbers of establishments offering health insurance, average premiums, average contributions, total enrollments, numbers of self insured establishments and other related statistics for a large number of population subsets defined by firm size, state, industry and establishment characteristics, such as, age, profit/nonprofit status and union/nonunion.

The data are intended to be used for purposes such as:

- Generating national and State estimates of employer health care offerings;
- Producing estimates to support the Bureau of Economic Analysis within the Department of Commerce and the Health Care Financing Administration in their respective calculations of health care expenditures for the Gross Domestic Product and National Health Accounts (annual totals for various categories of health care expenditures for the United States);
- Producing national and State estimates of spending on employer-sponsored health insurance to study the results of national and State health care policies;
- Supplying data for modeling the demand for health insurance; and
- Providing data on health plan choices, costs, and benefits that can be linked back to households' use of health care resources as were reported in the MEPS–HC survey for studies of the consumer health care selection process.

These data will provide the basis for researchers to address important questions for the benefit of employers and policymakers alike.

Method of Collection

The data will be collected using a combination of modes. the Census Bureau's first contact with employers will be made by telephone. This contact will provide information on the availability of health insurance from that employer and essential persons to contact. Based upon this information, Census will mail a questionnaire to the employer. In order to assure high response rates, Census will follow-up with a second mailing at an acceptable interval, followed by a telephone call to collect data from those who have not responded by mail. For large organizational respondents with high burdens, such as State employers and very large firms, Census will, if needed, perform personal visits and do customized collection, such as, acceptance of data in computerized formats and use of special forms.

ESTIMATED ANNUAL RESPONDENT BURDEN

Annual number of respondents	Estimated time per respondent (in hours)	Estimated total annual burden hours	Estimated annual cost to the Government
33,839	.5	19,369	$7,000,000

Estimates of annual respondent burden are based upon experience from collection of the previous three MEPS–IC surveys.

Dated: October 1, 1999.

John M. Eisenberg,

Administrator.

[FR Doc. 99–26597 Filed 10–12–99; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Voting Members on Public Advisory Panels or Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on certain device panels of the Medical Devices Advisory Committee, the National Mammography Quality Assurance Advisory Committee, and the Technical Electronic Product Radiation Safety Standards Committee in the Center for Devices and Radiological Health (CDRH). Nominations will be accepted for current vacancies and for those that will or may occur through August 31, 2000.

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees and, therefore, encourages nominations of qualified candidates from these groups.

DATES: Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. However, when possible, nominations should be received at least 6 months before the date of scheduled vacancies for each year, as indicated in this notice.

ADDRESSES: All nominations and curricula vitae for the device panels should be sent to Nancy J. Pluhowski, Advisory Panel Coordinator, Office of Device Evaluation (HFZ–400), CDRH, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850.

All nominations and curricula vitae for the National Mammography Quality Assurance Advisory Committee should be sent to Charles A. Finder, CDRH (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850.

All nominations and curricula vitae for government and industry representatives for the Technical Electronic Product Radiation Safety Standards Committee should be sent to Orhan H. Suleiman, CDRH (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850.

All nominations and curricula vitae for general public representatives for the Technical Electronic Product Radiation Safety Standards Committee should be sent to Annette Funn, Office of Consumer Affairs (HFE–88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Walker, CDRH (HFZ–17), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1283, ext. 114.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations of voting members for vacancies listed below.

1. *Circulatory System Devices Panel*: Three vacancies occurring June 30, 2000; interventional cardiologists, electrophysiologists, invasive (vascular) radiologists, vascular and cardiothoracic

surgeons, and cardiologists with special interest in congestive heart failure.

2. *Clinical Chemistry and Clinical Toxicology Devices Panel*: Three vacancies occurring February 28, 2000; doctors of medicine or philosophy with experience in clinical chemistry, clinical toxicology, clinical pathology, clinical laboratory medicine, endocrinology or oncology.

3. *Dental Products Panel*: One vacancy immediately, one vacancy occurring October 31, 1999; dentists who have expertise in the areas of lasers, endosseous implants, temporomandibular joint implants, dental materials and/or endodontics; or experts in bone physiology relative to the oral and maxillofacial area.

4. *Ear, Nose, and Throat Devices Panel*: One vacancy occurring October 31, 1999; audiologists, otolaryngologists, neurophysiologist, statisticians, or electrical or biomedical engineers.

5. *General and Plastic Surgery Devices Panel*: One vacancy immediately; general surgeons, plastic surgeons, biomaterials experts, laser experts, wound healing experts or endoscopic surgery experts.

6. *General Hospital and Personal Use Devices Panel*: One vacancy immediately, one vacancy occurring December 31, 1999; internists, pediatricians, neonatologists, gerontologists, nurses, biomedical engineers or microbiologists/infection control practitioners or experts.

7. *Hematology and Pathology Devices Panel*: Two vacancies occurring February 28, 2000; cytopathologists and histopathologists; hematologists (blood banking, coagulation and hemostasis); molecular biologists (nucleic acid amplification techniques), and hematopathologists (oncology).

8. *Immunology Devices Panel*: Three vacancies occurring February 28, 2000; persons with experience in medical, surgical, or clinical oncology, internal medicine, clinical immunology, allergy, molecular diagnostics, or clinical laboratory medicine.

9. *Microbiology Devices Panel*: One vacancy occurring February 28, 2000; infectious disease clinicians, e.g., pulmonary disease specialists, sexually transmitted disease (STD) specialists, pediatric infectious disease specialists; clinical microbiologists; clinical microbiology laboratory directors, clinical virologists with expertise in clinical diagnosis and in vitro diagnostic (IVD) assays, e.g., hepatologists; molecular biologists; and clinical oncologists experienced with antitumor resistance and susceptibility.

10. *Obstetrics and Gynecology Devices Panel*: One vacancy occurring January 31, 2000; experts in reproductive endocrinology, endoscopy, electrosurgery, laser surgery, assisted reproductive technologies, and contraception; biostatisticians and engineers with experience in obstetrics/gynecology devices; urogynecologists; experts in breast care; and experts in gynecology in the older patient.

11. *Ophthalmic Devices Panel*: One vacancy occurring October 31, 1999; ophthalmologists specializing in refractive surgery, vitreo-retinal surgery, and the treatment of glaucoma; vision scientists and electrophysiologists.

12. *Orthopaedic and Rehabilitation Devices Panel*: One vacancy immediately; one vacancy occurring August 31, 2000; doctors of medicine or philosophy with experience in tissue engineering, calcification or biomaterials; orthopedic surgeons experienced with prosthetic ligament devices, joint implants, or spinal instrumentation; physical therapists experienced in spinal cord injuries, neurophysiology, electrotherapy, and joint biomechanics; rheumatologists; or biomedical engineers.

13. *Radiological Devices Panel*: Two vacancies occurring January 31, 2000; physicians and scientists with expertise in nuclear medicine, diagnostic or therapeutic radiology, mammography, thermography, transillumination, hyperthermia cancer therapy, bone densitometry, magnetic resonance, computed tomography, or ultrasound.

14. *National Mammography Quality Assurance Advisory Committee*: Three vacancies occurring January 31, 2000; physicians, practitioners, and other health professionals whose clinical practice, research specialization, or professional expertise include a significant focus on mammography.

15. *Technical Electronic Product Radiation Safety Standards Committee*: Five vacancies occurring December 31, 1999; two government representatives, one industry representative, and two general public representatives.

Functions

Medical Devices Panels

The functions of the panels are to: (1) Review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation; (2) advise the Commissioner of Food and Drugs regarding recommended classification or reclassification of these devices into one of three regulatory categories; (3) advise on any possible risks to health associated with the use of devices; (4) advise on formulation of product development protocols; (5) review premarket approval applications for medical devices; (6) review guidelines and guidance documents; (7) recommend exemption to certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act (the act); (8) advise on the necessity to ban a device; (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices; and (10) make recommendations on the quality in the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

The Dental Products Panel also functions at times as a dental drug panel. The functions of the drug panel are to: (1) Evaluate and recommend whether various prescription drug products should be changed to over-the-counter status; and (2) evaluate data and make recommendations concerning the approval of new dental drug products for human use.

National Mammography Quality Assurance Advisory Committee

The functions of the committee are to advise FDA on: (1) Developing appropriate quality standards and regulations for mammography facilities; (2) developing appropriate standards and regulations for bodies accrediting mammography facilities under this program; (3) developing regulations with respect to sanctions; (4) developing procedures for monitoring compliance with standards; (5) establishing a mechanism to investigate consumer complaints; (6) reporting new developments concerning breast imaging which should be considered in the oversight of mammography facilities; (7) determining whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determining the effects of personnel on access to the services of such facilities in such areas; (8) determining whether there will exist a sufficient number of medical physicists after October 1, 1999; and (9) determining the costs and benefits of compliance with these requirements.

Technical Electronic Product Radiation Safety Standards Committee

The function of the committee is to provide advice and consultation on the technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation from such products. The committee may recommend electronic product radiation safety standards for consideration.

Section 534(f) of the act (21 U.S.C. 360kk(f)), as amended by the Safe Medical Devices Act of 1990, provides that the Technical Electronic Product Radiation Safety Standards Committee include five members from governmental agencies, including State or Federal Governments, five members from the affected industries, and five members from the general public, of which at least one shall be a representative of organized labor.

Qualifications

Medical Device Panels

Persons nominated for membership on the panels shall have adequately diversified experience appropriate to the work of the panel in such fields as clinical and administrative medicine, engineering, biological and physical sciences, statistics, and other related professions. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the panel. The particular needs at this time for each panel are shown above. The term of office is up to 4 years, depending on the appointment date.

National Mammography Quality Assurance Advisory Committee

Persons nominated for membership should be physicians, practitioners, and other health professionals, whose clinical practice, research specialization, or professional expertise include a significant focus on mammography and individuals identified with consumer interests. Prior experience on Federal public advisory committees in the same or similar subject areas will also be considered relevant professional expertise. The particular needs are shown above. The term of office is up to 4 years, depending on the appointment date.

Technical Electronic Product Radiation Safety Standards Committee

Persons nominated must be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety. The particular needs are shown above. The term of office is up to 4 years, depending on the appointment date.

Nomination Procedures

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory panels or advisory committees. Self-nominations are also accepted. Nominations shall include a complete curriculum vitae of each nominee, current business address and telephone number, and shall state that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest.

Consumer/General Public Representatives

Any interested person may nominate one or more qualified persons as a member of a particular advisory committee to represent consumer interests as identified in this notice. To be eligible for selection, the applicant's experience and/or education will be evaluated against Federal civil service criteria for the position to which the person will be appointed.

Selection of members representing consumer interests is conducted through procedures which include use of a consortium of consumer organizations which has the responsibility for recommending candidates for the agency's selection. Candidates should possess appropriate qualifications to understand and contribute to the committee's work.

Nominations shall include a complete curriculum vita of each nominee and shall state that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest. The nomination should state whether the nominee is interested only in a particular advisory committee or in any advisory committee. The term of office is up to 4 years, depending on the appointment date.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14 relating to advisory committees.

Dated: September 30, 1999.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 99–26640 Filed 10–12–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–297]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Existing collection in use without an OMB control number;

Title of Information Collection: Request for Employment Information;

Form No.: HCFA–R–297 (OMB# 0938–NEW);

Use: This form is needed to determine whether a beneficiary can enroll in Part B Medicare and/or qualify for premium reduction. This form is used by the Social Security Administration to obrain information from employers regarding whether a Medicare beneficiary's coverage under a group health plan is based on current employment;

Frequency: On occasion;

Affected Public: Business or other for-profit;

Number of Respondents: 5,000;

Total Annual Responses: 5,000;

Total Annual Hours: 750.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 4, 1999.

John Parmigiani,

Manager, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–26696 Filed 10–12–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1999.

Name: National Advisory Council on Nurse Education and Practice (NACNEP).

Date and Time: November 3, 1999; 8:30 a.m.–5:00 p.m.; November 4, 1999; 8:30 a.m.–3:00 p.m.

Place: Hubert H. Humphrey Building, 200 Independence Avenue, SW, Room 505A, Washington, DC 20201.

The meeting is open to the public.

Agenda: Updates on and discussion of Agency, Bureau, and Division activities, and the legislative and budget status of programs; review of the National Agenda for Nursing Workforce Diversity draft; continuation of Council strategic planning process; update on funding allocation methodology; and presentation of exemplary practices supported by Title VIII.

Anyone interested in obtaining a roster of members, minutes of the meeting, or other relevant information should write or contact Ms. Elaine G. Cohen, Executive Secretary, National Advisory Council on Nurse Education and Practice, Parklawn Building, Room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–5786.

Dated: October 5, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–26609 Filed 10–12–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Publication of the OIG Special Advisory Bulletin on the Effect of Exclusion From Participation in Federal Health Care Programs

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Correction notice.

On September 30, 1999, the OIG published a notice in the **Federal Register** (64 FR 52791) setting forth the recently-issued Special Advisory Bulletin addressing the effect of an OIG exclusion on an individual's or entity's participation in the Federal health care programs. In that notice, on page 52792, the first column, an inadvertent error was made in citing the title heading in section II. As corrected, the title heading for section II. should read as follows:

"II. Special Advisory Bulletin: Effect of Exclusion From Participation in Federal Health Care Programs"

Dated: October 6, 1999.

Joel Schaer,

OIG Regulations Officer.

[FR Doc. 99–26626 Filed 10–12–99; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Public Advisory Group; Meeting

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group.

DATES: October 26, 1999, at 9:00 a.m.

ADDRESSES: Fourth floor conference room, 645 "G" Street, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 "C" Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The agenda will include discussions about the draft Gulf Ecosystem Monitoring plan, small parcel acquisitions, and Cook Inlet data management.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 99–26627 Filed 10–12–99; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Extension of Public Comment Period on Applications for Incidental Take Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Due to the recent relocation of our Sacramento Fish and Wildlife Office, the Fish and Wildlife Service is extending the public comment period on three related applications for incidental take permits pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended. These permit applications, from the Arnaudo Brothers, Wathen-Castanos, and Kaufman and Broad, were noticed in the **Federal Register** on September 3, 1999 (64 FR 48412) with an October 4, 1999 closing date for receipt of comments. The Service is extending the comment period by 2 weeks.

DATES: Written comments on these applications should be received on or before October 18, 1999.

ADDRESSES: Comments should be addressed to the Field Supervisor, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825. Comments may be sent by facsimile to 916–414–6710.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Chrisney, Fish and Wildlife Biologist, at the above address (telephone: 916–414–6600).

Dated: October 5, 1999.

Elizabeth H. Stevens,

Deputy Manager, California/Nevada Operations Office.

[FR Doc. 99–26631 Filed 10–12–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Final Comprehensive Management Plan and Environmental Assessment for the Tijuana Slough National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is proposing to implement the Comprehensive Management Plan for the Tijuana Slough National Wildlife Refuge. Based on an evaluation of an Environmental Assessment, it was determined that the implementation of the Comprehensive Management Plan is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, preparation of an environmental impact statement on the proposed action is not required.

The purpose of the Comprehensive Management Plan is to guide Refuge management decisions and to identify strategies to meet the goals and objectives of the Tijuana Slough Refuge and National Wildlife Refuge System. The Comprehensive Management Plan addresses the following management issues, functions, and programs: administrative framework; resources protection, management, and restoration; research and monitoring; education and interpretation; public involvement, use, and access; facilities development; appropriate and compatible Refuge uses determination; and watershed coordination between the United States and Mexico.

The Environmental Assessment evaluates the alternatives and analyzes the environmental effects of implementing the Comprehensive Management Plan. The two alternatives evaluated in the Environmental Assessment provide different levels of wildlife management and visitor services opportunities. The Service selected Alternative A which would implement the Comprehensive Management Plan to provide increased levels of wildlife management and visitor services and determined that implementation of this alternative would not have a significant impact upon the quality of the human environment.

ADDRESSES: Documents are available for public inspection at the San Diego National Wildlife Refuge Complex, 2736 Loker Avenue West, Suite A, Carlsbad, CA 92008, phone (760) 930–0168, Tijuana Slough National Wildlife Refuge, 301 Caspian Way, Imperial Beach, CA 91932, phone (619) 575–2704, and U.S. Fish and Wildlife Service, Refuges and Wildlife, Division of Refuge Planning, 911 NE 11th Avenue, Portland, OR 97232, phone (503) 231–2231. These documents are also available at www.r1.fws.gov/planning/plnhome.html/.

SUPPLEMENTARY INFORMATION:

Background Information

The Tijuana Slough Refuge provides habitat for several endangered, threatened, and migratory species. The salt marsh, tidal channels, mudflats, sand beaches, and dunes provide habitat for the endangered light-footed clapper rail, endangered California least tern, endangered brown pelican, endangered salt marsh bird's beak, threatened western snowy plover, State-endangered Belding's savannah sparrow, and many species of migratory shorebirds and waterfowl. The riparian woodlands provide habitat for the endangered least Bell's vireo, endangered southwestern willow flycatcher, and many species of migratory birds.

Two alternatives are analyzed in the Environmental Assessment. Alternative A (selected alternative) would implement increased levels of both wildlife management and visitor services at the Tijuana Slough Refuge. Alternative B (no action) would implement existing levels of wildlife management and visitor services at the Tijuana Slough Refuge. The Environmental Assessment also analyzes the environmental effects of (1) predator management, (2) construction of new office and classroom space, (3) acquisition of additional lands along Sea Coast Drive, (4) annual sand dune maintenance, (5) relocation of damaged trails in the Tijuana River Floodplain, and (6) emergency dredging of the mouths of Oneonta Slough and Tijuana River.

The environmental review of the Refuge Comprehensive Management Plan and associated Environmental Assessment was conducted in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA regulations (40 CFR parts 1500–1508), National Wildlife Refuge System Administration Act of 1966 as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd *et seq.*), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

Dated: October 5, 1999.

Elizabeth H. Stevens,

Acting Manager, California/Nevada Operations.

[FR Doc. 99–26630 Filed 10–12–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–320–1820–XQ]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Northeast California Resource Advisory Council, Cedarville, California.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Public Law 92–463) and the Federal Land Policy and Management Act (Public Law 94–579), the U.S. Bureau of Land Management's Northeast California Resource Advisory Council will meet Friday, Nov. 12, 1999, at the Fellowship Hall of the Cedarville Community Church, corner of Center and Bonner Streets, Cedarville, California.

SUPPLEMENTARY INFORMATION: The meeting begins at 10 a.m. Agenda items include an update on Grass Banking, a status report on a proposal to list the sage grouse under the Endangered Species Act, and a report from the council's off highway vehicle working group. The council will also hear reports on the status of a proposal to designate a National Conservation Area in parts of the Black Rock Desert and High Rock Canyon, and discuss possible work on developing land use guidelines for rangeland uses other than livestock grazing. Time will be set aside at 1 p.m. for public comments. Depending on the number of persons wishing to speak, a time limit may be established.

FOR FURTHER INFORMATION CONTACT: BLM Alturas Field Manager Tim Burke at (530) 257–4666.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 99–26632 Filed 10–12–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet on October 28, 1999, to discuss CALFED plannning and implementation, governance and ecosystem restoration. This meeting is open to the public. Interested persons may make oral statements to BDAC or may file written statements for consideration.

DATES: The BDAC meeting will be held from 9 a.m. to 5 p.m. on Thursday, October 28, 1999.

ADDRESSES: The BDAC will meet at the Veteran's Memorial Center, 203 East 14th Street, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Eugenia Laychak, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice to CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: October 5, 1999.

Kirk Rodgers,

Acting Regional Director, Mid-Pacific Region.

[FR Doc. 99–26629 Filed 10–12–99; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–409]

Notice of Commission Determination Not To Review an Initial Determination Declassifying a Motion

In the Matter of Certain CD–ROM Controllers and Products Containing the Same—II.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') of August 31, 1999, declassifying a motion in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–3096. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 13, 1998, based on a complaint filed by Oak Technology, Inc. (''Oak''). 63 FR 26625 (1998). The complaint named four respondents: MediaTek, Inc., United Microelectronics Corporation (''UMC''), Lite-On Technology Corp., and AOpen, Inc. Actima Technology Corporation, ASUSTek Computer, Incorporated, Behavior Tech Computer Corporation, Data Electronics, Inc., Momitsu Multi Media Technologies, Inc., Pan-International Industrial Corporation, and Ultima Electronics Corporation were permitted to intervene in the investigation.

In its complaint, Oak alleged that respondents violated section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, by importing into the United States, selling for importation, and/or selling in the United States after importation electronic products and/or components that infringe claims of U.S. Letters Patent 5,581,715.

On August 10, 1999, the ALJ issued a recommended determination (''RD'') in which he recommended that the Commission impose sanctions on complainant Oak and its legal counsel, the law firm of Howrey & Simon (''Howrey''), for violation of Commission rule 210.4 (19 CFR 210.4). Oak and Howrey subsequently moved the ALJ to delay issuance of the public version of the sanctions RD until the Commission had had an opportunity to determine whether to adopt it. The ALJ denied the Oak/Howrey motion in Order No. 18 issued on August 31, 1999. Included in Order No. 18 was an ID (Order No. 18, p. 2, fn. 1) declassifying the Oak/Howrey motion. No petitions for review of the ID were filed.

This action is taken under the authority of section 337 and section 210.42 of the Commission's Rules of Practice and Procedure, 19 CFR 210.42.

Copies of the public version of the subject ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–2000.

By order of the Commission.

Issued: October 6, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–26684 Filed 10–12–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–422]

Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation as to One Respondent on the Basis of a Consent Order; Issuance of Consent Order

In the Matter of Certain Two-Handle Centerset Faucets and Escutcheons, and Components Thereof.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the initial determination (''ID'') of the presiding administrative law judge (''ALJ'') granting the joint motion of complainant Moen Incorporated (''Moen'') and respondent Hometek International Group (''Hometek'') to terminate the above-captioned investigation as to Hometek on the basis of a consent order.

FOR FURTHER INFORMATION: Contact Michael Diehl, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3095. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On June 11, 1999, the Commission instituted this investigation based on a complaint filed by Moen, alleging a violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain two-handle centerset faucets and escutcheons and components thereof by reason of infringement of U.S. Letters Patent Des. 347,466. 64 FR 32522 (June 17, 1999). Five firms were named as respondents: Hometek, Foremost International Group, Chung Cheng Faucet Co. Ltd., Lota International Co. Ltd., and Sisco, Inc.

On August 9, 1999, complainant Moen and respondent Hometek filed a joint motion to terminate the investigation as to Hometek on the basis of a consent order stipulation and proposed consent order. The Commission investigative attorney supported the motion. No other party responded to the motion.

On September 7, 1999, the ALJ issued an ID (Order No. 6) terminating the investigation as to Hometek based on the joint stipulation and proposed consent order. No party petitioned for review of the ID pursuant to 19 CFR 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 CFR 210.44. The ID thus became the determination of the Commission pursuant to 19 CFR 210.42(h)(3).

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

By order of the Commission.

Issued: October 6, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–26685 Filed 10–12–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–204–2]

Notice of Commission Determination To Conduct a Portion of the Hearing In Camera

In the Matter of Wheat Gluten.

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of counsel for the Wheat Gluten Industry Council and counsel for the Association des Amidonneries de Cereales de L'UE, the Commission has determined to conduct a portion of its hearing in the above-captioned investigation scheduled for October 7, 1999, *in camera.* See Commission rules 201.13(m) and 201.35(b)(3) (19 CFR 201.13(m) and 201.35(b)(3)). The remainder of the hearing will be open to the public. The Commission has determined that the seven-day advance notice of the change to a meeting was not possible. *See* Commission rule 201.35 (a), (c)(1) (19 CFR 201.35 (a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: William Gearhart, Office of General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–3091, e-mail wgearhart@usitc.gov. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes that counsel for the two parties have justified the need for a closed session. They seek a closed session to provide a full discussion of information relating to new products and industry adjustment efforts and certain customer information. Because such discussions will necessitate disclosure of confidential business information (CBI), they can only occur if a portion of the hearing is held in camera. In making this decision, the Commission nevertheless reaffirms its belief that whenever possible its business should be conducted in public.

The hearing will include the usual public presentations by parties, with questions from the Commission. In addition, the hearing will include in camera sessions for confidential presentations by the two parties and for questions from the Commission relating to the CBI. For any in camera session the room will be cleared of all persons except for those company officials and their counsel who are authorized to have access to the CBI at issue. See 19 CFR 201.35(b) (1), (2). The time for the parties' presentations in the in camera session will be taken from their respective overall allotments for the hearing. All persons planning to attend the in camera portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in Inv. No. TA–204–2, Wheat Gluten, may be closed to the public to prevent the disclosure of CBI.

By order of the Commission.

Issued: October 5, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–26683 Filed 10–12–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 16, 1999, and published in the **Federal Register** on July 29, 1999, (63 FR 40542), American Radiolabeled Chemical, Inc., 11624 Bowling Green Drive, St. Louis, Missouri 63146, made application by

letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dimethyltryptamine (7435)	I
Dihydromorphine (9145)	I
Cocaine (9041)	II
Codeine (9050)	II
Benzoylecgonine (9180)	II
Meperidine (9230)	II
Metazocine (9240)	II
Morphine (9300)	II
Oxymorphone (9652)	II

The firm plans to bulk manufacture small quantities of the listed controlled substances as radiolabeled compounds.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of American Radiolabeled Chemical, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated American Radiolabeled Chemical, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 1, 19999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 99–26599 Filed 10–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of controlled Substances; Notice of Registration

By Notice dated June 23, 1999, and published in the **Federal Register** on July 7, 1999, (64 FR 36716), Applied Science Labs, Inc., A Division of Altech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Heroin (9200)	I
Cocaine (9041)	II
Codeine (9050)	II
Meperidine (9230)	II
Methadone (9250)	II
Morphine (9300)	II

The firm plans to import these controlled substances for the manufacture of reference standards.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Applied Science Labs, Inc. to import the listed controlled substances in consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Applied Science Labs, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1201.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: October 1, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 99–26600 Filed 10–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer or Controlled Substances; Notice of Registration

By Notice dated June 22, 1999, and published in the **Federal Register** on June 29, 1998 (64 FR 31825), Applied Science Labs, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Scheduel
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N, N-Dimethylamphetamine (1480).	I
4-Methylaminorex (cis isomer) (1590).	I
Lysergic acid diethylamide (7315	I
Mescalien (7381)	I
3, 4-Methylnedioxyamphetamine (7400).	I
N-Hydroxy-3, 4-methylenedioxyamphetamine (7402).	I
3, 4-Methylenedioxy-N-ethylamphetamien (7404.	I
3, 4-Methylenedioxymethamphetamine (7405).	I
N-Ethyl-1-phenycyclohexylamine (7455).	I
1-(1-Phenylcyclohexyl) pyrrolidine (7458).	I
1-[1-(2-Thienyl) cyclohexyl]piperidine (7470).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1- Piperidinocyclohexane-carbonitrile (8603).	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoylecgonine (9180)	II
Morphine (9300)	II
Noroxymorphone (9668)	II

The firm plans to manufacture small quantities of the listed controlled substances for reference standards.

No comments or objections were received. DEA has considered the factor sin Title 21, Untied States Code, Section 823(a) and determined that the registration of Applied Science Labs to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Applied Science Labs on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above

firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 1, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 99–26601 Filed 10–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Registration

By Notice dated July 1, 1999, and published in the **Federal Register** on August 2, 1999, (64 FR 41969), Calbiochem-Novabiochem Corporation, 10394 Pacific Center Court, Attn: Receiving Inspector, San Diego, California 92121–4340, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances to make reagents for distribution to the biomedical research community.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Calbiochem-Novabiochem Corporation is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: October 1, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–26602 Filed 10–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 16, 1999, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of methamphetamine (1105), a basic class of controlled substance listed in Schedule II.

The firm plans to bulk manufacture methamphetamine to produce products for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

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, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 13, 1999.

Dated: October 1, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–26604 Filed 10–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 23, 1999, and published in the **Federal Register** on July 7, 1999, (64 FR 36717), Damocles10, 3529 Lincoln Highway, Thorndale, Pennsylvania 19372, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine-N-oxide (9053)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Codeine (9050)	II
Morphine (9300)	II

The firm plans to manufacture the listed controlled substances for the purpose of deuterium labeled internal standards for distribution to analytical laboratories.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Damocles10 to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Damocles10 on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 1, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–26603 Filed 10–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (12 U.S.C. 958(i)), the

Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 19, 1999, Fort Dodge Laboratories, Inc., 141 E. Riverside Drive, Fort Dodge, Iowa 50501, made application by renewal to the Drug Enforcement Administration to be registered as an importer of pentobarbital (2270), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture a product for distribution to its customers.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing 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 (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: October 1, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–26605 Filed 10–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 9, 1999, Irix Pharmaceuticals, Inc., 101 Technology Place, Florence, South Carolina 29501, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture methylphenidate for demonstration purposes and for dosage form development and stability studies.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

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, DC 20537, Attention: DEA **Federal Register** Representative (CCR), and must be filed no later than December 13, 1999.

Dated: October 1, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 99–26606 Filed 10–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY 2000 for a cooperative agreement to develop the training curriculum, How to Develop Management Training.

The National Institute of Corrections (NIC) invites applications for a cooperative agreement to develop a standard, core curriculum for training persons responsible for the development of management training for supervisors and administrators within juvenile corrections and detention settings. To enable the Institute to offer state-of-the-art guidance for the development of management training, the award recipient will develop a 32-hour training curriculum including an instructors' guide with lesson plans, computer-generated view graphs to support the curriculum, and participant manual. The 32-hour curriculum will provide juvenile corrections and detention trainers multiple development and delivery methods and strategies to construct management training within their agencies that will equip managers with the core competencies to perform effectively. (It is not within the scope of this cooperative agreement to provide piloting or direct delivery of the curriculum.)

The award recipient will become familiar with the management and leadership training programs currently being offered at NIC. The recipient will utilize this information, as well as contribute to the development of new information on management practices most desirable in today's rapidly changing juvenile corrections and detention environment.

As a collaborative venture with the NIC Academy Division, the recipient will develop training outcomes for the project in partnership with the NIC project manager. Funding for this cooperative agreement comes from an Interagency Agreement (IAA) between the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and NIC. A total of $30,000 is reserved for the project which will support one cooperative agreement for a 6-month period. The recipient of the award will be selected through a competitive solicitation process. Steven Swisher is the designated NIC project manager.

Background

Well-trained, effective managers and leaders within juvenile corrections and detention agencies have been a focus of the training and services the NIC has provided through an IAA with OJJDP over the past nine years. As a part of that IAA and as a result of a national juvenile training needs assessment conducted in the fall of 1998, curricula and services for training staff continue to be identified as critical in capacitating juvenile correctional and detention agencies to develop and sustain effective management and

leadership within their organizations. Through this work, NIC and OJJDP recognize the need for a training curriculum that specifically addresses the development of training for training staff charged with management training within their organization.

Purpose

This project is intended to provide juvenile corrections and detention training persons with:

- A training curriculum that provides trainers with an in-depth understanding and skills to develop dynamic and versatile management training for staff within their agencies.
- An interactive training format minimally using an instructor's guide, computer-generated view graphs to support the curriculum content and a participant manual with a record of core principles, practices, and methods learned in the training experience.

Project Content

The award recipient will propose strategies and effective models for developing and implementing management training in juvenile corrections and detention settings. The award recipient will develop modules addressing current and future core competencies that would support effective management practices. The recipient will also develop modules to address innovative training delivery strategies juvenile agencies can utilize to overcome existing barriers such as lack of resources or expertise, among others, to meet their management training needs.

Required Activities

- Consult with the NIC Academy Correctional Program Specialist on an agreed time line to assure progress and understanding of the scope of work.
- Conduct a preliminary review of the National Juvenile Justice Training Needs Assessment Proceedings, November 1998.
- Throughly review any other existing training materials developed by NIC, OJJDP or other agencies for relevant parts that could be re-written for application to this project.
- Using the Course Title, Description, Objectives and other relevant information, conduct and facilitate necessary planning meetings with content experts (selected with input from CPS) to generate the framework, concepts, modules, content, strategies and performance objectives. (All of above is subject to final approval by CPS. Final curriculum Title, Course Description and Objectives will be developed collaboratively with the CPS).
- Assign and coordinate writing, development and revisions of the modules and content areas for the curriculum, including multi-media materials.
- Develop, edit, revise, format, and package curriculum, lesson plans, computer-generated view graphs, audiovisual aids and other course material. The package will include an Instructors Guide/Manual, Participant Manual, and any other supporting materials for the curriculum. Each phase of the training instruction will have a separate, tabbed section in the manual. The first page of each section of the materials should set forth the performance objectives for the module. Pages within the section should be consecutively numbered in the order in which they will be used during the training following the NIC-recommended numbering formula.
- Obtain written permission from the publisher to duplicate any copyrighted materials.
- Research, develop, procure and provide strategies, multi-media and written materials to demonstrate recent developments in management and leadership theory and training.
- Acquire, review, and incorporate relevant and current leadership and management materials.
- Submit preliminary draft for review by CPS project manager per the specified time line. Make revisions and submit second draft if requested.
- Prepare all materials using WordPerfect 7.0 or higher word processing software and Corel Presentations (visuals) and submit final copies of all materials on 3.5″ computer disks (or zip drive disks) and in ''camera ready'' hard copy format (2 paper copies).
- Submit the curriculum package to the CPS project manager for final approval.

Curriculum requirements

- All material must be submitted in hard copy that is ''camera ready'' and on 3.5″ computer disk (or zip drive disks).
- Wordperfect 7.0 or higher must be the software used in an IBM compatible computer with Windows operating system. All visuals must be created using Corel Presentation software.
- All lesson plans shall conform to the Instructional theory Into Practice (ITIP) standards (see attached sample). They must be in the NIC Academy format, using a narrative script and trainer notes, and incorporate the critical elements of ITIP lesson design. Lesson plans, handouts and view graphs are to be in a consistent format throughout the curriculum. Each module should follow the Module Framework, with appropriate and accurate identification, numbering and sequencing.
- Each module should be a complete package; that is, it should include all materials necessary to teach that module, including a separate and independent delivery based on a special or unique request for that specific module.
- All material produced shall become the property of the U.S. Government and shall be delivered to NIC upon completion of this project.

Authority: Pub. L. 93–415.

Funds Available

The award will be limited to a maximum total of $30,000 (direct and indirect costs) and project activity must be completed within 6 months of the date of the award. Funds may only be used for the activities that are linked to the desired outcomes of the project.

All products from this funding effort will be in the public domain and available to interested agencies through the National Institute of Corrections.

Deadline for Receipt of Applications

Applications must be received by 4:00 p.m. on Monday, November 15, 1999. They should be addressed to: National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534, Attention: Administrative Officer. Hand delivered applications can be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information

Requests for the application kit, which consists of a copy of this announcement and copies of the required forms, should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling (800) 995–6423, extension 159 or (202) 307–3106, extension 159. She can be contacted by E-mail via *jevens@bop.gov*. All technical and/or programmatic questions concerning this announcement should be directed to Steve Swisher at the National Institute of Corrections, 1960 Industrial Circle, Suite A, Longmont, Colorado 80501, or by calling (800) 995–6429, extension 126, or by E-mail via *sswisher@bop.gov*. Application forms may also be obtained through the NIC website: *http://www.nicic.org*. (Click on ''What's New'' and ''cooperative agreements''.)

Eligible Applicants

An eligible applicant is any private or non-profit organization, institution, individual, or team with expertise in the instructional design of training, computer-generated audio-visual training aids, and related training materials.

Review Considerations

Applications received under this announcement will be subjected to an NIC three-to-five-member Peer Review Process.

Number of Awards: One (1).

NIC Application Number: (00A10) this number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424.

(The Catalog of Federal Domestic Assistance number is: 16.601.)

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 99–26680 Filed 10–12–99; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 5, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills (202 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 (202 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration.

Title: Forms for Agricultural Recruitment System of Service to Migratory Workers and Their Employers Application for Alien Employment Certification.

OMB Number: 1205–0134.

Frequency: On occasion.

Affected Public: State, Local or Tribal govt.

Number of Respondents: 52.

Form #	Respondents	Volume	Average time per response (hours)	Total manhours
ETA 790	52	2,000	1	2,000
ETA 795	52	3,000	½	1,500
ETA 785	52	3,500	½	1,750
ETA 785A	52	2,500	½	1,250

Total Burden Hours: 6,500.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: SESs use forms in servicing agricultural employers to ensure their labor needs for domestic migratory agricultural workers are met; in helping domestic agricultural workers locate jobs expeditiously and ensure exposure of employment opportunities to domestic agricultural workers before certification for employment of foreign workers.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–26634 Filed 10–12–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. CONSOL of Kentucky, Inc.

[Docket No. M–1999–074–C]

CONSOL of Kentucky, Inc., Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.1101–8 (water sprinkler systems; arrangement of sprinklers) to its Mousie H4 Mine (I.D. No. 15–18166) located in Knott County, Kentucky. The petitioner proposes to use a single overhead pipe system with ½-inch orifice automatic sprinklers located on 10-foot centers, to cover 50 feet of fire-resistant belt or 150 feet of non-fire resistant belt, with actuation temperatures between 200 and 230 degrees Fahrenheit and with water pressure equal to or greater than 10 psi, and to locate the automatic sprinklers not more than 10 feet apart so that the discharge of water will extend over the belt drive, belt take-up, electrical control, and gear reducing unit. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

2. Independence Coal Company, Inc.

[Docket No. M–1999–075–C]

Independence Coal Company, Inc., HC 78, Box 1800, Madison, West Virginia 25130 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Cedar Grove Mine No. 1 (I.D. No. 46–08603)

located in Boone County, West Virginia. The petitioner proposes to plug and mine through oil and gas wells and to notify the District Manager or designee prior to mining within 300 feet of the well. The petitioner asserts that the proposed alternative method will not result in a diminution of safety to the miners.

3. Consolidation Coal Company

[Docket No. M–1999–076–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Shoemaker Mine (I.D. No. 46–01436) located in Marshall County, West Virginia. The petitioner proposes to use trailing cables greater than 500 feet in length on face equipment during longwall panel development. The cables would not exceed 1,000 feet in length. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

4. CONSOL of Kentucky, Inc.

[Docket No. M–1999–077–C]

CONSOL of Kentucky, Inc., Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its Mousie H4 Mine (I.D. No. 15–18166) located in Knott County, Kentucky. The petitioner proposes to obtain a low and medium voltage, three-phase, alternating current for use underground from a portable diesel-driven generator and to connect the neutral of the generator's transformer secondary through a suitable resistor to the frame of the diesel generator. The petitioner states that the frame of the diesel generator will not have solid connection to a borehole casing, a metal waterline, or a grounding conductor with a low resistance to earth. The petitioner has listed in this petition specific terms and conditions for implementing its proposed alternative method. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

5. Consolidation Coal Company

[Docket No. M–1999–078–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Dilworth Mine (I.D. No. 36–04281) located in Greene County, Pennsylvania. The petitioner proposes to use trailing cables greater than 500 feet in length on face equipment during longwall panel development. The cables would not exceed 900 feet in length. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

6. Freeman United Coal Mining Company

[Docket No. M–1999–079–C]

Freeman United Coal Mining Company, 1999 Wabash Avenue, Suite 200B, Springfield, Illinois 62704–5364 has filed a petition to modify the application of 30 CFR 75.332(a)(2) (working sections and working places) to its Crown II Mine (I.D. No. 11–02236) located in Macoupin County, Illinois. The petitioner proposes to cut coal simultaneously using a reliable radio communication between two continuous miners on each of the mine's supersections to ensure that the continuous miners are not cutting coal simultaneously. The petitioner states that the continuous miner will not cut roof, ribs, face, or bottom during the cleanup phase when loading out loose coal or rock from the mine floor. The petitioner has listed in this petition specific procedures and conditions for implementing its proposed alternative method. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

7. Wayne Processing, Inc.

[Docket No. M–1999–080–C]

Wayne Processing, Inc., PO Box 262, Toler, Kentucky 41569 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its No. 1 Mine (I.D. No. 46–01329) located in Boone County, West Virginia. The petitioner proposes to use a spring-loaded locking device to secure battery plugs to machine mounted receptacles instead of using padlocks. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

8. Sheep Fork Energy, Inc.

[Docket No. M–1999–081–C]

Sheep Fork Energy, Inc., PO Box 262, Toler, Kentucky 41569 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its No. 6 Mine (I.D. No. 15–17826) located in Pike County, Kentucky. The petitioner proposes to use a spring-loaded locking device to secure battery plugs to machine mounted receptacles instead of using padlocks. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

9. Jim Walter Resources, Inc.

[Docket No. M–1999–082–C]

Jim Walter Resources, Inc., PO Box 133, Brookwood, Alabama 35444 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its No. 4 Mine (I.D. No. 01–01247), its No. 5 Mine (I.D. No. 01–01322) and its No. 7 Mine (I.D. No. 01–01401) all located in Tuscaloosa County, Alabama. The petitioner proposes to use one 480-volt, three-phase, 260 KW/325KVA diesel-powered generator set supplying power to a 250 KVA three-phase transformer and three-phase circuits to move equipment in and out of the mine and to perform minor mining activities in the mine. The petitioner has listed in this petition specific terms and conditions for using the generator system. The petitioner states that proper testing procedures and training will be conducted for all operators prior to using the generator system. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

10. Garrett Mining, Inc.

[Docket No. M–1999–083–C]

Garrett Mining, Inc., PO Box 262, Toler, Kentucky 41569 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Hazard Mine (I.D. No. 15–17612), and its No. 2 Mine (I.D. No. 15–08079) both located in Pike County, Kentucky. The petitioner proposes to use a spring-loaded locking device to secure battery plugs to machine mounted receptacles instead of using padlocks. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

11. Hutchinson Salt Company

[Docket No. M–1999–012–M]

Hutchinson Salt Company, 3300 Carey Blvd., Hutchinson, Kansas 67501–

9604 has filed a petition to modify the application of 30 CFR 49.5 (mine rescue station) to its Hutchinson Salt Company Mine (I.D. No. 14–00412) located in Reno County, Kansas. The petitioner proposes to: (i) Have mine rescue equipment centrally located at each individual mine for easier inspection, test, and required oxygen training every two months; (ii) have six approved contained oxygen breathing apparatus and other rescue equipment available at each mine site; and (iii) have rescue equipment available for re-entry after an electrical malfunction that causes smoke evacuation or as back-up units for local fire departments during community disasters. The petitioner states that rescue stations located at each mine will lessen the chance of rescue equipment being destroyed by an act of nature or theft. In addition, the petitioner asserts that the proposed alternative method will not reduce the safety of the miners.

12. Lyons Salt Company

[Docket No. M–1999–013–M]

Lyons Salt Company, 1660 Ave. N, P.O. Box 87, Lyons, Kansas 67554 has filed a petition to modify the application of 30 CFR 49.5 (mine rescue station) to its Lyons Salt Company Mine (I.D. No. 14–00413) located in Rice County, Kansas. The petitioner proposes to: (i) Have mine rescue equipment centrally located at each individual mine for easier inspection, test, and required oxygen training every two months; (ii) have six approved contained oxygen breathing apparatus and other rescue equipment available at each mine site; and (iii) have the equipment available for re-entry after an electrical malfunction that causes smoke evacuation or as back-up units for local fire departments during community disasters. The petitioner states that rescue stations located at each mine will lessen the chance of rescue equipment being destroyed by an act of nature or theft. In addition, the petitioner asserts that the proposed alternative method will not reduce the safety of the miners.

13. G–P Gypsum Corporation

[Docket No. M–1999–014–M]

G–P Gypsum Corporation, 2127 Highway 77 North, Blue Rapids, Kansas 66411 has filed a petition to modify the application of 30 CFR 49.5 (mine rescue station) to its Blue Rapids Mine and Mill (I.D. No. 14–00309) located in Marshall County, Kansas. The petitioner proposes to: (i) Have mine rescue equipment centrally located at each individual mine for easier inspection, test, and required oxygen training every two months; (ii) have six approved contained oxygen breathing apparatus and other rescue equipment available at each mine site; and (iii) have the equipment available for re-entry use after an electrical malfunction that causes smoke evacuation or as back-up units for local fire departments during community disasters. The petitioner states that rescue stations located at each mine will lessen the chance of rescue equipment being destroyed by an act of nature or theft. In addition, the petitioner asserts that the proposed alternative method will not reduce the safety of the miners.

14. Lyons Salt Company

[Docket No. M–1999–015–M]

Lyons Salt Company, 1660 Ave. N, P.O. Box 87, Lyons, Kansas 67554 has filed a petition to modify the application of 30 CFR 49.6(a)(4) (equipment and maintenance requirements) to its Lyons Salt Company Mine (I.D. No. 14–00413) located in Rice County, Kansas. The petitioner requests a modification of the standard relating to equipment for recharging cylinders since suppliers of oxygen with capabilities of pumping the cylinders are within the time limit provided by the extra cylinders required by each unit. The petitioner states that the Kansas Mine Rescue Association members will have a total of twenty-four breathing apparatus at their disposal so immediate turn-around of any single unit is not extremely critical, and that shortly after notification of a mine disaster the district MSHA rescue team will arrive at the mine site with a portable oxygen pump. The petitioner asserts that application of the proposed alternative method will not compromise the safety to the miners.

15. Hutchinson Salt Company

[Docket No. M–1999–016–M]

Hutchinson Salt Company, 3300 Carey Blvd., Hutchinson, Kansas 67501–9604 has filed a petition to modify the application of 30 CFR 49.6(a)(4) (equipment and maintenance requirements) to its Hutchinson Salt Company Mine (I.D. No. 14–00412) located in Reno County, Kansas. The petitioner requests a modification of the standard relating to equipment for recharging cylinders since suppliers of oxygen with capabilities of pumping the cylinders are within the time limit provided by the extra cylinders required by each unit. The petitioner states that the Kansas Mine Rescue Association members will have a total of twenty-four breathing apparatus at their disposal so immediate turn-around of any single unit is not extremely critical, and that shortly after notification of a mine disaster the district MSHA rescue team will arrive at the mine site with a portable oxygen pump. The petitioner asserts that application of the proposed alternative method will not compromise the safety of the miners.

16. G-P Gypsum Corporation

[Docket No. M–1999–017–M]

G-P Gypsum Corporation, 2127 Highway 77 North, Blue Rapids, Kansas 66411 has filed a petition to modify the application of 30 CFR 49.6(a)(4) (equipment and maintenance requirements) to its (I.D. No. 14–00309) located in Marshall County, Kansas. The petitioner requests a modification of the standard relating to equipment for recharging cylinders since suppliers of oxygen with capabilities of pumping the cylinders are within the time limit provided by the extra cylinders required by each unit. The petitioner states that the Kansas Mine Rescue Association members will have a total of twenty-four breathing apparatus at their disposal so immediate turn-around of any single unit is not extremely critical, and that shortly after notification of a mine disaster the district MSHA rescue team will arrive at the mine site with a portable oxygen pump. The petitioner asserts that application of the proposed alternative method will not compromise the safety of the miners.

17. Independent Salt Company

[Docket No. M–1999–018–M]

Independent Salt Company, PO Box 36, Kanopolis, Kansas 67454 has filed a petition to modify the application of 30 CFR 49.5 (mine rescue station) to its Independent Salt Company Mine (I.D. No.14–00411) located in Ellsworth County, Kansas. The petitioner proposes to: (i) Have mine rescue equipment centrally located each individual mine for easier inspection, test, and required oxygen training every two months; (ii) have six approved contained oxygen breathing apparatus and other rescue equipment available at each mine site; and (iii) have the equipment available for re-entry use after an electrical malfunction that causes smoke evacuation or as back-up units for local fire departments during community disasters. The petitioner states that to have rescue stations located at each mine will lessen the chance of rescue equipment being destroyed by an act of nature or theft. In addition, the petitioner asserts that the proposed alternative method will not reduce the safety of the miners.

18. Independent Salt Company

[Docket No. M–1999–019–M]

Independent Salt Company, PO Box 36, Kanopolis, Kansas 67454 has filed a petition to modify the application of 30 CFR 49.6(a)(4) (equipment and maintenance requirements) to its Independent Salt Company Mine (I.D. No. 14–00411) located in Ellsworth County, Kansas. The petitioner requests a modification of the standard relating to equipment for recharging cylinders since suppliers of oxygen with capabilities of pumping the cylinders are within the time limit provided by the extra cylinders required by each unit. The petitioner states that the Kansas Mine Rescue Association members will have a total of twenty-four breathing apparatus at their disposal so immediate turn-around of any single unit is not extremely critical, and that shortly after notification of a mine disaster the district MSHA rescue team will arrive at the mine site with a portable oxygen pump. The petitioner asserts that application of the proposed alternative method will not compromise the safety of the miners.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 12, 1999. Copies of these petitions are available for inspection at that address.

Dated: October 4, 1999.

Carol J. Jones,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 99–26695 Filed 10–12–99; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–131)]

NASA Advisory Council, Aero-Space Technology Advisory Committee, Aviation Safety Reporting System Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aero-Space Technology Advisory Committee, Aviation Safety Reporting System Subcommittee meeting.

DATES: Tuesday, November 9, 1999, 9:00 a.m. to 5:00 p.m. and Wednesday, November 10, 1999, 9:00 a.m. to 2:00 p.m.

ADDRESSES: Naval Postgraduate School, One University Circle, Monterey, CA.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Connell, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650/969–8340.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

—Report on Aviation Safety Reporting System
—Report on Aviation Performance Measuring System Program
—Report on NASA Aviation Safety Program Elements Related to ASRS/APMS

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: October 6, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–26614 Filed 10–12–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–130)]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Thursday, November 5, 1999, 8:00 a.m. to 12:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW., Room 5W40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne E. Hilding, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1455, if you plan to attend.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will meet to deliberate topics for inclusion in its Annual Report for 1999. This is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The Aerospace Safety Advisory Panel is currently chaired by Richard D. Blomberg and is composed of 9 members and 6 consultants. The meeting will be open to the public up to the capacity of the room (approximately 40 persons including members of the Panel).

Dated: October 6, 1999.

Matthew M. Crouch,

NASA Advisory Committee Management Officer.

[FR Doc. 99–26613 Filed 10–12–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Presidential Libraries Meeting; Partial Closed Meeting

This notice amends the **Federal Register** notice issued on August 31, 1999 announcing a meeting of the Advisory Committee on Presidential Libraries on October 14, 1999, from 10:30 a.m. to 2 p.m., in room 105 of the National Archives Building, 700 Pennsylvania Avenue, NW, Washington, DC. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(9)(B), it has been determined that a portion of the meeting will be closed. The open portion of the meeting will be held from 10:30 to 11:30 and will include agenda items covering digitization issues and an update on new libraries. The closed portion of the meeting will be held from 11:30 to 2:00 and will call for a discussion of proposed legislation and 2001 budget items that will not be available to the public until the President's budget and message goes to Congress in February,

2000. For further information, call David F. Peterson at 301–713–6050.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 99–26611 Filed 10–12–99; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[License No. 45–23000–02, Docket No. 030–33583, EA 99–223]

In the matter of Roof Survey and Consultants, Inc., 2045 Wesvan Drive, N.E., Roanoke, Virginia 24012.

Order Modifying Order Suspending License (Effective Immediately) and Order Revoking License

I

Roof Survey and Consultants, Inc. (RSCI or (licensee) 2045 Wesvan Drive, N.E., Roanoke, VA 24012, is the holder of Byproduct Material License No. 45–23000–02 (the license), which was issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on September 14, 1994. The license authorized RSCI to possess byproduct material, i.e., a Troxler Model No. 3216 portable roofing gauge containing a nominal 44 millicuries of Americium-241, for use in measuring the moisture density of roof surfaces in accordance with the conditions specified in the license. Mr. Charles R. Akers, President and Radiation Protection Officer, is the only authorized user listed on the license.

II

Pursuant to 10 CFR 171.16, the licensee is required to pay an annual fee for the license. The licensee's annual fee for License No. 45–23000–02 for fiscal year 1996, as set forth in fee category 3P of 10 CFR 171.16(d), was $1600. In accordance with 10 CFR Part 15, the licensee was sent an original invoice dated August 22, 1996, a second notice dated September 23, 1996, and a final notice dated October 24, 1996, requesting payment of the annual fee. The final notice of payment due specifically informed RSCI that non-payment of the fee might result in the suspension or revocation of the license in accordance with the Commission's regulations at 10 CFR 171.23. To date, the annual fee for 1996 has not been paid.

On April 3, 1997, NRC issued an Order Suspending License (Effective Immediately) to RSCI, based on non-payment of license fees for fiscal year 1996. The Order of April 3, 1997, required, among other things, that RSCI dispose of any licensed material, acquired or possessed under the authority of License No. 45–23000–02.

As of September 5, 1997, the licensee had not complied with the April 3, 1997 Order, in that no disposal of licensed material had occurred. On July 14, 1997, an inspection was conducted which verified that the gauge was stored at Mr. Akers' residence. Mr. Akers was not present during the inspection. On November 20, 1997, an inspection was attempted but the inspector was not able to contact Mr. Akers. On March 27, 1998, an inspection was again attempted; however, Mr. Akers was not present and security of the device could not be verified. On December 8, 1998, an inspection was again attempted. Mr. Akers was not available. His spouse, however, was home and allowed the inspector to verify that the material was still in safe secure storage. Region II attempted to contact Mr. Akers on April 20, 1999, and left a message requesting a return call on his answering machine. Mr. Akers did not return the call.

On May 20, 1999, NRC sent the licensee a certified letter, return receipt requested, reiterating the requirements of the April 3, 1997 Order, that RSCI dispose of any licensed material, acquired or possessed under the authority of License No. 45–23000–02. No response was received. On August 3, 1999, the United States Postal Service confirmed that Mr. Akers signed for and received the certified letter on May 28, 1999. On August 4, 1999, the Director of NRC's Region II Division of Nuclear Materials Safety, attempted to contact Mr. Akers via telephone. Mr. Akers was not available, and a message was left with the person answering the call to have Mr. Akers call the NRC Region II office. To date, Mr. Akers has not returned any calls or otherwise contacted the NRC.

Based on the above, two deliberate violations of NRC requirements have been identified. The violations are: (1) Failure to pay the annual fees prescribed by 10 CFR 171.16 for Byproduct Material License No. 45–23000–02 for Fiscal Year 1996; and, (2) failure to comply with the terms of the April 3, 1997, Order Suspending License. Specifically, that Order required the licensee to dispose of all licensed nuclear material, acquired or possessed under the authority of License No. 45–23000–02, and to submit an answer in writing and under oath and affirmation and specifically admit or deny each charge made therein. As of this date, the licensee has neither disposed of the material possessed under the license nor answered that Order.

III

The deliberate failures of the licensee to comply with the April 3, 1997 Order and to pay the annual fee as required by Commission regulations demonstrate that the licensee is either unwilling or unable to comply with Commission requirements. Moreover, because the licensee has failed to respond to NRC inquiries, the NRC is unable to ascertain the current status of licensed material in the licensee's possession. Consequently, I lack the requisite reasonable assurance that public health and safety will be protected if the licensee were to continue in possession of licensed material at this time. Therefore, the public health, safety, and interest require that the licensee report the current location, physical status, and storage arrangements of its licensed material; that the licensee leak test the licensed material; that the licensee transfer the licensed material to an authorized recipient as described below; and that Byproduct Material License No. 45–23000–02 be revoked. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the violations described above is such that no further notice is required and that the public health, safety and interest require that the provisions of Section IV.A. of this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR Parts 30, 170, and 171,

A. *It is hereby ordered*, effective immediately, That:

1. The requirements of Paragraphs A through E of Section III of the Order dated April 3, 1997, and attached hereto remain in effect except where modified below.

2. The licensee shall contact Mr. Douglas M. Collins, Director, Division of Nuclear Materials Safety, NRC Region II, at telephone number 404–562–4700 or 1–800–577–8510, within five days of the date of this Order and report the current location, physical status, and storage arrangements of the licensed material. Additionally, the licensee shall submit a written statement documenting this information under oath or affirmation to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, SW, Suite 23T85, Atlanta, Georgia 30303, within seven days of the date of this Order.

3. Within ten days of the date of this Order, the licensee shall complete a leak test pursuant to Byproduct Material License No. 45–23000–02, Condition 14.A., B., C., and D. to confirm the absence of leakage and to establish the levels of residual radioactive contamination. The licensee shall, within five days of the date the leak test results are known, submit the results of the leak test in writing to the Regional Administrator, NRC Region II, at the address given in Paragraph 2 above. If the test reveals the presence of 0.005 microcuries or greater of removable contamination, the licensee shall immediately contact Mr. Douglas M. Collins, NRC Region II, at the telephone number given in Paragraph 2 above.

4. Within 30 days of the date of this Order, the licensee shall cause all licensed material in its possession to be transferred to an authorized recipient in accordance with 10 CFR 30.41 and shall submit a completed Form NRC–314 to the Regional Administrator, NRC Region II, at the address given in paragraph 2. above.

B. *It is further ordered:*

1. Upon a written finding by the Regional Administrator, NRC Region II, that no licensed material remains in the licensee's possession and that other applicable provisions of 10 CFR 30.36 have been fulfilled, Byproduct Material License No. 45–23000–02 is revoked.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above provisions upon demonstration of good cause by the licensee.

V

In accordance with 10 CFR 2.202, the licensee 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 shall include a statement of good cause for the extension. The answer may consent to the 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 set forth the matters of fact and law on which the licensee or other person adversely affected relies and 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, Rulemakings and Adjudications Staff, 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 Materials Litigation and Enforcement at the same address; and to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, S.W., Suite 23T85, Atlanta, Georgia 30303–3415; and to the licensee if the answer or hearing request is by a person other than the licensee. If a person other than the licensee 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 the licensee 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), the licensee, 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 IV 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 IV 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 4th day of October 1999.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Deputy Executive Director for Materials, Research and State Programs.

[FR Doc. 99–26703 Filed 10–12–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Workshop Concerning the Revision of the Baseline Safety Inspection Program for Nuclear Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of public workshop.

SUMMARY: NRC will host a public workshop in Rockville, Maryland to provide the public, those regulated by the NRC, and other stakeholders, with information about and an opportunity to provide views on how NRC plans to revise its safety inspection program for nuclear fuel cycle facilities. This workshop follows the recent initial public stakeholder meeting held at NRC Headquarters on September 16, 1999. Presentations given at each meeting together with a transcript of the meeting will be placed on the NRC Internet web page (http://www.nrc.gov). Similar to the revisions of the inspection and oversight program for commercial nuclear power plants, NRC initiated an effort to improve its programs for nuclear fuel cycle facilities. This is described in SECY–99–188 titled, Evaluation and Proposed Revision of the Nuclear Fuel Cycle Facility Safety Inspection Program. SECY–99–188 is available in the Public Document Room and on the NRC Web Page at http://www.nrc.gov/NRC/COMMISSION/SECYS/index.html.

Purpose: To explain the planned revision of the fuel cycle safety inspection program and obtain stakeholder's views. The baseline safety inspection program applies to nuclear fuel cycle facilities regulated under 10 CFR Parts 40, 70 and 76. The facilities currently include gaseous diffusion plants, highly enriched uranium fuel fabrication facilities, low-enriched uranium fuel fabrication facilities, and a uranium hexafluoride (UF_6) production facility. These facilities possess large quantities of materials that are potentially hazardous (*i.e.*, radioactive, toxic, and/or flammable) to the workers, public, or environment. In revising the inspection program, the goals are to have an inspection program that: (1) Provides earlier and more objective indications of acceptable and changing safety performance, (2) increases stakeholder confidence in the NRC, and (3) increases regulatory effectiveness and efficiency. In this regard, the NRC desires the revised inspection program to be more risk-informed and performance-based and more focused on significant risks. Where practicable, the

program will use more objective safety performance indicators (PIs) with accompanying performance thresholds.

The safety rationale for NRC inspection commensurate with risk (hazards and controls) will be discussed in the context of establishing indicators of licensee performance. The focus of the workshop will be consideration of performance indicators (*i.e.*, precursors) that will reliably indicate when there is a need for corrective action to preclude exceeding regulatory limits which were established to preclude adverse impacts on the public or worker health and safety or the environment. In this regard, careful consideration of the initial draft of candidate performance indicators (available at the aforementioned NRC web site) will significantly facilitate the workshop.

DATES: This workshop is scheduled for Wednesday, October 20, 1999, from 9:00 am to 5:00 pm and is open to the public.

ADDRESSES: NRC's Two White Flint North Auditorium, 11545 Rockville Pike, Rockville, Maryland. Visitor parking around the NRC building is limited; however, the meeting site is located adjacent to the White Flint Station on the Metro Red Line.

FOR FURTHER INFORMATION CONTACT: Walter Schwink, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7253, e-mail *wss@nrc.gov*.

Dated at Rockville, Maryland this 6th day of October, 1999.

For the Nuclear Regulatory Commission.

Philip Ting,

Chief, Operations Branch, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 99–26702 Filed 10–12–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on November 3, 1999, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, November 3, 1999—1:00 p.m. Until the Conclusion of Business

The Subcommittee will discuss proposed ACRS activities and related matters. It may also discuss the status of appointment of a new member to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: October 5, 1999.

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–26699 Filed 10–12–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 9b–1, SEC File No. 270–429, OMB Control No. 3235–0480

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 2501 et seq.) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 9b–1 sets forth the categories of information required to be disclosed in an options disclosure document (''ODD'') and requires the options markets to file an ODD with the Commission 60 days prior to the date that it is distributed to investors. In addition, Rule 9b–1 provides that the ODD must be amended if the information in the document becomes materially inaccurate or incomplete and that amendments must be filed with the Commission 30 days prior to the distribution to customers. Finally, Rule 9b–1 requires a broker-dealer to furnish to each customer an ODD and any amendments, prior to accepting an order to purchase or sell an option on behalf of that customer.

There are 4 options markets that must comply with Rule 9b–1. These 4 respondents work together to prepare a single ODD covering options traded on each market, as well as amendments to the ODD. These respondents file no more than one amendment per year, which requires approximately 8 hours per year for each respondent. Thus, the total compliance burden for options markets per year is 32 hours. The approximate cost per hour is $100, resulting in a total cost of compliance for these respondents of $3,200 per year (32 hours @ $100).

In addition, approximately 2,000 broker-dealers must comply with Rule 9b–1. Each of these respondents will process an average of three new customers for options each week and, therefore, will have to furnish approximately 156 ODDs per year. The postal mailing or electronic delivery of the ODD takes respondents no more than 30 seconds to complete for an annual compliance burden for each of these respondents of 78 minutes, or 1.3 hours. Thus, the total compliance burden per year is 2,600 hours (2,000 broker-dealers × 1.3 hours.). The approximate cost per hour to these respondents is $10 per hour, resulting in a total cost of compliance for these

respondents of $26,000 per year (2,600 hours @ $10).

The total compliance burden for all respondents under this rule (both options markets and broker-dealers) is 2632 hours per year (32 + 2,600), and total compliance costs of $29,200 ($3,200 + $26,000).

Written 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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing on or before December 13, 1999.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: October 5, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–26618 Filed 10–12–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:
Rule 11a1–1(T), SEC File No. 270–428, OMB Control No. 3235–0478

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

- Rule 11a1–1(T)—Transaction Yielding Priority, Parity, and Precedence

On January 27, 1976, the Commission adopted Rule 11a1–1(T) under the Securities Exchange Act of 1934 (''Exchange Act'') to exempt transactions of exchange members for their own accounts that would otherwise be prohibited under Section 11(a) of the Exchange Act. The rule provides that a member's proprietary order may be executed on the exchange of which the trader is a member, if, among other things: (1) The member discloses that a bid or offer for its account is for its account to any member with whom such bid or offer is placed or to whom it is communicated; (2) any such member through whom that bid or offer is communicated discloses to others participating in effecting the order that is for the account of a member; and (3) immediately before executing the order, a member (other than a specialist in such security) presenting any order for the account of a member on the exchange clearly announces or otherwise indicates to the specialist and to other members then present that he is presenting an order for the account of a member.

There are approximately 1,000 respondents that require an aggregate total of 333 hours to comply with this rule. Each of these approximately 1,000 respondents makes an estimated 20 annual responses, for an aggregate of 20,000 responses per year. Each response takes approximately 1 minute to complete. Thus, the total compliance burden per year is 333 hours (20,000 minutes/60 minutes per hour = 333 hours). The approximate cost per hour is $100, resulting in a total cost of compliance for the respondents of $33,333 (333 hours @ $100).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–26619 Filed 10–12–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 24073; 812–11294]

MONY Life Insurance Company, et al.; Notice of Application

October 5, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of an application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain registered open-end management investment companies to engage in principal transactions with a broker-dealer that is an affiliated person of an affiliated person of the investment companies.

APPLICANTS: MONY Life Insurance Company (''MONY''); The MONY Group Inc. (the ''Holding Company''); MONY Series Fund, Inc. (''MONY Series'' or a ''Fund''); The Enterprise Group of Funds, Inc. (''Enterprise Group'' or a ''Fund''); Enterprise Accumulation Trust (''Enterprise Trust'' or a ''Fund'', together with Enterprise Group, the ''Enterprise Funds,'' and together with Enterprise Group and MONY Series, the ''Funds''); MONY Life Insurance Company of America (''MONY America'' or an ''Adviser''); Enterprise Capital Management, Inc. (''Enterprise Capital'' or an ''Adviser''); 1740 Advisers, Inc. (''1740 Advisers'' or an ''Adviser'' and together with MONY America and Enterprise Capital, the ''Advisers''); the portfolios of the Funds (''Portfolios''); any Portfolio organized in the future; any registered open-end management investment company in the future advised by one of the Advisers or by a person controlling, controlled by or under common control with the Advisers; The Goldman Sachs Group, Inc.; and Goldman, Sachs & Co. (''Goldman Sachs''). [1]

FILING DATES: The application was filed on September 4, 1998, and amended on December 1, 1998. Applicants have agreed to file an additional amendment, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing.

[1] The term ''Goldman Sachs'' includes all entities now or in the future controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with Goldman, Sachs & Co. Any existing entity or future entity that in the future intends to rely on the requested order will do so only in accordance with the terms and conditions of the application.

Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 1, 1999 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issue contested. Persons who wish to be notified of a hearing may request notification by writing the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609; Applicants: MONY, the Holding Company, MONY Series, MONY America and 1740 Advisers, 1740 Broadway, New York, N.Y. 10019; Enterprise Group, Enterprise Trust, and Enterprise Capital, Atlanta Financial Center, 3343 Peachtree Road, N.E., Suite 450, Atlanta, Georgia 30326–1022, Attn: Catherine McClellan, Esq.; and The Goldman Sachs Group, Inc. and Goldman Sachs, 85 Broad Street, New York, N.Y. 10004, Attn: David J. Greenwald, Esq.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, at (202) 942–0553, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. MONY is a stock life insurance company organized under the laws of New York and registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). MONY Series is an open-end management investment company registered under the Act and organized as a Maryland corporation. MONY Series currently consists of seven Portfolios. MONY America, an Arizona stock life insurance company, is registered under the Advisers Act and serves as investment adviser to the MONY Series. MONY America is a wholly-owned subsidiary of MONY.

2. Enterprise Group is an open-end management investment company registered under the Act and organized as a Maryland corporation .Enterprise Group currently consists of seventeen Portfolios. Enterprise Trust is an open-end management investment company registered under the Act and organized as a Massachusetts business trust. Enterprise Trust currently consists of fourteen Portfolios. Shares of the portfolios of MONY Series and Enterprise Trust currently are sold to MONY America and MONY for allocation among their various accounts to fund benefits under certain life insurance contracts.

3. Enterprise Capital, a wholly-owned subsidiary of MONY, is registered under the Advisers Act and serves as investment adviser to each Enterprise Fund. 1740 Advisers is registered under the Advisers Act and serves as subadviser to the Equity Income Fund of Enterprise Group and the Equity Income Portfolio of Enterprise Trust. 1740 Advisers is a wholly-owned subsidiary of MONY.

4. Goldman Sachs is an international investment banking organization. Goldman Sachs conducts most of its broker-dealer business in the United States through Goldman Sacs & Co., a broker-dealer registered under the Securities Exchange Act of 1934. Goldman, Sachs & Co. acts as a primary dealer in United States government securities and is a member of the major United States securities and commodities exchanges. Goldman Sachs is the sole general partner of certain private investment partnerships and employees' securities companies (the ''Goldman Sachs Affiliates''). Goldman Sachs has an aggregate economic interest in the Goldman Sachs Affiliates of approximately 15.3%.

5. On November 16, 1998, MONY converted from a mutual life insurance company to a stock life insurance company pursuant to a plan of reorganization (the ''demutualization''). Also on that date, the Holding Company, a Delaware corporation, completed a public offering of its common stock. Before the demutualization, the Goldman Sachs Affiliates had purchased warrants (the ''Warrants'') to purchase from the Holding Company 7% of its outstanding common stock. As a result of the demutualization and upon the future exercise of the Warrants by the Goldman Sachs Affiliates, the Goldman Sachs Affiliates could own up to 7% of the outstanding common stock of the Holding Company.

6. Applicants state that the Goldman Sachs Affiliates currently own no shares of Holding Company common stock. Applicants further state that the Goldman Sachs Affiliates have agreed, under the terms of a Determination of Non-Control from the State of New York Insurance Department (the ''NYID Order''), to notify the New York Insurance Department before exercising the Warrants or selling the Warrants or common stock underlying the Warrants. Applicants also state that under the NYID Order, Goldman Sachs is prohibited from acquiring, directly or indirectly, from any person, any additional securities issued by the Holding Company or any of its affiliates, except securities acquired in the ordinary course of Goldman Sachs' business as an underwriter, broker/dealer, investment manager, or investment adviser. Applicants state that Goldman Sachs does not own and will not acquire securities constituting in the aggregate 5% or more of the outstanding voting securities of the Holding Company, other than the securities that the Goldman Sachs Affiliates may acquire upon exercise of the Warrants.

Applicants' Legal Analysis

1. Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such person (''second-tier affiliate''), acting as principal, from knowingly selling to or purchasing from the company any security or other property. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned; and (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person.

2. Applicants state that each of the Advisers is an indirect wholly-owned subsidiary of the Holding Company, and the Goldman Sachs Affiliates have the right to acquire 7% of the outstanding common stock of the Holding Company. Upon exercise of the Warrants by the Goldman Sachs Affiliates in an amount that would result in Goldman Sachs holding more than 5% of the outstanding voting securities of the Holding Company, Goldman Sachs would become an affiliated person of the Holding Company, which is the parent corporation of MONY, which in turn owns 100 percent of each of the Advisers. Applicants state that, in such event, any principal transactions between a Portfolio and Goldman Sachs may be prohibited by section 17(a) of the Act.

3. Section 17(b) of the Act authorizes the SEC to exempt a transaction from section 17(a) of the Act if evidence

establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the SEC to exempt any person, security, or transaction from any provision of the Act or any rule under the Act if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants request relief under sections 6(c) and 17(b) to permit the Portfolios to engage in principal transactions with Goldman Sachs. Applicants state that permitting the Portfolios to deal with Goldman Sachs would make it easier for the subadvisers to the Portfolios (''Portfolio Managers'') to achieve best price and execution. Applicants state that the requested exemption would apply only where Goldman Sachs is deemed to be a second-tier affiliate of a Portfolio solely because of the Goldman Sachs Affiliates' ownership interest in the Holding Company as a result of the exercise of the Warrants. Applicants submit that, for the reasons discussed below, the proposed transactions meet the standards set forth in sections 6(c) and 17(b).

5. Applicants submit that the primary purpose of section 17(a) is to prevent persons with the power to control an investment company from using that power to such persons' own pecuniary advantage (i.e., to prevent self-dealing). Applicants submit that the proposed transactions do not give rise to the abuse that section 17(a) was designed to prevent. Applicants state that, as a condition to the requested relief, Goldman Sachs will not control (within the meaning of section 2(a)(9) of the Act), directly or indirectly, the Holding Company, MONY, or the Advisers. Further, Goldman Sachs will not directly or indirectly consult with the Advisers or any other Portfolio Manager concerning the selection of Portfolio Managers or allocation of principal or brokerage transactions for any Portfolio, or in any way seek to influence the choice of broker or dealer for any Portfolio. Additionally, applicants represent that there is or will be no express or implied understanding between Goldman Sachs and the Advisers of any Fund that the Advisers will cause any Fund to enter into transactions with Goldman Sachs or give a preference to Goldman Sachs in effecting the transactions between the Funds and Goldman Sachs.

6. Applicants state that Goldman Sachs' potential influence over the Holding Company is further limited by the terms of the NYID Order. Under the NYID Order, the Goldman Sachs Affiliates have agreed to certain limitations on their rights as shareholders of the Holding Company. The Goldman Sachs Affiliates also may nominate no more than one director to the Holding Company's 13-member board of directors (the ''Board''). In addition, the Goldman Sachs Affiliates have agreed to vote their shares of common stock, in the Holding Company's discretion, either in accordance with the recommendation of the Board or in the same proportion as the holders of common stock who are not affiliated with either the Holding Company or Goldman Sachs.

7. Applicants state that, as a condition to the requested relief, the boards of directors/trustees of the Funds (''Fund Boards''), including a majority of disinterested directors/trustees, will adopt certain procedures to ensure that the terms of the transactions between the Funds and Goldman Sachs are fair and reasonable and do not involve overreaching (the ''Procedures''). Applicants assert that the Procedures will require careful monitoring by the Fund Boards of securities transactions with Goldman Sachs.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Goldman Sachs will not control the Holding Company, MONY, or the Advisers, directly or indirectly, within the meaning of section 2(a)(9) of the Act.

2. Goldman Sachs will not directly or indirectly consult with the Advisers or any other Portfolio Manager concerning the selection of Portfolio Managers or allocation of principal or brokerage transactions for any Portfolio, or in any way seek to influence the choice of broker or dealer for any Portfolio.

3. The Fund Boards, including a majority of disinterested directors/trustees, will approve procedures permitting principal transactions between the Funds and Goldman Sachs and will no less frequently than quarterly: (a) review any transactions effected with Goldman Sachs on a principal basis, including the terms of each transaction, and (b) compare the volume of transactions effected with Goldman Sachs with the volume of transactions effected with Goldman Sachs prior to Goldman Sachs' becoming an affiliated person of the Holding Company. Such procedures will provide: (a) for an internal approach reasonably designed to ensure that the consideration paid or received by a Portfolio in principal transactions with Goldman Sachs will be reasonable and fair and that the conditions of the order requested herein will be met; and (b) on a quarterly basis, that each Adviser will provide to each Fund Board a report listing principal transactions entered into on behalf of a Portfolio with Goldman Sachs, including the name and amount of the security, the price, the identity of other dealers, if any, with whom the transaction could have been effected, and a brief explanation of why the transaction was effected with Goldman Sachs. The Fund Boards, including a majority of the disinterested directors/trustees, as frequently as will appear appropriate and no less frequently than annually, will review the procedures to ascertain their continued appropriateness. In approving and reapproving the procedures, the Fund Boards, including a majority of the disinterested directors/trustees, must determine that the procedures are fair and reasonable and in the best interest of each Fund and its shareholders.

4. Each Fund will: (a) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions followed in connection with principal transactions with Goldman Sachs as principal; and (b) maintain and preserve for a period not less than six years from the end of the fiscal year in which any such transactions occurred, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security purchased or sold, that the entity on the other side of the transaction was Goldman Sachs and the terms of the transaction, and the information or materials upon which the determination was made that each principal transaction was made in accordance with the procedures and conditions set forth in the application.

5. The legal departments of the Advisers will prepare guidelines for personnel of the Advisers to make certain that transactions effected pursuant to this order comply with the conditions to this order, and that Goldman Sachs and the Advisers generally maintain an arm's length relationship. The legal departments of the Advisers will periodically monitor the activities of the Advisers to make certain that the conditions to this order are adhered to.

6. The requested order will remain in effect only so long as the NYID Order remains in effect. If the NYID Order is amended or modified, applicants will not rely on the requested order without seeking assurance from the staff of the Division of Investment Management that the requested order will remain in effect.

7. No existing or future registered investment company will rely on the requested order until the company's board of directors/trustees, including a majority of the disinterested directors/trustees, has approved the company's participation in the transactions permitted under the order and has determined that such participation by the company is in the best interests of the company and its shareholders. The minutes of the meeting of the company's board of directors/trustees at which this determination is made will reflect the reasons for the director's/trustees' determination.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–26672 Filed 10–12–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24074; 812–11762]

Van Eck/Chubb Funds, Inc. and Chubb Asset Managers, Inc.; Notice of Applicants

October 6, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit Van Eck/Chubb Growth and Income Fund, a series of Van Eck/Chubb Funds, Inc. (''Company''), to acquire the assets and liabilities of Van Eck/Chubb Capital Appreciation Fund, also a series of Van Eck/Chubb Funds, Inc. (the ''Reorganization''). Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: Company and Chubb Asset Managers, Inc. (''Adviser'').

FILING DATES: The application was filed on August 27, 1999. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 28, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants: Company, 99 Park Avenue, New York, N.Y. 10016; Adviser, 15 Mountain View Road, Warren N.J. 07059.

FOR FURTHER INFORMATION CONTACT: Susan K. Pascocello, Senior Counsel, at (202) 942–0674, or Michael W. Mundt, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Company, a Maryland corporation, is registered under the Act as an open-end management investment company. Van Eck/Chubb Capital Appreciation Fund (''Capital Appreciation Fund'') and Van Eck/Chubb Growth and Income Fund (''Growth and Income Fund,'' together with Capital Appreciation Fund, the ''Funds'') are series of the Company. The Adviser, a Delaware corporation, serves as investment adviser to the Funds and is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser is a wholly-owned subsidiary of The Chubb Corporation (''Chubb''), which owned in excess of 25% of the outstanding shares of each Fund as of July 1999.

2. On May 13, 1999, the board of directors of the Company (the ''Board''), including all of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), unanimously approved a plan of reorganization (the ''Reorganization Plan'') under which the Growth and Income Fund will acquire the assets and liabilities of the Capital Appreciation Fund in exchange for Growth and Income Fund shares. Each shareholder of the Capital Appreciation Fund will receive shares of the Growth and Income Fund having an aggregate net asset value equal to the aggregate net asset value of the capital Appreciation Fund's shares held by that shareholder, as determined at the close of the business day next preceding the closing date of the Reorganization, currently anticipated to occur on November 1, 1999. Portfolio securities of the Funds will be valued in accordance with the valuation procedures described in each Fund's current prospectus and statement of additional information. As soon as practicable after the closing date, Capital Appreciation Fund will liquidate and distribute *pro rata* to its shareholders the Growth and Income Fund shares. No sales charges will be imposed in connection with the Reorganization.

3. Applicants state that the investment objectives and policies of the Growth and Income Fund are similar to those of the Capital Appreciation Fund. The Funds each offer one class of shares sold with a maximum initial sales charge of 5.75% or with no sales charge for purchases that equal or exceed $1,000,000. Shares of both funds are sold subject to similar distribution plans adopted pursuant to rule 12b–1 under the Act.

4. The Board, including all of the Independent Directors, determined that the Reorganization is in the best interests of each Fund, and that the interests of the existing shareholders of each Fund would not be diluted by the Reorganization. In assessing the Reorganization, the Board considered various factors, including: (a) The compatibility of each Fund's investment objective, policies and restrictions, and shareholder services; (b) the terms and conditions of the Reorganization; (c) the expense ratios of each Fund; (d) the tax-free nature of the Reorganization; and (e) potential economies of scale to be gained from the Reorganization. All Reorganization expenses will be borne by Capital Appreciation Fund, as determined by its Board.

5. The Reorganization is subject to a number of conditions, including that: (a) The Reorganization Plan is approved by the Board and the shareholders of Capital Appreciation Fund; (b) the Funds receive an opinion of counsel that the Reorganization will be tax-free; (c) applicants receive exemptive relief from the SEC as requested in the

application; (d) the Company declares and pays a dividend to the shareholders of Capital Appreciation Fund which distributes all of the Fund's taxable income for the taxable years ending at or prior to the closing; and (e) a registration statement on Form N–14 shall have been filed with the SEC and declared effective. The Reorganization Plan may be terminated by either Fund if its Board determines that circumstances have changed to make the Reorganization inadvisable. Applicants agree not to make any material changes to the Reorganization Agreement without prior SEC approval.

6. A registration statement on Form N–14 was filed with the SEC on June 28, 1999, and became effective on August 11, 1999. Proxy solicitation materials were mailed to Capital Appreciation Fund shareholders on August 12, 1999, and definitive proxy materials have been filed with the SEC. A special meeting of Capital Appreciation Fund shareholders was held on August 27, 1999, at which the shareholders approved the Reorganization Plan.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganization because the Funds may be deemed to be affiliated by reasons other than those set forth in the rule. Applicants state that Chubb, which owns the Adviser, owns more than 25% of the outstanding voting securities of each of the Funds.

3. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

4. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(b) of the Act. Applicants believe that the terms of the Reorganization are fair and reasonable and do not involve overreaching. Applicants state that the Reorganization will be based on the Funds' relative net asset values. In addition, applicants state that the Board, including all of the Independent Directors, determined that the participation of each Fund in the Reorganization is in the best interests of each Fund and that such participation will not dilute the interests of shareholders of each Fund.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–26671 Filed 10–12–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41977; File No. SR–CTA/CQ–99–01]

Consolidated Tape Association; Order Granting Approval of Fourth Charges Amendment to the Second Restatement of the Consolidated Tape Association Plan and the Third Charges Amendment to the Restated Consolidated Quotation Plan

October 5, 1999.

I. Introduction

On June 14, 1999, the Consolidated Tape Association (''CTA'') and the Consolidated Quotation (''CQ'') Plan Participants (''Participants'') [1] filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') amendments to the Restated CTA Plan and CQ Plan pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 11Aa3–2 thereunder.[3] Notice of the proposed plan amendments appeared in the **Federal Register** on June 28, 1994.[4] The Commission received two comment letters in response to the proposal.[5] This order approves the proposed plan amendments.

II. Description of the Proposal

A. Nonprofessional Subscriber Service Rates

The participants under the Plans that make available Network A (NYSE-listed) last sale information and Network A quotation information impose on vendors a monthly fee of $5.25 for each nonprofessional subscriber to whom the vendor provides a Network A market data display service. The proposed amendments will reduce that monthly fee from $5.25 for each nonprofessional subscriber to (i) $1.00 for each of the first 250,000 nonprofessional subscribers to whom a vendor provides a Network A display service during the month and (ii) $.50 for each additional nonprofessional subscriber.

For the nonprofessional subscriber rates to apply to any of its subscribers (rather than the much higher professional subscriber rates), a vendor must make certain that the subscriber qualifies as a nonprofessional subscriber,[6] subject to the same criteria that have applied since 1983, when the Participants first established a reduced rate for nonprofessional subscribers. Only those nonprofessional subscribers

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[1] The amendments were executed by each Participant in each of the Plans. The Participants include American Stock Exchange LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc. (''NYSE''), Pacific Exchange, Inc., and Philadelphia Stock Exchange, Inc.

[2] 15 U.S.C. 78k–1(a)(3).

[3] 17 CFR 240.11Aa3–2.

[4] Securities Exchange Act Rel. No. 41572 (June 28, 1999), 64 FR 36412 (July 6, 1999). A typographical error was corrected on July 27, 1999. Securities Exchange Act Rel. No. 41572 (correction), 64 FR 40651.

[5] *See* letters from Kenneth S. Spirer, First Vice President & Assistant General Counsel, Merrill Lynch, Pierce, Fenner & Smith Incorporated, dated July 27, 1999 (''Merrill Letter'') and Sam Scott Miller, Orrick, Herrington & Sutcliffe LLP, to Jonathan G. Katz, Secretary, Commission, dated July 26, 1999 (''Schwab Letter'').

[6] A nonprofessional subscriber must receive the information solely for his or her personal, non-business use and must not furnish the information to any other person. *See* NYSE and ASE Application and Agreement for the Privilege of Receiving Last Sale Information & Bond Last Sale Information as a Nonprofessional Subscriber, for the qualifications necessary to be classified as a nonprofessional subscriber.

that actually access at least one real-time Network A quote or price during the month will be charged the proposed fees by the Participants.

B. Pay-for-Use Rates

Since November 1997, the Participants have conducted a pilot program [7] whose terms require vendors to provide services that account for the use of market data on the basis of one cent per quote packet.[8] Vendors that have contracted to provide a usage-based service are required to pay one cent for every quote packet that they provide to their professional or nonprofessional subscribers. The fee is an alternative to the monthly subscriber fee that the Participants have historically charged professional and nonprofessional subscribers.

Based their experience with the one-cent-per-quote fee and after consultation with vendors and professional subscribers, the Participants have determined to modify the one-cent fee and make the modified fee part of the Network A rate schedule.

Under the modified rates, each vendor would pay:

i. Three-quarters of one cent ($0.0075) for the first 20 million quote packets that it distributes during a month;

ii. One-half of one cent ($0.005) for the next 20 million quote packets that is distributes during that month (*i.e.*, quote packets 20,000,001 through 40,000,000); and

iii. One-quarter of one cent ($0.0025) for every quote packet in excess of 40 million that it distributes during that month.

C. Interplay of Nonprofessional-Subscriber and Pay-for-Use Rates

The Participants also have determined to reduce the cost exposure of vendors by permitting them to limit the amount due from each nonprofessional subscriber each month. The vendors would be eligible to pay the lower of either the aggregate pay-per-use fees that would apply to the subscriber's usage during the month or the monthly $1.00 first-tier nonprofessional subscriber fee. The Participants will offer this flexibility to each subscriber that qualifies as a nonprofessional subscriber and that agrees to the terms and conditions that apply to the receipt of market information as a nonprofessional subscriber.

For ease of administration, the Participants will allow each vendor to apply the $1.00 fee for any month in which each nonprofessional subscriber retrieves 134 or more quote packets during the month, without regard to the marginal per-quote rate that the vendor pays that month (*i.e.*, three-quarters, one-half or one-quarter cent per quote packet). In addition, each vendor may reassess each month to determine which fee is more economical, the per-quote fee or the nonprofessional subscriber fee.

D. Enterprise Arrangement

In response to input from the brokerage community, the Participants will introduce an enterprise arrangement and make it available to registered broker-dealers. The concept would apply to the devices that such broker-dealers use internally and to their distributions of market data to their securities-trading customers. It would not apply to broker-dealers that make market data available to non-brokerage customers.

The enterprise arrangement would limit the aggregate amount that registered broker-dealers would be required to pay in any month to: (i) the receipt and use of market data by its officers, partners and employees and those of its affiliates; and (ii) the pay-for-use and monthly display-device interrogation services that it or its registered broker-dealer affiliates provide to their nonprofessional, brokerage-account customers (*i.e.*, customers that qualify as nonprofessional subscribers and that have opened a trading account pursuant to an applicable brokerage account agreement). Fees not eligible for inclusion in the enterprise arrangement's monthly payment limitation are: (i) pay-for-use and display device fees payable by (A) professional subscribers and (B) nonprofessional subscribers that do not have brokerage accounts with the broker-dealer or its registered broker-dealer affiliates; (ii) access fees; and (iii) program classification charges.

The enterprise arrangement's maximum monthly payment through the end of calendar year 2000 shall be $500,000. Thereafter, the Participants propose to increase this maximum on an annual basis in an amount equal to the percentage increase in the annual composite share volume for the preceding calendar year, subject to a maximum annual increase of five percent.

In addition, the Participants will make some minor, non-substantive changes to the form of Schedules A–1 and A–2 of Exhibit E to both the CTA Plan and the CQ Plan.

III. Summary of Comments

The Commission received two comment letters concerning the proposed amendments to the CTA and CQ Plans.[9] Although both letters supported a reduction in fees for market information, they urged the Commission to re-examine the process for establishing fees to ensure that they are set at fair, reasonable, and nondiscriminatory levels. The Merrill Letter supported the proposed enterprise arrangement because it ''imposes a limit on the aggregate amount payable for market data.'' [10] The Merrill Letter also suggested that enterprise arrangements should be implemented by the other national market system plans that disseminate market information and that these arrangements should be made uniform. The letter also supports the reduction in nonprofessional subscriber rates because it ''reflects the growing demand for real-time quotes.'' [11]

The Merrill Letter noted that the various national market system plans with their attendant terms and conditions have created unnecessary administrative burdens on, and caused unnecessary expenses for, broker-dealer users of market information. The letter suggested that the plans should try to standardize, where possible, the terms, conditions, policies, and procedures to lessen the administrative burdens associated with the current fee structures.

The Schwab Letter supported approval of the proposed fee reductions, but also asserted that other aspects of the proposal were not consistent with the statutory standards applicable to market information fees and should be abrogated. Schwab stated that, although the fee reductions benefit retail investors, the CTA's overall fee structure is not fair and reasonable because the fees charged are unrelated to the actual costs of providing the market information. Moreover, Schwab notes that the reduced costs of collecting and disseminating market information have resulted from an increase in dissemination of market information through electronic means. According to Schwab, because the new fee structure does not reflect these reduced costs, the fee structure does not

[7] *See* Securities Exchange Act Rel. No. 39370 (November 26, 1997), 62 FR 64414 (December 5, 1997).

[8] A ''quote packet'' refers to any data element, or all data elements, relating to a single issue. Last sale price, opening price, high price, low price, volume, net change, bid, offer, size, best bid, and best offer all exemplify data elements. ''IBM'' exemplifies a single issue. An index value constitutes a single issue data element.

[9] *See* note 5 above.

[10] Merrill Letter at 1.

[11] *Id.* at 2.

comply with the standards of Section 11A of the Act.

The Schwab Letter further contended that CTA should demonstrate that the proposed fees do not unfairly discriminate among users of market information. Schwab supported a ''cost-based, non-discriminatory'' enterprise fee and stated that the proposed enterprise fee of $500,000 was discriminatory because it was not connected to the actual costs of CTA.[12] Schwab also asserted that the proposed annual increase to the enterprise fee ''further exemplifies the disregard for setting fees reasonably related to costs.'' [13]

The Schwab Letter believed that the tiered fee structure improperly discriminated among broker-dealers and vendors based on the number of subscribers they have and their subscribers' use of market data. Finally, although it supported giving vendors the choice of paying the lower of the monthly nonprofessional fee or the per-quote fee, the Schwab Letter contended that to ''ensure the benefit of the election, the $0.50 per-subscriber fee should be used for those subscribers of a broker-dealer or vendor beyond the first 250,000.''[14]

IV. Discussion

The Commission finds that the proposed plan amendments are consistent with the Act and the rules and regulations thereunder.[15] Specifically, the Commission finds that approval of the amendments is consistent with Rule 11Aa3–2(c)(2) [16] of the Act.

The Commission currently is conducting a broad review of the fee structures for obtaining market information and of the role of market information revenues in funding the self-regulatory organizations. As part of its review, the Commission intends to issue a release describing existing market information fees and revenues and inviting public comment on the subject. The proposed rule change implicates many of the issues that the Commission is reviewing. These include identifying the appropriate standards for determining (1) whether the fees charged by an exclusive processor of market information are fair and reasonable, and (2) whether a fee structure is unreasonably discriminatory or an inappropriate burden on competition.

The Commission has decided to approve the proposed plan amendments pending its review because they represent, in part, a very substantial reduction in the market information fees applicable to retail investors, In particular, the monthly fee for non-professional subscribers would be reduced from $5.25 per month to no greater than $1.00 per month. Under this monthly fee structure, there would be no limit on the amount of market information that retail investors would be entitled to receive. Such a fee structure may enable vendors to provide retail investors with more useful services than previously has been the case. In this regard, the proposed plan amendments are consistent with, and significantly further, one of the principal objectives for the national market system set forth in Section 11A(a)(1)(C)(iii)increasing the availability of market information to broker-dealers and investors. The Commission wishes to emphasize, however, that its review of market information fees and revenues is ongoing and may require a reevaluation of the fee structures contained in the proposed plan amendments at some point in the future.

The Commission recognizes that the commenters supported approval of the proposed fee reductions primarily because they represent an improvement over the CTA's current fee structure. Other issues raised by the commenters (*e.g.*, discriminatory impact of the CTA fee structure on on-line investors, the appropriate standard to be applied in assessing the fairness and reasonableness of market information fees) have broader implications on the functioning and regulation of the national market system. As such these issues will be addressed in the Commission's forthcoming concept release on market information fees and revenues.

The Commission also finds that the minor, non-substantive changes made to the form of Schedules A–1 and A–2 of Exhibit E to both the CTA and CQ Plans reflect the proposed amendments, thereby clarifying the fee schedules to make them more understandable.

V. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act,[17] and the rules thereunder, that the proposed amendments to the Plans (SR–CTA/CQ–99–01) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

[FR Doc. 99–26620 Filed 10–12–99; 8:45 am]

BILLING CODE 8010–01–M

[12] Schwab Letter at 5.

[13] *Id.*

[14] *Id.* at 6.

[15] The Commission has considered the proposed amendments' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f). The Commission realizes that the modified fee structure, as applied, may create competitive disparities. The new fee structure will, however, reduce the cost of access to market information, which should result in a reduction of costs for investors. The competitive concerns and solutions suggested by the commenters will be addressed in the Commission's forthcoming concept release on market information fees and revenues.

[16] 17 CFR 240.11Aa3–2(c)(2).

[17] 15 U.S.C. 78k–1.

[18] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41981; File No. SR–Amex–99–38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Amending the Exchange's Audit Committee Requirements

October 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 20, 1999, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its listing standards pertaining to audit committee requirements. The text of the proposed rule change is as follows. Proposed new language is italicized; deletions are in brackets.

Section 121. INDEPENDENT DIRECTORS *AND AUDIT COMMITTEE*

A. Independent Directors:

The Exchange requires that domestic listed companies have [at least two] *a sufficient number of* independent directors *to satisfy the audit committee requirement set forth below.* [, that is,] *Independent* directors [who] are not officers of the company [; who are neither related to its officers nor represent concentrated or family holdings of its shares;] and *are* [who], in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the view of the company's board of directors, [are] free of any relationship that would interfere with the exercise of independent judgment. *The following persons shall not be considered independent:*

(a) a director who is employed by the corporation or any of its affiliates for the current year or any of the past three years;

(b) a director who accepts any compensation from the corporation or any of its affiliates in excess of $60,000 during the previous fiscal year, other than compensation for board service, benefits under a tax-qualified retirement plan, or non-discretionary compensation;

(c) a director who is a member of the immediate family of an individual who is, or has been in any of the past three years, employed by the corporation or any of its affiliates as an executive officer. Immediate family includes a person's spouse, parents, children, siblings, mother-in-law, father-in-law, brother-in-law, sister-in-law, and anyone who resides in such person's home;

(d) a director who is a partner in, or a controlling shareholder or an executive officer of, any for-profit business organization to which the corporation made, or from which the corporation received, payments (other than those arising solely from investments in the corporation's securities) that exceed 5% of the corporation's or business organization's consolidated gross revenues for that year, or $200,000, whichever is more, in any of the past three years;

(e) a director who is employed as an executive of another entity where any of the company's executives serve on that entity's compensation committee.

***B.* Audit Committee:**[-Listed companies shall establish and maintain an audit committee. The Exchange recommends that such committees be composed solely of independent directors; however, a company shall be in compliance with this requirement if at least a majority of the committee's members are independent directors.]

(a) Charter

Each Issuer must certify that it has adopted a formal written audit committee charter and that the Audit Committee has reviewed and reassessed the adequacy of the formal written charter on an annual basis. The charter must specify the following:

(i) the scope of the audit committee's responsibilities, and how it carries out those responsibilities, including structure, processes, and membership requirements;

(ii) the audit committee's responsibility for ensuring its receipt from the outside auditors of a formal written statement delineating all relationships between the auditor and the company, consistent with Independence Standards Board Standard 1, and the audit committee's responsibility for actively engaging in a dialogue with the auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the auditor and for taking, or recommending that the full board take, appropriate action to ensure the independence of the outside auditor; and

(iii) the outside auditor's ultimate accountability to the board of directors and the audit committee, as representatives of shareholders, and these shareholder representatives' ultimate authority and responsibility to select, evaluate, and, where appropriate, replace the outside auditor (or to nominate the outside auditor to be proposed for shareholder approval in any proxy statement).

(b) Composition

(i) Each issuer must have, and certify that it has and will continue to have, an audit committee of at least three members, comprised solely of independent directors, each of whom is able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement or will become able to do so within a reasonable period of time after his or her appointment to the audit committee. Additionally, each issuer must certify that it has, and will continue to have, at least one member of the audit committee that has past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

(ii) Notwithstanding paragraph (i) one director who is not independent as defined in Rule 4200, and is not a current employee or an immediate family member of such employee, may be appointed to the audit committee, if the board, under exceptional and limited circumstances, determines that membership on the committee by the individual is required by the best interests of the corporation and its shareholders, and the board discloses, in the next annual proxy statement subsequent to such determination, the nature of the relationship and the reasons for that determination.

(iii) Exception for Small Business Filers—Paragraphs (b)(i) and (b)(ii) do not apply to issuers that file reports under SEC Regulation S–B. Such issuers must establish and maintain an Audit Committee of at least two members, a majority of the members of which shall be independent directors.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In February 1999, the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees (''Blue Ribbon Committee'') issued a report containing ten recommendations aimed at strengthening the independence of the audit committee; making the audit committee more effective; and addressing mechanisms for accountability among the audit committee, the outside auditors, and management.[3] In response to the Blue Ribbon Committee's six recommendations regarding listing standards, the Exchange proposes these rule changes relating to its audit committee requirements. These changes fall into three general areas: (1) The definition of independence; (2) the structure and membership of the audit committee; and (3) the audit committee charter.

With regard to the definition of independence, the Exchange proposes to provide greater specificity for all directors, not just for those serving on the audit committee. Specifically, consistent with the recommendations of the Blue Ribbon Committee, the Exchange proposes to augment its current definition of ''independent director'' with five relationships that would disqualify a director from being considered independent because these relationships could impair a director's independent judgment as a result of financial, familial, or other material ties to management or the corporation. The first of these relationships is a director who is employed by the corporation or any of its affiliates for the current year or any of the past three years. The second is a director who accepts any compensation from the corporation or any of its affiliates in excess of $60,000 during the previous fiscal year, other than compensation for board service, benefits under a tax-qualified retirement plan, or non-discretionary compensation. The third relationship is a director who is a member of the immediate family of an individual who is, or has been in any of the past three years, employed by the corporation or any of its affiliates as an executive officer. The fourth relationship is a director who is a partner in, or a

[3] *Report and Recommendations of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees (1999).* A copy of this Report can be found on-line at www.nasdaqnews.com.

controlling shareholder or an executive officer of, any for-profit business organization to which the corporation made, or from which the corporation received, payments (other than those arising solely from investments in the corporation's securities) that exceed 5 percent of the corporation's or business organization's consolidated gross revenues for that year, or $200,000, whichever is more, in any of the past three years. The final relationship is a director who is employed as an executive of another entity where any of the company's executives serve on that entity's compensation committee.

Although the above-enumerated relationships are similar to those recommended by the Blue Ribbon Committee, the Exchange looked to existing SEC rules and other pronouncements to provide additional specificity. In this regard, the five-year ban recommended by the Blue Ribbon Committee was reduced to three years, which the Exchange views as a more reasonable period while still greater than the SEC's rule 144[4] two year time frame. Furthermore, although the Blue Ribbon Committee recommended that a director who received any compensation from the corporation (other than for board service or under a tax-qualified retirement plan) be disqualified form being considered independent, the Exchange believes that a compensation threshold of $60,000 is appropriate as it corresponds to the *de minimis* threshold for disclosure of relationships that may affect the independent judgment of directors set forth in SEC Regulation S–K, Item 404.[5] In addition, the Exchange believes that the receipt of non-discretionary compensation should not automatically disqualify a director from being considered independent. Furthermore, the proposed rule change provides further clarification of the fourth relationship by specifying that payments resulting solely from investments in the corporation's securities will not prevent a director from being considered independent and by looking to the American Law Institute's measurement of ''significant'' when determining what payments to or from a company could impair a director's independent judgment.[6] Lastly, the Exchange believes that the heightened independence standard should apply to all issuers due to the importance of this issue.

With regard to the structure and membership qualifications of the audit committee, the Exchange proposes to change the required composition of the audit committee from at least two to at least three members. Furthermore, the audit committee must be comprised solely of independent directors rather than a majority of independent directors. The Exchange is conscious of the fact that in exceptional circumstances, issuers may appropriately conclude that it would be in the best interests of a corporation for a non-independent director to serve on the audit committee. In such exceptional and limited circumstances, a non-independent director can serve on the audit committee, provided that the board determines that it is required by the best interests of the corporation and its shareholders, and the board discloses the reasons for the determination in the next annual proxy statement. Due to the nature of this exception, however, a corporation could have no more than one non-independent director serving on its audit committee. Also, current employees or officers, or their immediate family members may not serve on the audit committee under this exception.

As a result of the audit committee's responsibility with respect to a corporation's accounting and financial reporting, the Exchange believes that audit committee members should have a basic understanding of financial statements. As such, the proposed rule change requires that each member of the audit committee be able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement or become able to do so within a reasonable period of time after his or her appointment to the audit committee. Furthermore, in order to further enhance the effectiveness of the audit committee, at least one member of the audit committee must have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer, or other senior officer with financial oversight responsibilities.

The Exchange is sensitive to the potential burden that the proposed changes to the audit committee composition requirements may place on small companies. Therefore, the Exchange proposes to exempt those corporations that file under SEC Regulation S–B from these proposed changes. Corporations that are small business filers will be held to the existing Exchange requirements with respect to audit committee composition, that is, they must maintain an audit committee of at least two members, a majority of whom are independent directors.

With regard to the audit committee charter, the Exchange believes that a written charter would help the audit committee as well as management and the corporation's auditors recognize the function of the audit committee and the relationship among these parties. As such, the proposed rule change would require each audit committee to adopt a formal written charter. This charter must specify the scope of the audit committee's responsibilities, and how it carries out those responsibilities, including structure, processes, and membership requirements. In addition, the charter must specify the audit committee's responsibility for ensuring its receipt from the outside auditors of a formal written statement delineating all relationships between the auditor and the company, consistent with Independence Standards Board 1,[7] and the audit committee's responsibility for actively engaging in a dialogue with the auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the auditor and for taking, or recommending that the full board take appropriate action to ensure the independence of the outside auditor. Also, the charter must specify the outside auditor's ultimate accountability to the board of directors and the audit committee, as representatives of shareholders, and these shareholder representatives' ultimate authority and responsibility to select, evaluate, and, where appropriate, replace the outside auditor (or to nominate the outside auditor to be proposed for shareholder approval in any proxy statement). Issuers would be required to review their charter on an annual basis.

The Exchange proposes to allow directors serving on the audit committee at the time the proposed rule change is approved by the Commission to continue serving on the audit committee until they are re-elected or replaced. The Exchange also believes that the new rules should be made effective 18 months after the proposed rule change is approved by the Commission to provide issuers adequate time to recruit the requisite members.

[4] 17 CFR 230.144.

[5] 17 CFR 229.404.

[6] American Law Institute, Principles of Corporate Governance § 1.34 (1994).

[7] Independence Standard No. 1, Independence Discussions with Audit Committees (January 1999), which can be found on-line at www.cpaindependence.org.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, the Exchange's rules to be designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest. As noted above, the Exchange's proposed rule change is aimed at improving the effectiveness of audit committees of Exchange issuers, which is consistent with these goals. Accordingly, this proposal is properly within the discretion of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–99–38 and should be submitted by November 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

[FR Doc. 99–26624 Filed 10–12–99; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–41974; File No. SR–NASD–99–52)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to a Delay in Implementing Changes to Nasdaq Riskless Principal Trade Reporting Rules

October 4, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 1999, the National Association of Securities Dealers (''NASDA'' or ''Association''), through its wholly-owned subsidiary, Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated this proposal as one constituting a stated policy and interpretation with respect to the meaning of an existing rule under Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1)[4] thereunder, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq filed with the SEC a re-interpretation to NASD Rules 4632, 4642, 4652, and 6620, regarding Nasdaq riskless principal trade reporting. The purpose of this re-interpretation of NASD Rules 4632, 4642, 4652, and 6620, is to delay the effective date of the Nasdaq riskless principal trade reporting rule changes announced in SR–NASD–98–59[5] and the interpretation thereto file in SR–NASD–99–39.[6]

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On March 24, 1999, the Commission approved a proposal to amend the trade reporting rules relating to riskless principal transactions in Nasdaq National Market, Nasdaq Small Cap Market, Nasdaq convertible debt, and non-Nasdaq OTC equity securities (''Riskless Principal Rule Changes'').[7] Under the proposed Riskless Principal Rule Changes, a ''riskless'' principal transaction is one where an NASD member, after having received an order to buy (sell) a security, purchases (sells) the security as principal at the same price to satisfy the order to buy (sell). The proposed rule changes provide that if a transaction is ''riskless'', the offsetting transaction/leg (*i.e.*, the transaction with the customer), does not need to be reported to the tape.

When the SEC approved the rule change, the Commission asked Nasdaq to submit an interpretation giving examples of how mark-ups, mark-downs, and other fees will be excluded for purposes of the amended riskless

[5] Securities Exchange Act Release No. 40382 (August 28, 1998), 63 FR 47337 (September 4, 1998).

[6] Securities Exchange Act Release No. 41731 (August 11, 1999), 64 FR 44983 (August 18, 1999).

[7] *See* Securities Exchange Act Release No. 41208 (March 24, 1999), 64 FR 15386 (March 31, 1999).

principal rules.[8] As requested, on August 5, 1999, Nasdaq filed SR–NASD–99–39 with the Commission, attached to which was *Notice to Members 99–65,* which gave examples of how mark-ups and other fees will be excluded for purposes of the riskless principal trade reporting rules. SR–NASD–99–39 and *Notice to Members 99–65* were filed as an interpretation to existing NASD Rules 4632, 4642, and 6620.[9] In addition to giving examples of how mark-ups and other fees will be excluded for purposes of the riskless principal trade reporting rules, *Notice to Members 99–65* stated that the rule changes announced in SR–NASD–98–59 and the interpretations to those rules contained in the *Notice* would become effective on September 15, 1999.

Nasdaq is filing this proposal to delay implementation of the Nasdaq Riskless Principal Rule Changes until March 1, 2000, because a number of NASD members have represented that they are unable to prepare their systems for compliance with the changes by the September 30, 1999 deadline. The firms' inability to meet the September 30, 1999 deadline is due (in large part) to Year 2000 (''Y2K'') remediation and testing requirements, as well as other code changes. In addition, the firms have represented that, due to a Y2K code freeze—which most firms will implement from September 30, 1999, until mid-January 2000—they will not be able to complete programming for the Riskless Principal Rule Changes until the end of the first quarter of 2000.

Specifically, Nasdaq received a letter dated September 3, 1999 (''September 3 Letter''),[10] and a letter dated August 27, 1999 (''August 27 Letter''),[11] in which the signatory NASD member firms requested a delay of the implementation of the Riskless Principal Rule Changes. The August 27 Letter stated that the signatory NASD member firms (''Firms'') were requesting a delay because they need additional time to implement the sophisticated software changes necessary to modify their trading systems. In addition, the August 27 Letter represented that most firms in the industry have taken the prudent step of imposing freezes on system changes beginning as early as September 15, 1999, to ensure a smooth Y2K transition. The letter further stated that meeting the September 30, 1999 implementation deadline, however, could have a significant impact on the Firms' Y2K efforts. The August 27 Letter represented that the Firms will work closely with the NASD and Nasdaq to ensure a smooth implementation of the new reporting requirement after the Firms have successfully met the challenges presented by the Y2K transition.[12]

The September 3 Letter stated that, given the complexity of programming changes required by the Riskless Principal Rule Changes in combination with Y2K approaching, it would be difficult for the 14 signatory firms to meet the September 30, 1999 implementation date. The letter represented that systems personnel at each of the 14 firms have indicated that the programming changes necessitated by the Riskless Principal Rule Changes are very complicated and would require significant programming and testing. The September 3 Letter stated that since the adoption of the Riskless Principal Rule Changes, the NASD has issued *Notice to Members 99–65* (August 1999), which raises several issues of application and interpretation, the resolution of which may require further programming changes. The September 3 Letter requested additional time to reasonably assure that programming changes are properly analyzed and implemented.

Nasdaq believes that a delay in the implementation of the Nasdaq Riskless Principal Rule Changes is reasonable in light of the Y2K remediation efforts, the code freeze that most NASD members will observe, and the programming changes required by the rule change. Nasdaq believes it would not be prudent or consistent with Section 15A of the Act[13] to require members to implement substantial system changes at a time when they are focusing significant resources and time to perform Y2K testing to insure the integrity of their major market systems. Thus, Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)[14] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i)[15] of the Act and Rule 19b–4(f)(1) thereunder,[16] in that it constitutes a stated policy and interpretation with respect to the meaning of an existing rule.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. 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

[8] *See id.* at footnote 15.

[9] *See* Securities Exchange Act Release No. 41731 (August 11, 1999), 64 FR 44983 (August 18, 1999) (SR–NASD–99–39).

[10] The September 3 Letter was submitted to Robert E. Aber, Senior Vice President and General Counsel, The Nasdaq Stock Market, Inc., from Richard T. Sharp, Solomon, Zauder, Ellenhorn Frischer & Sharp, on behalf of the following NASD member firms: Banc of America Securities; Cantor Fitzgerald & Co.; Deutsche Bank Securities, Inc.; Fidelity Capital Markets; Herzog, Heine, Geduld, Inc.; J.P. Morgan Securities, Inc.; Knight Securities L.P.; Mayer & Schweitzer, Inc.; OLDE Discount Corporation; Paine Webber Incorporated; Sherwood Securities Corp.; Spear, Leeds & Leeds & Kellogg Capital Markets; Warburg Dillon Read LLC; and Weeden & Co.

[11] The August 27 letter was submitted to Robert E. Aber, Senior Vice President and General Counsel, The Nasdaq Stock Market, Inc., and was signed by the following NASD member firms: Merrill Lynch, Pierce, Fenner & Smith; Morgan Stanley Dean Witter; Salomon, Smith Barney; Credit Suisse First Boston Corporation; Donaldson, Luftkin & Jenrette Securities; Goldman, Sachs & Co.; and Lehman Brothers Inc.

[12] The letter also stated that the Firms support the rule change because it will reduce transaction fees, including SEC fees.

[13] 15 U.S.C. 78o–3.

[14] 15 U.S.C. 78o–3(b)(6).

[15] 15 U.S.C. 78s(b)(3)(A)(i).

[16] 17 CFR 240.19b–4(f)(1).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–52, and should be submitted by November 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41982; File No. SR–NASD–99–48]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Amending Nasdaq's Audit Committee Requirements

October 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 20, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq has filed with the Commission a proposed rule change amending its definition of independence and its audit committee requirements. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Rule 4200. DEFINITIONS

(a) For purposes of the Rule 4000 Series, unless the context requires otherwise:

(1)–(14) No change

(15) ''Independent director'' means a person other than an officer or employee of the company or its subsidiaries or any other individual having a relationship which, in the opinion of the company's board of directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. *The following persons shall not be considered independent:*

(a) a director who is employed by the corporation or any of its affiliates for the current year or any of the past three years;

(b) a director who accepts any compensation from the corporation or any of its affiliates in excess of $60,000 during the previous fiscal year, other than compensation for board service, benefits under a tax-qualified retirement plan, or non-discretionary compensation;

(c) a director who is a member of the immediate family of an individual who is, or has been in any of the past three years, employed by the corporation or any of its affiliates as an executive officer. Immediate family includes a person's spouse, parents, children, siblings, mother-in-law, father-in-law, brother-in-law, sister-in-law, and anyone who resides in such person's home;

(d) a director who is a partner in, or a controlling shareholder or an executive officer of, any for-profit business organization to which the corporation made, or from which the corporation received, payments (other than those arising solely from investments in the corporation's securities) that exceed 5% of the corporation's or business organization's consolidated gross revenues for that year, or $200,000, whichever is more, in any of the past three years;

(e) a director who is employed as an executive of another entity where any of the company's executives serve on that entity's compensation committee.

(15)–(36) renumbered as (16)–(37)

(b) No change

Rule 4310. Qualification Requirements for Domestic and Canadian Securities

To qualify for inclusion in Nasdaq, a security of a domestic or Canadian issuer shall satisfy all applicable requirements contained in paragraphs (a) or (b), and (c) hereof.

(a)–(b) No change

(c) In addition to the requirements contained in paragraph (a) or (b) above, and unless otherwise indicated, a security shall satisfy the following criteria for inclusion in Nasdaq:

(1)–(24) No change

(25) Corporate Governance Requirements

* * * * *

(A) No change

(B) Independent Directors

Each issuer shall maintain a [minimum of two] *sufficient number of* independent directors on its board of directors *to satisfy the audit committee requirement set forth in Rule 4310(c)(26)(B).*

[(C) Audit Committee

Each issuer shall establish and maintain an Audit Committee, a majority of the members of which shall be independent directors.]

(D)–(H) renumbered as (C)–(G)

(26) *Audit Committee*

(A) Audit Committee Charter

Each Issuer must certify that it has adopted a formal written audit committee charter and that the Audit Committee has reviewed and reassessed the adequacy of the formal written charter on an annual basis. The charter must specify the following:

(i) the scope of the audit committee's responsibilities, and how it carries out those responsibilities, including structure, processes, and membership requirements;

(ii) the audit committee's responsibility for ensuring its receipt from the outside auditors of a formal written statement delineating all relationships between the auditor and the company, consistent with Independence Standards Board Standard 1, and the audit committee's responsibility for actively engaging in a dialogue with the auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the auditor and for taking, or recommending that the full board take, appropriate action to ensure the independence of the outside auditor; and

(iii) the outside auditor's ultimate accountability to the board of directors and the audit committee, as representatives of shareholders, and these shareholder representatives' ultimate authority and responsibility to select, evaluate, and, where appropriate, replace the outside auditor (or to nominate the outside auditor to be proposed for shareholder approval in any proxy statement).

(B) Audit Committee Composition

(i) Each issuer must have, and certify that it has and will continue to have, an audit committee of at least three

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[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

members, comprised solely of independent directors, each of whom is able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement or will become able to do so within a reasonable period of time after his or her appointment to the audit committee. Additionally, each issuer must certify that it has, and will continue to have, at least one member of the audit committee that has past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

(ii) Notwithstanding paragraph (i), one director who is not independent as defined in Rule 4200, and is not a current employee or an immediate family member of such employee, may be appointed to the audit committee, if the board, under exceptional and limited circumstances, determines that membership on the committee by the individual is required by the best interests of the corporation and its shareholders, and the board discloses, in the next annual proxy statement subsequent to such determination, the nature of the relationship and the reasons for that determination.

(iii) Exception for Small Business Filers—Paragraphs (B)(i) and (B)(ii) do not apply to issuers that file reports under SEC Regulation S–B. Such issuers must establish and maintain an Audit Committee of at least two members, a majority of the members of which shall be independent directors.

(26)–(28) renumbered as (27)–(29)

(d) No change

Rule 4320. Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

To qualify for inclusion in Nasdaq, a security of a non-Canadian foreign issuer, and American Depositary Receipt (ADR) or similar security issued in respect of a security of a foreign issuer shall satisfy the requirements of paragraphs (a), (b) or (c), and (d) and (e) of this Rule.

(a)–(d) No change

(e) In addition to the requirements contained in paragraphs (a), (b) or (c), and (d), the security shall satisfy the following criteria for inclusion in Nasdaq:

(1)–(20) No change

(21) Corporate Governance Requirements—No provisions of this subparagraph or of subparagraph [(23)] *(24)* shall be construed to require any foreign issuer to do any act that is contrary to a law, rule or regulation of any public authority exercising jurisdiction over such issuer or that is contrary to generally accepted business practices in the issuer's country of domicile. Nasdaq shall have the ability to provide exemptions from the applicability of these provisions as may be necessary or appropriate to carry out this intent.

Nasdaq shall review the issuer's past corporate governance activities. This review may include activities taking place while the issuer is listed on Nasdaq or an exchange that imposes corporate governance requirements, as well as activities taking place after the issuer is no longer listed on Nasdaq or an exchange that imposes corporate governance requirements. Based on such review, Nasdaq may take any appropriate action, including placing of restrictions on or additional requirements for listing, or the denial of listing of a security if Nasdaq determines that there have been violations or evasions of such corporate governance standards. Determinations under this subparagraph shall be made on a case-by-case basis as necessary to protect investors and the public interest.

(A) No change

(B) Independent Directors

Each issuer shall maintain a [minimum of two] *sufficient number of* independent directors on its board of directors *to satisfy the audit committee requirement set forth in Rule 4320(c)(22)(B).*

[(C) Audit Committee

Each issuer shall establish and maintain an Audit Committee, a majority of the members of which shall be independent directors.]

(D)–(H) renumbered as (C)–(G)

(22) *Audit Committee*

(A) Audit Committee Charter

Each Issuer must certify that it has adopted a formal written audit committee charter and the Audit Committee has reviewed and reassessed the adequacy of the formal written charter on an annual basis. The charter must specify the follow:

(i) the scope of the audit committee's responsibilities, and how it carries out those responsibilities, including structure, processes, and membership requirements;

(ii) the audit committee's responsibility for ensuring its receipt from the outside auditors of a formal written statement delineating all relationships between the auditor and the company, consistent with Independence Standards Board Standard 1, and the audit committee's responsibility for actively engaging in a dialogue with the auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the auditor and for taking, or recommending that the full board take, appropriate action to ensure the independence of the outside auditor; and

(iii) the outside auditor's ultimate accountability to the board of directors and the audit committee, as representatives of shareholders, and these shareholder representatives' ultimate authority and responsibility to select, evaluate, and, where appropriate, replace the outside auditor (or to nominate the outside auditor to be proposed for shareholder approval in any proxy statement).

(B) Audit Committee Composition

(i) Each issuer must have, and certify that it has and will continue to have, an audit committee of at least three members, comprised solely of independent directors, each of whom is able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement or will become able to do so within a reasonable period of time after his or her appointment to the audit committee. Additionally, each issuer must certify that it has, and will continue to have, at least one member of the audit committee that has past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

(ii) Notwithstanding paragraph (i), one director who is not independent as defined in Rule 4200, and is not a current employee or an immediate family member of such employee, may be appointed to the audit committee, if the board, under exceptional and limited circumstances, determines that membership on the committee by the individual is required by the best interests of the corporation and its shareholders, and the board discloses, in the next annual proxy statement subsequent to such determination, the nature of the relationship and the reasons for that determination.

(iii) Exception for Small Business Filers—Paragraphs (B)(i) and (B)(ii) do not apply to issuers that file reports under SEC Regulation S–B. Such issuers must establish and maintain an Audit Committee of at least two members, a majority of the members of which shall be independent directors.

(22)–(24) renumbered as (23)–(25)

(f) No change

Rule 4460. Non-Quantitative Designation Criteria for Issuers Excepting Limited Partnerships

(a)–(b) No change

(c) Independent Directors

Each NNM issuer shall maintain a [minimum of two] *sufficient number of* independent directors on its board of directors *to satisfy the audit committee requirement set forth in Rule 4460(d)(2).*

(d) Audit Committee

[Each NNNM issuer shall establish and maintain an Audit Committee, a majority of the members of which shall be independent directors.]

(1) Audit Committee Charter

Each Issuer must certify that it has adopted a formal written audit committee charter and that the Audit Committee has reviewed and reassessed the adequacy of the formal written charter on an annual basis. The charter must specify the following:

(A) the scope of the audit committee's responsibilities, and how it carries out those responsibilities, including structure, processes, and membership requirements;

(B) the audit committee's responsibility for ensuring its receipt from the outside auditors of a formal written statement delineating all relationships between the auditor and the company, consistent with independence Standards Board Standard 1, and the audit committee's responsibility for actively engaging in a dialogue with the auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the auditor and for taking, or recommending that the full board take, appropriate action to ensure the independence of the outside auditor; and

(C) the outside auditor's ultimate accountability to the board of directors and the audit committee, as representatives of shareholders, and these shareholder representatives' ultimate authority and responsibility to select, evaluate, and, where appropriate, replace the outside auditor (or to nominate the outside auditor to be proposed for shareholder approval in any proxy statement).

(2) Audit Committee Composition

(A) Each issuer must have, and certify that it has and will continue to have, an audit committee of at least three members, comprised solely of independent directors, each of whom is able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement or will become able to do so within a reasonable period of time after his or her appointment to the audit committee. Additionally, each issuer must certify that it has, and will continue to have, at least one member of the audit committee that has past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

(B) Notwithstanding paragraph (i), one director who is not independent as defined in Rule 4200, and is not a current employee or an immediate family member of such employee, may be appointed to the audit committee, if the board, under exceptional and limited circumstances, determines that membership on the committee by the individual is required by the best interests of the corporation and its shareholders, and the board discloses, in the next annual proxy statement subsequent to such determination, the nature of the relationship and the reasons for that determination.

(C) Exception for Small Business Filers—Paragraphs (2)(A) and (2)(B) do not apply to issuers that file reports under SEC Regulation S–B. Such issuers must establish and maintain an Audit Committee of at least two members, a majority of the members of which shall be independent directors.

(e)–(n) No change

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In February 1999, the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees (''Blue Ribbon Committee'') issue a report containing ten recommendations aimed at strengthening the independence of the audit committee; making the audit committee more effective; and addressing mechanisms for accountability among the audit committee, the outside auditors, and management.[3] In response to the Blue Ribbon Committee's six recommendations regarding listing standards, Nasdaq proposes these rule changes relating to its audit committee requirements. These changes fall into three general areas: (1) The definition of independence; (2) the structure and membership of the audit committee; and (3) the audit committee charter.

With regard to the definition of independence, Nasdaq proposes to provide greater specificity for all directors, not just for those serving on the audit committee. Specifically, consistent with the recommendations of the Blue Ribbon Committee, Nasdaq proposes to augment its current definition of ''independent director'' with five relationships that would disqualify a director from being considered independent because these relationships could impair a director's independent judgment as a result of financial, familial, or other material ties to management or the corporation. The first of these relationships is a director who is employed by the corporation or any of its affiliates for the current year or any of the past three years. The second is a director who accepts any compensation from the corporation or any of its affiliates in excess of $60,000 during the previous fiscal year, other than compensation for board service, benefits under a tax-qualified retirement plan, or non-discretionary compensation. The third relationship is a director who is a member of the immediate family of an individual who is, or has been in any of the past three years, employed by the corporation or any of its affiliates as an executive officer. The fourth relationship is a director who is a partner in, or a controlling shareholder or an executive

[3] *Report and Recommendations of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees (1999).* A copy of this Report can be found on-line at www.nasdaqnews.com.

officer of, any for-profit business organization to which the corporation made, or from which the corporation received, payments (other than those arising solely from investments in the corporation's securities) that exceed 5 percent of the corporation's or business organization's consolidated gross revenues for that year, or $200,000, whichever is more, in any of the past three years. The final relationship is a director who is employed as an executive of another entity where any of the company's executives serve an that entity's compensation committee.

Although the above-enumerated relationships are similar to those recommended by the Blue Ribbon Committee, Nasdaq looked to existing SEC rules and other pronouncements to provide additional specificity. In this regard, the five-year ban recommended by the Blue Ribbon Committee was reduced to three years, which Nasdaq views as a more reasonable period while still greater than the SEC's rule 144[4] two year time frame. Furthermore, although the Blue Ribbon Committee recommended that a director who received any compensation from the corporation (other than for board service or under a tax-qualified retirement plan) be disqualified from being considered independent, Nasdaq believes that a compensation threshold of $60,000 is appropriate as it corresponds to the *de minimis* threshold for disclosure of relationships that may affect the independent judgment of directors set forth in SEC Regulation S–K, Item 404.[5] In addition, Nasdaq believes that the receipt of non-discretionary compensation should not automatically disqualify a director from being considered independent. Furthermore, the proposed rule changes provides further clarification of the fourth relationship by specifying that payments resulting solely from investments in the corporation's securities will not prevent a director from being considered independent and by looking to the American Law Institute's measurement of ''significant'' when determining what payments to or from a company could impair a director's independent judgment.[6] Finally, Nasdaq believes that the heightened independence standard should apply to all issuers due to the importance of this issue.

With regard to the structure and membership qualifications of the audit committee, Nasdaq proposes to change the required composition of the audit committee from at least two to at least three members. Furthermore, the audit committee must be comprised solely of independent directors rather than a majority of independent directors. Nasdaq is conscious of the fact that in exceptional circumstances, issuers may appropriately conclude that it would be in the best interests of a corporation for a non-independent director to serve on the audit committee. In such exceptional and limited circumstances, a non-independent director can serve on the audit committee, provided that the board determines that it is required by the best interests of the corporation and its shareholders, and the board discloses the reasons for the determination in the next annual proxy statement. Due to the nature of this exception, however, a corporation could have no more than one non-independent director serving on its audit committee. Also, current employees or officers, or their immediate family members may not serve on the audit committee.

As a result of the audit committee's responsibility with respect to a corporation's accounting and financial reporting, Nasdaq believes that audit committee members should have a basic understanding of financial statements. As such, the proposed rule change requires that each member of the audit committee be able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement or become able to do so within a reasonable period of time after his or her appointment to the audit committee. Furthermore, in order to further enhance the effectiveness of the audit committee, at least one member of the audit committee must have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer, or other senior officer with financial oversight responsibilities.

Nasdaq is sensitive to the potential burden that the proposed changes to the audit committee composition requirements may place on small companies. Therefore, Nasdaq proposes to exempt those corporations that file under SEC Regulation S–B from these proposed changes. Corporations that are small business filers will be held to the existing Nasdaq requirements with respect to audit committee composition. That is, they must maintain an audit committee of at least two members, a majority of whom are independent directors.

With regard to the audit committee charter, Nasdaq believes that a written charter would help the audit committee as well as management and the corporation's auditors recognize the function of the audit committee and the relationship among these parties. As much, the proposed rule change would require each audit committee to adopt a formal written charter. This charter must specify the scope of the audit committee's responsibilities, and how it carries out those responsibilities, including structure, processes, and membership requirements. In addition, the charter must specify the audit committee's responsibility for ensuring its receipt from the outside auditors of a formal written statement delineating all relationships between the auditor and the company, consistent with Independence Standards Board Standard 1,[7] and the audit committee's responsibility for actively engaging in a dialogue with the auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the auditor and for taking, or recommending that the full board take appropriate action to ensure the independence of the outside auditor. Also, the charter must specify the outside auditor's ultimate accountability to the board of directors and the audit committee, as representatives of shareholders, and these shareholder representatives' ultimate authority and responsibility to select, evaluate, and, where appropriate, replace the outside auditor (or to nominate the outside auditor to be proposed for shareholder approval in any proxy statement). Issuers would be required to review their charter on an annual basis.

Nasdaq proposes to allow directors serving on the audit committee at the time the proposed rule change is approved by the Commission to continue serving on the audit committee until they are re-elected or replaced. Nasdaq also believes that the new rules should be made effective 18 months after the proposed rule change is approved by the Commission to provide issuers adequate time to recruit the requisite members.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the

[4] 17 CFR 230.144.

[5] 17 CFR 229.404.

[6] American Law Institute, Principles of Corporate Governance § 1.34 (1994).

[7] Independence Standard No. 1, Independence Discussions with Audit Committees (January 1999). This Standard can be found on-line at www.cpaindependence.org.

Act[8] which requires, among other things, that the Association's rules to be designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest. As noted above, Nasdaq's proposed rule change is aimed at improving the effectiveness of audit committees of Nasdaq Issuers, which is consistent with these goals. Accordingly, this proposal is properly within the discretion of the Association.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate, up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the File No. SR–NASD–99–48 and should be submitted by November 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–26622 Filed 10–12–99; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78o–3(b)(6).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41980; File No. SR–NYSE–99–39]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Amending Audit Committee Requirements of Listed Companies

October 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rules 19b–4 thereunder,[2] notice is hereby given that on September 22, 1999, the New York Stock Exchange, Inc. (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Paragraph 303 of its *Listed Company Manual* (the ''Manual''). The rule change amends the Exchange's policy applicable to audit committee requirements of listed companies. The text of the proposed rule change is as follows.

NYSE Listed Company Manual

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Section 3

Corporate Responsibility

[Section 303.00 is being replaced in its entirety with the following (except the parenthetical reference to outside directors)]

303.00 Corporate Governance Standards

In addition to the numerical listing standards, the Exchange has adopted certain corporate governance listing standards. These standards apply to all companies listing common stock on the Exchange. However, the Exchange does not apply a particular standard to a non-U.S. company if the company provides the Exchange with a written certification from independent counsel of the company's country of domicile stating that the company's corporate governance practices comply with home country law and the rules of the principal securities market for the company's stock outside the United States.

303.01 Audit Committee

(A) Audit Committee Policy. Each company must have a qualified audit committee.

(B) Requirements for a Qualified Audit Committee.

(1) Formal Charter. Each audit committee must adopt a formal written charter that is approved by the Board of Directors. The audit committee must review and reassess the adequacy of the audit committee charter on an annual basis. The charter must specify the following:

(a) The scope of the audit committee's responsibilities and how it carries out those responsibilities, including structure, processes and membership requirements;

(b) That the outside auditor for the company is ultimately accountable to the Board of Directors and audit committee of the company, that the audit committee and Board of Directors have the ultimate authority and responsibility to select, evaluate and, where appropriate, replace the outside auditor (or to nominate the outside auditor to be proposed for shareholder approval in any proxy statement); and

(c) That the audit committee is responsible for ensuring that the outside auditor submits on a periodic basis to the audit committee a formal written statement delineating all relationships between the auditor and the company and that the audit committee is responsible for actively engaging in a dialogue with the outside auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the outside auditor and for recommending that the Board of Directors take appropriate action to ensure the independence of the outside auditor.

(2) Composition/Expertise Requirement of Audit Committee Members.

(a) Each audit committee shall consist of at least three directors, all of whom have no relationship to the company that may interfere with the exercise of their independence from management and the company (''Independent'');

(b) Each member of the audit committee shall be financially literate, as such qualification is interpreted by the company's Board of Directors in its business judgment, or must become financially literate within a

reasonable period of time after his or her appointment to the audit committee; and

(c) At least one member of the audit committee must have accounting or related financial management expertise, as the Board of Directors interprets such qualification in its business judgment.

(3) Independence Requirement of Audit Committee Members. In addition to the definition of Independent provided above in (2)(a), the following restrictions shall apply to every audit committee member:

(a) Employees. A director who is an employee (including non-employee executive officers) of the company or any of its affiliates may not serve on the audit committee until three years following the termination of his or her employment. In the event the employment relationship is with a former parent or predecessor of the company, the director could serve on the audit committee after three years following the termination of the relationship between the company and the former parent or predecessor.

(b) Business Relationship. A director (i) who is a partner, controlling shareholder, or executive officer of an organization that has a business relationship with the company, or (ii) who has a direct business relationship with the company (*e.g.*, a consultant) may serve on the audit committee only if the company's Board of Directors determines in its business judgment that the relationship does not interfere with the director's exercise of independent judgment. In making a determination regarding the independence of a director pursuant to this paragraph, the Board of Directors should consider, among other things, the materiality of the relationship to the company, to the director, and, if applicable, to the organization with which the director is affiliated.

''Business relationships'' can include commercial, industrial, banking, consulting, legal, accounting and other relationships. A director can have this relationship directly with the company, or the director can be a partner, officer or employee of an organization that has such a relationship. The director may serve on the audit committee without the above-referenced Board of Directors' determination after three years following the termination of, as applicable, either (1) the relationship between the organization with which the director is affiliated and the company, (2) the relationship between the director and his or her partnership status, shareholder interest or executive officer position, or (3) the direct business relationship between the director and the company.

(c) Cross Compensation Committee Link. A director who is employed as an executive of another corporation where any of the company's executives serves on that corporation's compensation committee may not serve on the audit committee.

(d) Immediate Family. A director who is an Immediate Family member of an individual who is an executive office of the company or any of its affiliates cannot serve on the audit committee until three years following the termination of such employment relationship. See para. 303.02 for definition of ''Immediate Family.''

303.02 Application of Standards

(A) ''Immediate Family'' includes a person's spouse, parents, children, siblings, mothers-in-law and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than employees) who shares person's home.

(B) ''Affiliate'' includes a subsidiary, sibling company, predecessor, parent company, or former parent company.

(C) Written Affirmation. As part of the initial listing process, and with respect to any subsequent changes to the composition of the audit committee, and otherwise approximately once each year, each company should provide the Exchange written confirmation regarding:

(1) Any determination that the company's Board of Directors has made regarding the independence of directors pursuant to any of the subparagraphs above;

(2) The financial literacy of the audit committee members;

(3) The determination that at least one of the audit committee members has accounting or related financial management expertise; and

(4) The annual review and reassessment of the adequacy of the audit committee charter.

(D) Independence Requirement of Audit Committee Members. Notwithstanding the requirements of subparagraphs (3)(a) and (3)(d) of para. 303.01, one director who is no longer an employee or who is an Immediate Family member of a former executive officer of the company or its affiliates, but is not considered independent pursuant to these provisions due to the three-year restriction period, may be appointed, under exceptional and limited circumstances, to the audit committee if the company's board of directors determines in its business judgment that membership on the committee by the individual is required by the best interests of the corporation and its shareholders, and the company discloses, in the next annual proxy statement subsequent to such determination, the nature of the relationship and the reasons for that determination.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In September 1998, the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees (''BRC'') was formed. The BRC solicited public comments on possible recommendations in November of the same year. The comment period expired December 1, 1998, and earlier this year the BRC compiled and published a report that contained ten specific recommendations (''Recommendations'') to the Exchange, the National Association of Securities Dealers (''NASD''), the Commission, and the accounting profession.

The Exchange distributed to its listed companies copies of the report issued by the BRC. For several months, NYSE staff worked with listed companies and constituent committees on their comments and views on the Recommendations. Most of the issues raised during this working period addressed the four Recommendations made to the Commission and the accounting profession.

On June 3, 1998, the Exchange Board reviewed the suggested rule changes and authorized the Exchange staff to distribute to its listed companies the Exchange staff's suggestions for rule changes in response to the Recommendations. The comments from the Exchange's listed companies were generally supportive of the suggestions put forth by the Exchange, with limited concerns addressing the concept of ''financial literacy.'' Furthermore, during that time period, the Exchange staff met with staff at the Commission and the NASD regarding uniformity among the markets in standards governing issuer audit committees.

As a result of comments from the issuers ad conversations with staff at the Commission and the NASD, the Exchange slightly modified the proposed audit committee requirements and obtained Board approval on September 2, 1999 to file the proposed rule change with the Commission. The Exchange proposes to revise Paragraph 303 of the Manual. The proposed rule change specifies four requirements for a qualified audit committee and defines the terms ''Immediate Family'' and ''Affiliate'' for purposes of the proposed audit committee requirements.

- Audit Committee Requirements:

1. *Formal Charter:* The Exchange proposes to adopt the Recommendations to require audit committees to adopt a formal written charter that is approved

by the company's board and to review and reassess annually the adequacy of the charter. In addition, the charter must specify: (a) The scope of the audit committee's responsibilities and how they are being carried out, (b) the ultimate accountability of the outside auditor to the board and audit committee, (c) the responsibility of the audit committee and board for selection, evaluation and replacement of the outside auditor, and (d) the responsibility of the audit committee for ensuring the independence of the outside auditor by reviewing, and discussing with the board if necessary, any relationships between the auditor and the company or any other relationships that may adversely affect the independence of the auditor.

2. *Composition/Expertise Requirement of Audit Committee Members:* Three requirements suggested by the BRC, with one slight modification from the Recommendations as noted below, are part of the proposed rule change:

(a) Each audit committee must have at least three Independent directors, as described in item 3 below, subject to a board ''override'' for one director. The ''override'' may be exercised by the board in the event that it determines in its business judgment that a director who is no longer an Employee of the company or its affiliates, or who is an Immediate Family member of a former executive officer of the company or its affiliates, but is otherwise not eligible due to the three-year bar, should serve on the audit committee because such service is required in the best interests of the corporation and its shareholders. In exercising such discretion, the company would be required to disclose in its next annual proxy statement the nature of the relationship and the reasons for that determination. The Exchange notes that the BRC suggested that the ''override'' provision apply to all four restrictions regarding Independence; however, the Exchange proposes to limit it to the two instances referenced above, and to codify its existing interpretations and policies with respect to analysis of business relationships between organizations and directors. The Exchange further believes that the potential conflicts presented by the cross-compensation committee link are such that it should not be a subject of board override.

(b) Each audit committee member must be financially literate, as such qualification is interpreted by the company's board in its business judgment, or must shortly attain such status.

(c) At least one member of each audit committee must have accounting or related financial management expertise, as the company's board interprets such qualification in its business judgment.

3. *Independence:* In keeping with the spirit of the Recommendations, the following restrictions will apply to each audit committee member for the purpose of determining such member's Independence:

(a) Employees. Employees (including non-employee executive officers) of the company or its affiliates may not serve on the audit committee until three years following the termination of such employment. However, if such relationship is with a former parent or predecessor of the company (see definition of Affiliate described in item 4 below), the three-year bar applies to the time period following the severance of the relationship between the company and the former parent or predecessor.

(b) Business Relationship. A director (i) who is a partner, controlling shareholder, or executive officer of an organization that has a business relationship with the company, or (ii) who has a direct business relationship with the company (*e.g.*, a consultant), may serve on the audit committee only if the company's board determines in its business judgment that the relationship does not interfere with the director's exercise of independent judgment. ''Business relationships'' can include commercial, industrial, banking, consulting, legal, accounting and other relationships. A director can have this relationship directly with the company, or the director can be a partner, officer or employee of an organization that has such a relationship. The director may serve on the audit committee without the above-referenced board determination after three years following the termination of, as applicable, either (1) the relationship between the organization with which the director is affiliated and the company, (2) the relationship between the director and his or her partnership status, shareholder interest or executive officer position, or (3) the direct business relationship between the director and the company.

(c) Cross Compensation Committee Link. A director who is employed as an executive of another corporation where any of the company's executives serves on that corporation's compensation committee may not serve on the audit committee.

(d) Immediate Family. A director who is an Immediate Family member of an individual who is an executive officer of the company or any of its affiliates cannot serve on the audit committee until three years following the termination of such employment relationship.

4. *Written Affirmation.* To monitor compliance with the proposed rule change, the Exchange proposes to incorporate an ongoing written affirmation requirement. In this regard, as part of the initial listing process, and with respect to any subsequent changes to the composition of the audit committee, and otherwise approximately once each year, each company should provide the Exchange written confirmation regarding:

(a) Any determination that the company's board has made regarding the independence of directors described above;

(b) The financial literacy of the audit committee members;

(c) The determination that at least one of the audit committee members has accounting or related financial management expertise; and

(d) The annual review and reassessment of the adequacy of the audit committee charter.

- Definitions: The Exchange proposes to codify two long-standing interpretations under the current audit committee requirements as follows:

1. ''Immediate Family'' includes a person's spouse, parents, children, siblings, mothers-in-law and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than employees) who shares such person's home.

2. ''Affiliate'' includes a subsidiary, sibling company, predecessor, parent company, or former parent company.

Finally, the Exchange proposes to implement a transition period in order to provide its issuers with sufficient time to come into compliance with the proposed rule change. Specifically, the Exchange proposes (1) to ''grandfather'' all public company audit committee members qualified under current NYSE rules until they are re-elected or replaced and (2) give companies that have less than three members on their audit committees eighteen months from the date of SEC approval of this rule filing to recruit the requisite members.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[3] which requires, among other things, the Exchange's rules to be designed to prevent fraudulent and manipulative

[3] 15 U.S.C. 78f(b)(5).

acts and practices and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange circulated the report issued by the BRC and the Exchange staff's proposed responses to it to its issuers. As a general matter, those responding agreed with the proposed rule change. The relevant comments were focused in three general areas. The primary issue raised was the element of ''financial literacy,'' with a small proportion of responses suggesting that only a majority of members need be financially literate. In addition, issuers were concerned that the proposed concept of a ''financial literacy'' requirement for all audit committee members was not adequately defined and is potentially limiting with regard to the expertise of an audit committee member. Second, some issuers felt the definition of independence was too restrictive and that the board should be given more authority over the determination of the independence of a director. Finally, a number of companies thought the recommendations put forth by the BRC, which are substantially analogous to the proposed rule change, will not meaningfully help to prevent fundamental problems such as fraud and financial reporting failures. In addition to the foregoing, some companies thought the thrust of the Recommendations is to transfer some of the traditional responsibilities of the outside auditors to the board and audit committee, possibly increasing litigation exposure for issuers.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–NYSE–99–39 and should be submitted by November 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–26623 Filed 10–12–99; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Internal Revenue Service (IRS)—Match Number 1009)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with IRS.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate; the Committee on Government Reform and Oversight of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935 or writing to the Associate Commissioner for Program Support, 4400 West High Rise Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by establishing the conditions under which computer matching involving the Federal Government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: September 28, 1999.

Susan M. Daniels,

Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) With the Internal Revenue Service (IRS)

A. Participating Agencies

SSA and IRS.

B. Purpose of the Matching Program

The purpose of this matching program is to establish the conditions, safeguards and procedures under which the Office of Governmental Liaison and Disclosure, IRS agrees to disclose taxpayer address information to SSA. SSA will use the match results to locate certain recipients of Social Security benefits under title II of the Social Security Act (Act) and of supplemental security income (SSI) benefits under title XVI of the Act, in order to aid in the collection or compromise of Federal claims against these individuals, in accordance with applicable Federal statutes.

C. Authority for Conducting the Matching Program

Section 6103(m)(2) of the Internal Revenue Code and sections 3711, 3717 and 3718 of Title 31 of the United States Code.

D. Categories of Records and Individuals Covered by the Match

IRS will provide SSA with electronic files from the Privacy Act System of Records: Individual Master File, Treasury/IRS 24.030, maintained at the Martinsburg Computing Center, Martinsburg, WV. This system contains approximately 20 million records of taxpayers who have filed U.S. Individual Income Tax Returns. Each record on the IRS file will be matched with SSA's Master Beneficiary Record, (SSA/OSR 09–60–0090) and the Supplemental Security Income Record, (SSA/OSR 09–60–0103), for the purpose of locating certain recipients of Social Security benefits under title II of the Act and of SSI benefits under title XVI of the Act, to aid in the collecting or compromising of Federal claims against the individuals, under applicable statutes.

E. Inclusive Dates of the Match

The matching program shall become effective upon signing of the agreement by both parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of this matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 99–26675 Filed 10–12–99; 8:45 am]

BILLING CODE 4190–29–P

TENNESSEE VALLEY AUTHORITY

Lower Cumberland and Tennessee Rivers, Kentucky Lock Addition, Final Environmental Impact Statement, Department of the Army, United States Army Corps of Engineers

AGENCY: Tennessee Valley Authority.

ACTION: Adoption of final environmental impact statement and issuance of Record of Decision.

SUMMARY: In accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1508) and the Tennessee Valley Authority's (TVA) procedures for implementing the National Environmental Policy Act (NEPA), TVA has decided to adopt the Final Environmental Impact Statement (FEIS) issued by the United States Army Corps of Engineers (USACE) in June 1992 and filed with the Environmental Protection Agency on September 9, 1992. The FEIS, entitled ''Lower Cumberland and Tennessee Rivers, Kentucky Lock Addition, Final Feasibility Study, Volume 1 Main Report and Environmental Impact Statement,'' addresses the construction and operation by the USACE of a new navigation lock at Kentucky Dam on the Tennessee River at River Mile 22.4. TVA was a cooperating agency in the preparation of the FEIS because it has responsibility for Kentucky Dam, including preserving the integrity of the dam and its appurtenant lock structures. TVA has independently reviewed the FEIS and finds that the statement adequately addresses the comments and suggestions made by TVA in its role as a cooperating agency. Further, TVA has decided to adopt USACE's preferred alternative, Alternative Plan A, identified in the FEIS.

Alternative Plan A proposes the construction of a new 110-foot wide by 1200-foot long navigation lock chamber and related features at the existing Kentucky Lock and Dam to improve the capacity and efficiency of the Kentucky-Barkley navigation system. Even though some components of this plan are subject to modification that would require subsequent NEPA reviews tiered from the 1992 FEIS, TVA has decided to adopt the basic plan under Alternative A for the construction of a new navigation lock and to facilitate construction of those unmodified project components evaluated in the FEIS.

FOR FURTHER INFORMATION CONTACT: Linda B. Oxendine, Senior NEPA Specialist, Environmental Management, Tennessee Valley Authority, 400 West Summit Hill Drive, Mailstop WT 8C, Knoxville, Tennessee 37902–1499, telephone (423) 632–3440 or e-mail lboxendine@tva.gov. Copies of the final EIS may be obtained by writing to Tom Swor, US Army Corps of Engineers, Nashville District, PO Box 1070, Nashville, Tennessee 73202–1070, or by calling (615) 736–5831.

SUPPLEMENTARY INFORMATION: The Kentucky Lock and Dam Project, completed in 1944, is located in Marshall and Livingston counties in western Kentucky at Tennessee River Mile 22.4. The project is part of the Kentucky-Barkley navigation system. This system is comprised of the Barkley Canal, Kentucky Lock and the lower Tennessee River, Barkley Lock and the lower Cumberland River, and a short section of the Ohio River between the mouths of the Cumberland and Tennessee rivers. The Kentucky-Barkley navigation system is a vital link within the much larger Inland Waterway System.

Navigation traffic transiting the Kentucky-Barkley system often encounters significant delays at Kentucky Lock due to its relatively small chamber dimensions (110-foot wide by 600-foot long) and the high traffic levels. The lock has the highest average delay times in the Ohio River navigation system. Delays to barge tows at Kentucky Lock often exceed 12 hours, while the average delay time is in excess of five hours. Projected traffic demand at Kentucky Lock is expected to more than double over the 50 year planning horizon, reaching an estimated 83 million tons by 2050.

In response to requests from congressional committees and the navigation industry, the USACE and cooperating agencies undertook a comprehensive study to analyze solutions that would improve the capacity and efficiency of the Kentucky-Barkley navigation system. The study evaluated an array of alternatives which included providing additional capacity at Kentucky Dam by extending the existing lock or adding a new lock, modification of some or all of the ten bendways on the lower Cumberland River, three canal schemes to connect

the lower Cumberland and Tennessee River below Kentucky and Barkley dams, and traffic management giving priority to downbound tows at Barkley Lock and upbound tows at Kentucky Lock. The results of the study was the 1992 Final Feasibility Report and EIS which contained the recommendation to construct a new 110-foot wide by 1200-foot long lock at Kentucky Dam.

On May 10, 1991, TVA and the USACE signed a Memorandum of Agreement defining the responsibilities of the agencies for implementing the Kentucky Lock Project. As specified in the agreement, USACE has responsibility to implement the Kentucky Lock Project, including all design and construction activities. TVA has responsibility to approve the final lock design and the modifications and/or relocations of several existing Kentucky Lock and Dam project features.

As identified in the FEIS, features of the recommended plan include: Construction of a 110-foot wide by 1200-foot long lock chamber immediately landward of the existing Kentucky Lock, relocation of the Paducah-Louisville Railroad onto a new bridge over the Tennessee River 0.3 miles downstream of Kentucky Dam, elevation of a portion of US Highway 62/641 crossing the dam, construction of highway access and bridge to the electrical switchyard, elevation of electrical transmission lines to provide safe clearance over the new lock, provision of a new lock operations building, and construction of other building and facilities to replace existing ones including Taylor campground, maintenance base for Kentucky Dam reservation, public safety service office facilities and firing range, visitor and fishermen access facilities along the left bank, and upgrading the boat launching ramps on the left bank below the dam. Although some of the project components in the 1992 FEIS are subject to modification during the design and engineering phase, many project features will remain as they were described in the FEIS. The basic concept of the recommended project plan and those unmodified project components are covered by this Record of Decision (ROD).

Those project components subject to modification that are not covered by this ROD will be addressed in subsequent NEPA documents, tiered from the 1992 FEIS, that assess the environmental consequences that could result from the modifications. At present, those project components include revised locations for the US Highway 62/641 bridge; relocation of transmission structures; a bike/pedestrian bridge over the locks and walkway across the dam; and possible revisions to lock approach facilities, mooring cells, and a variety of visitor facilities.

Alternatives Considered

In the 1992 FEIS, three alternative lock construction plans were analyzed in addition to the No Action Alternative. Under the No Action Alternative, normal operation and maintenance of the Kentucky-Barkley navigation system would continue through the 50-year planning period. Measures to rehabilitate, or replace in-kind, existing structures would be undertaken as needed to ensure navigability. In addition, certain nonstructural measures such as modification of hydropower discharges at Barkley Lock and Dam and use of helper boats would be used to increase system traffic capacity. Adoption of the No Action Alternative would result in continued and growing lines of traffic in sensitive near-shore areas which support diverse mussel populations, some of which are federally listed threatened or endangered species.

The three alternative lock construction plans included the recommended 110-foot by 1200-foot lock (Alternative Plan A), a 110-foot by 800-foot lock (Alternative Plan B), and a 110-foot by 600-foot lock (Alternative Plan C). Under each plan, the existing 110-foot by 600-foot lock at Barkley would continue to operate as an auxiliary lock. All three plans would reduce lockage delays at Kentucky Dam; however, Alternative Plan A would reduce delays to a significantly greater degree than either alternative Plan B or Plan C. Each lock plan was found to be economically feasible and provide significant net benefits; although, Plan A resulted in greater net benefits and, therefore, was the National Economic Development (NED) plan. The environmentally preferred alternative is the one that fully meets the project objectives and needs while having the least adverse impacts upon ecological, cultural, and aesthetic resources. Because the three plans have essentially the same environmental impacts, no one alternative emerges as being the environmentally preferred alternative.

Basis for Decision

Like the USACE, TVA has decided to adopt Alternative Plan A because it would maximize net economic benefits, was the NED plan, would significantly reduce delay times, and is preferred by the navigation industry. Environmental consequences of the selected plan are essentially the same as those of alternative Plans B and C; however, compared to B and C, Alternative Plan A would significantly reduce delay times and avoid traffic congestion in sensitive near-shore areas. Alternative Plan A would include environmental design and best management practices to protect and improve significant aquatic and terrestrial resources. In spite of the fact that some project components are being revised and will require subsequent NEPA reviews, TVA has decided to adopt the concept and basic components of Alternative Plan A. Adoption of Alternative Plan A at this time will facilitate detailed planning for the project and permit timely action on components already addressed in the 1992 FEIS.

Environmental Consequences and Mitigation

During preparation of the 1992 FEIS, the potential impacts to aquatic resources and recreation fishing emerged as the primary environmental considerations. Populations of approximately 35 species of freshwater mussels, perhaps including as many as four federally-listed endangered mussel species, are known to live in the Tennessee River downstream from Kentucky Dam. To protect this resource, the state of Kentucky has designated the Kentucky Dam tailwater between the dam at River Mile 22.4 and downstream to Cooper Creek at River Mile 17.8 as a mussel sanctuary. Twenty-three of these mussel species have been found in areas that would be directly affected by the project. Where project activities could result in the destruction of substantial mussel resources (e.g., dewatered areas, areas to be dredged, and bridge piers), mussels will be removed and relocated to other suitable habitats within the tailwater sanctuary.

The Kentucky Dam tailwater is the most heavily fished river reach in the state of Kentucky. The fishery is a significant natural, recreational, and economic resource. The project will minimize impacts to the fishery resource and to those anglers who use it. During project construction, inconvenience to the fishing public will be minimized, and safety zones will be established around construction areas to preclude injury to the public. Loss of a boat launching facility on the right bank will be mitigated by major upgrades to the boat ramp on the left bank. When the project is completed, bank fishermen access on both banks will be improved.

In addition to the above measures, other mitigation measures are defined in the USACE's 1992 Feasibility Report (pages 77 and 78). Those measures will

be implemented, as defined in the Feasibility Report or adjusted to accommodate modifications to project components, to mitigate the unavoidable environmental impacts of construction. Further, as stated in the USACE's ROD:

Compliance with applicable environmental review and consultation requirements has been accomplished through the Corps feasibility study processes. The FEIS document consideration of and compliance with the Fish and Wildlife Coordination Act, Clean Water Act, Clean Air Act, Comprehensive Environmental Resources Compensation and Liability Act, Resource Conservation and Recovery Act, Toxic Substance Act, Endangered Species Act, Floodplain Management (Executive Order 11988), Protection of Wetlands (Executive Order 11990), Intergovernmental Review of Federal Programs (Executive Order 12372), National Environmental Policy Act (NEPA), and National Historic Preservation Act. All practicable means to avoid or minimize environmental harm from the selected alternative have been adopted.

Dated: September 30, 1999.

Kathryn J. Jackson,

Executive Vice President.

[FR Doc. 99–26694 Filed 10–12–99; 8:45 am]

BILLING CODE 8120–08–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending October 1, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–6267
Date Filed: September 27, 1999
Parties: Members of the International Air Transport Association
Subject:
PTC23 EUR–JK 0046 dated 24 September 1999 and
PTC23 EUR–JK 0047 dated 24 September 1999
Expedited Europe-Japan/Korea Passenger Resolutions
Intended effective dates: 1 November 1999 and 1 January 2000.

Docket Number: OST–99–6272
Date Filed: September 28, 1999
Parties: Members of the International Air Transport Association
Subject:
PTC12 NMS–ME 0094 dated 28 September 1999
Mail Vote 034—TC12 Mid Atlantic-Middle East
Special Passenger Amending Resolution 010i
Intended effective date: 31 October 1999.

Docket Number: OST–99–6273
Date Filed: September 28, 1999
Parties: Members of the International Air Transport Association
Subject:
PTC12 USA–EUR 0088 dated 28 September 1999
Mail Vote 035—Resolution 010g
Special Passenger Amending Resolution from Romania
Intended effective date: 1 April 1999.

Docket Number: OST–99–6286
Date Filed: September 30, 1999
Parties: Members of the International Air Transport Association
Subject:
PTC23 EUR–SWP 0035 dated 28 September 1999
PTC23 EUR–SWP 0036 dated 28 September 1999
Expedited Europe-South West Pacific Resolutions r1–r18
Intended effective date: 15 November 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–26706 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ending October 1, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–6275.
Date Filed: September 28, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 26, 1999.

Description: Application of Delta Air Lines, Inc. pursuant to 49 U.S.C. Sections 41102, 41108, Part 201 and Subpart Q, applies for a new or amended certificate of public convenience and necessity authorizing Delta to engage in foreign air transportation of persons, property and mail on the U.S.-Mexico routes identified in Exhibit A, and to integrate this certificate authority with all of Delta's existing certificate and exemption authority.

Docket Number: OST–99–6276.
Date Filed: September 28, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 26, 1999.

Description: Application of Alaska Airlines, Inc. pursuant to 49 U.S.C. Section 41102 and Subpart Q, requests an amendment to its certificate of public convenience and necessity for Route 559 (U.S.-Mexico) permitting it to engage in the scheduled foreign air transportation of persons, property and mail on the following additional route segments: (i) Seattle-San Jose del Cabo/Puerto Vallarta/Mazatlan; (ii) Los Angeles-La Paz/Zihuatanejo/Manzanillo; (iii) Phoenix-Puerto Vallarta/San Jose del Cabo; and (iv) San Jose-Puerto Vallarta/San Jose del Cabo.

Docket Number: OST–99–6279.
Date Filed: September 29, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 27, 1999.

Description: Application of United Parcel Service, Co. pursuant to 49 U.S.C. Section 41108 and Subpart Q, applies for a certificate of public convenience and necessity to authorize it to engage in the scheduled air transportation of property and mail between any point or points in the United States via intermediate points to a point or points in Italy and to points beyond with full traffic rights between all points on the route. UPS requests route integration authority enabling it to integrate services on the above-described route with services provided on other routes or under the various certificate and exemption authorities held by UPS.

Docket Number: OST–99–6280.
Date Filed: September 29, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 27, 1999.

Description: Application of Aviones de Renta de Quintana Roo, S.A. de C.V. d/b/a Avioquintana pursuant to 49 U.S.C. Section 41301 *et seq.* and Subpart Q, applies for a foreign air carrier permit to engage in charter foreign air transportation of persons, property and mail using small aircraft between any point or points in Mexico and any point or points in the United States, and in other charter trips in foreign air transportation, subject to

terms, conditions and limitations of the Department's regulations governing charters.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–26707 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–34]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 2, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC on October 6, 1999.

Michael E. Chase,

Acting Assistant Chief Counsel for Regulations.

Docket No.: 26101.

Petitioner: America West Airlines, Inc.

Section of the FAR Affected: 14 CFR 93.123.

Description of Relief Sought: To allow America West to continue operating four flights (two arrivals and two departures) at Ronald Reagan Washington National Airport. The slots for these flights were previously granted to Braniff Airlines, Inc., under Exemptions No. 3927.

Docket No.: 29489.

Petitioner: Airline Training Center Arizona, Inc.

Section of the FAR Affected: 14 CFR 61.109(a)(2).

Description of Relief Sought: To permit each student of ATCAI to obtain a private pilot certificate with an airplane category and single-engine class rating without accomplishing the night flight-training requirements of § 61.109(a)(2). The students would be issued private pilot certificates with night flying limitations.

Docket No.: 29561.

Petitioner: Lorair, Ltd.

Sections of the FAR Affected: 14 CFR 121.139(a).

Description of Relief Sought: To permit Lorair to operate its aircraft without carrying the appropriate parts of the maintenance manual on each aircraft when away from the principal base of operations.

Docket No.: 29622.

Petitioner: Shoreline Aviation, Inc.

Section of the FAR Affected: 14 CFR 135.165(b)(6) and (7).

Description of Relief Sought: To permit Shoreline to conduct extended overwater operations in turbojet aircraft with one high-frequency communication system in North Atlantic airspace west of the North Atlantic Minimum Navigation Performance Specifications western boundary and west of a line from longitude 60° W. to latitude 10° N. including the areas of the Caribbean Sea and the Gulf of Mexico.

Dispositions of Petitions

Docket No.: 26358.

Petitioner: Empire Airlines, Inc.

Section of the FAR Affected: 14 CFR 121.547(c).

Discription of Relief Sought/Disposition: To permit EA to allow Federal Express employees to sit in the jumpseat of its Fokker Mark 500 series F–27 aircraft, which are not equipped with seats in the passenger compartment. *Denial, 8/24/99, Exemption No. 6954.*

Docket No.: 28708

Petitioner: Empire Airlines, Inc.

Section of the FAR Affected: 14 CFR 43.9 and 121.709(b)(3).

Discription of Relief Sought/Disposition: To permit Empire to use electronic signatures in lieu of physical signatures to satisfy airworthiness release or aircraft log entry signature requirements of § 43.9 for operation conducted under 14 CFR part 135 and § 121.709(b)(3) for operations conducted under part 121. *Grant, 8/31/99, Exemption No. 6668A.*

Docket No.: 29503.

Petitioner: Delta Air Lines, Inc.

Section of the FAR Affected: 14 CFR 121.344(b)(3).

Discription of Relief Sought/Disposition: To permit Delta to continue to operate its Lockheed L–1011 and Boeing 727 airplanes scheduled to be retired from service before the August 20, 2001, compliance deadline for installation of digital flight data recorders (DFDRs), without installing the required, approved DFDRs at the next heavy maintenance check after August 18, 1999. *Partial Grant, 8/18/99, Exemption No. 6945.*

Docket No.: 29525.

Petitioner: United Parcel Service Company.

Section of the FAR Affected: 14 CFR 121.344(b)(3).

Discription of Relief Sought/Disposition: To permit UPS to complete the required DFDR installations on its fleet of B–727, B–747, and DC–8 aircraft using an alternate compliance schedule rather than at the next heavy maintenance check after August 18, 1998. *Grant, 8/18/99. Exemption No. 6940.*

Docket No.: 29548.

Petitioner: Continental Express.

Section of the FAR Affected: 14 CFR 121.344(b)(3).

Discription of Relief Sought/Disposition: To allow Continental Express to operate its B1900D airplanes without installing the required, approved DFDR until the next heavy maintenance check after October 18, 1999, but not later than August 20, 2001. To permit Continental Express to operate its EMB–120 airplanes subject to

heavy maintenance check before parts are available without installing the required DFDR until the next heavy maintenance check after January 15, 2000. *Partial Grant, 8/18/99, Exemption No. 6944.*

Docket No.: 29575.

Petitioner: Air Wisconsin Airlines, Corporation.

Section of the FAR Affected: 14 CFR 121.344(b)(3).

Description of Relief Sought/Disposition: To permit Air Wisconsin to operate its BAe–146 airplanes subject to heavy maintenance check before parts are available without installing the required DFDR until the next heavy maintenance check after April 30, 2000. *Partial Grant, 8/18/99, Exemption No. 6939.*

Docket No.: 29618.

Petitioner: Blatti Aviation.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Blatti to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in each aircraft. *Grant, 8/31/99, Exemption No. 6957.*

Docket No.: 29628.

Petitioner: Skywest Airlines.

Section of the FAR Affected: 14 CFR 121.344(b)(3).

Description of Relief Sought/Disposition: To permit Skywest to operate seven EMB–120 airplanes subject to heavy maintenance check before parts are available, without installing in each airplane, the required DFDR until the next heavy maintenance check after January 15, 2000. *Partial Grant, 8/18/99, Exemption No. 6941.*

Docket No.: 29649.

Petitioner: Great Lakes Aviation, Ltd.

Section of the FAR Affected: 14 CFR 121.344(b)(3).

Description of Relief Sought/Disposition: To permit GLA to operate one EMB–120 airplane (Registration No. N267UE) subject to heavy maintenance check before parts are available without installing the required DFDR until the next heavy maintenance check after January 15, 2000. *Partial Grant, 8/18/99, Exemption No. 6942.*

Docket No.: 29676.

Petitioner: The King's Engineering Fellowship.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I & J of part 121.

Description of Relief Sought/Disposition: To allow the Fellowship to conduct local sightseeing flights in the vicinity of Grace College of the Bible in Omaha, NE, on the weekend of August 21, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 8/19/99, Exemption No. 6948.*

Docket No.: 29671.

Petitioner: America West Airlines.

Section of the FAR Affected: 14 CFR 121.344(b)(3).

Description of Relief Sought/Disposition: To allow America West to operate 26 B–737 airplanes without installing, in each airplane, the required, approved DFDR until the next heavy maintenance check after February 18, 2000. *Partial Grant, 8/18/99, Exemption No. 6947.*

Docket No.: 29691.

Petitioner: Helping Hands Society of Hazleton Area/Carbon & Schuylkill County.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I & J of part 121.

Description of Relief Sought/Disposition: To allow the Society to conduct local sightseeing flights at Hazleton Municipal Airport, for an aviation festival on August 22, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 8/19/99, Exemption No. 6949.*

Docket No.: 29702.

Petitioner: Atlantic Southeast Airlines, Inc.

Section of the FAR Affected: 14 CFR 121.344(b)(3).

Description of Relief Sought/Disposition: To permit ASA to operate 10 EMB–120RT airplanes subject to heavy maintenance check before parts are available, without installing in each airplane, the required DFDR until the next heavy maintenance check after January 15, 200. *Partial Grant, 8/18/99, Exemption No. 6946.*

Docket No.: 29707.

Petitioner: Mount Sterling Aviation Association—EAA Chapter 1227.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I & J of part 121.

Description of Relief Sought/Disposition: To allow the MSSA to conduct local sightseeing flights at Mt. Sterling-Montgomery County Airport in Mt. Sterling, KY, on the weekend of August 21, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 8/20/99, Exemption No. 6950.*

Docket No.: 29711.

Petitioner: Lunken Airport Benefits Committee.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I & J of part 121.

Description of Relief Sought/Disposition: To allow the Society to conduct local sightseeing flights at the Lunken Airport, for an airshow on August 27, 28, and 29, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 8/26/99, Exemption No. 6955.*

[FR Doc. 99–26705 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Departmental Offices

Debt Management Advisory Committee; Meeting

Notice if 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, DC, on November 2, 1999, of the following debt management advisory committee:

The Bond Market Association Treasury Borrowing Advisory Committee

The agenda for the meeting provides for a technical background briefing by Treasury staff, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. Following the working session, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 9 a.m. Eastern time and will be open to the public. The remaining sessions and the committee's reporting session 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 Financial Markets 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: October 6, 1999.

Lee Sachs,

Assistant Secretary, Financial Markets.

[FR Doc. 99–26639 Filed 10–12–99; 8:45 am]

BILLING CODE 4810–25–M

Corrections

Federal Register

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This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

Correction

In notice document 99–25532 appearing on page 53366 in the issue of Friday, October 1, 1999, make the following correction:

In the first column, under **SUMMARY**, in the first paragraph, in the seventh line ''Social Secretary of the Army'' should read ''Secretary of the Army''.

[FR Doc. C9–25532 Filed 10–12–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF INTERIOR

Bureau of Land Management

[NMNM 103446]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

Correction

In notice document 99–24872 beginning on page 51784, in the issue of Friday, September 24, 1999, the serial number line should appear as set forth above.

[FR Doc. C9–24872 Filed 10–12–99; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150–AF81

Respiratory Protection and Controls to Restrict Internal Exposures

Correction

In rule document 99–25977 beginning on page 54543, in the issue of Thursday, October 7, 1999, make the following corrections:

Appendix A to Part 20 [Corrected]

1. On page 54558, in the table, in the first column, in the second line entry which begins ''Filtering facepiece disposabled'', ''disposabled'' should read ''disposable[d]''.

2. On the same page, in the same table, in the third column, in the fifth line from the bottom of the table, and also in the third line from the bottom of the table, ''[i]100'' should read ''[h]100''.

[FR Doc. C9–25977 Filed 10–12–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Wednesday
October 13, 1999

Part II

Department of Transportation

Federal Aviation Administration

Environmental Impacts: Policies and Procedures; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 29797; FAA Order 1050.1E]

Environmental Impacts: Policies and Procedures

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice; request for comment.

SUMMARY: The Federal Aviation Administration (FAA) proposes to revise its procedures for implementing the National Environmental Policy Act, Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, with proposed Order 1050.1E Environmental Impact: Policies and Procedures. The revisions in proposed Order 1050.1E include: consolidating the FAA categorical exclusions in the appendixes to Order 1050.1D into the body of the order; proposing new and modified categorical exclusions; incorporating new procedures for preparing environmental documents; consolidating Order 1050.1D appendixes, which describe procedures for each program office, into the body of the order; and proposing new appendixes, such as on third-party contracting. This notice provides the public opportunity to comment on the proposed changes. All comments on the proposed changes will be considered in preparing the final version of Order 1050.1E.

DATES: Comments must be received on or before January 11, 2000.

ADDRESSES: Comments should be mailed, in triplicate, to the Federal Aviation Administration (FAA), Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Docket No. 29797, 800 Independence Avenue, S.W., Room 915G, Washington, DC 20591. Comments may be inspected in Room 915G between 8:30 a.m. and 5:00 p.m., weekdays, except Federal holidays.

Commenters who wish the FAA to acknowledge the receipt of their comments must submit with their comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 29797.'' The postcard will be date-stamped by the FAA and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Dr. Ann M. Hooker, Environment, Energy, and Employee Safety Division (AEE–200), Office of Environment and Energy, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3554.

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act (NEPA) and implementing regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR parts 1500–1508) establish a broad national policy to protect the quality of the human environment and provide policies and goals to ensure that environmental considerations and associated public concerns are given careful attention and appropriate weight in all decisions of the Federal Government. Section 102(2) of NEPA and 40 CFR 1505.1 require Federal agencies to develop and, as needed, revise implementing procedures consistent with the CEQ regulations.

The FAA's current Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, provides FAA's policy and procedures for complying with the requirements of: (a) The CEQ regulations for implementing the procedural provisions of NEPA; (b) Department of Transportation (DOT) Order DOT 5610.1C, Procedures for Considering Environmental Impacts, and (c) other applicable environmental laws, regulations, and executive orders and policies. The FAA is proposing to replace Order 1050.1D with Order 1050.1E.

Request for Comment

As part of revising its environmental order, the FAA is seeking comment regarding sixteen proposed changes as described in the following synopsis of changes. FAA is also seeking comment on the feasibility of requiring that NEPA documents be submitted in electronic form suitable for access via the Internet.

Synopsis of Proposed Changes

The proposed FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, includes additions or changes to the current version of FAA Order 1050.1D which may be of interest to the public and other government agencies and organizations. Additional information on the proposed changes may be found in paragraph 5 (Chapter 1) of the draft order.

The revised Order 1050.1E would:

Change 1. Be reorganized to place the categorical exclusions for all FAA programs, including new and modified categorical exclusions, in chapter 3, eliminating the separate appendixes for each program (see Figure 3–2, Categorical Exclusions List). For reference, offices that originated and would normally use a categorical exclusion are listed in parentheses following each categorical exclusion. Additions and modifications to categorical exclusions are identified in italic print in figure 3–2.

Change 2. Be reorganized to place the types of actions that normally require preparation of EAs and EISs for all programs into Chapters 4 and 5, respectively. Appendix 6, Airports, of Order 1050.1D (which references FAA Order 5050.4A, Airport Environmental Handbook, October 8, 1985) is continued as appendix 3 of this order. Order 5050.4A will be updated to ensure consistency with this order.

Change 3. Add a new appendix 1, Analyses of Environmental Impact Areas. Appendix 1 would contain an overview of procedures for implementing other applicable environmental laws, regulations, and executive orders in the course of NEPA compliance. Appendix 1 incorporates and updates Attachment 2 of Change 4 to Order 1050.1D, and amends each impact area to include a significant threshold paragraph where thresholds have been established.

Change 4. Provide guidance whereby the Air Traffic Service could accept the U.S. Department of Defense's (DOD) use of a categorical exclusion for actions relating to a request for designation of special use airspace when that request is subject to a categorical exclusion under the regulations of the requesting military department, except when FAA actions are subject to an EA, in accordance with a Memorandum of Understanding, dated January 26, 1998 (see paragraph 303c).

Change 5. Add a reference to Tribes in defining extraordinary circumstances when actions are likely to be highly controversial on environmental grounds based on concerns raised by a Federal, State, Tribal, or local government agency or by a substantial number of the persons affected by the action (see paragraph 304i); likely to violate Tribal water quality standards under the Clean Water Act and Safe Drinking Water Act (see paragraph 304h), or air quality standards established under the Clean Air Act Amendments of 1990 (see paragraph 304g); or likely to be inconsistent with any Tribal law relating to environmental aspects of the proposed action. Includes new guidance on government-to-government consultation with Tribes (see paragraph 212). Incorporates references to tribal consultation into appendix 1, section 11 on cultural resources.

Change 6. Provide guidance on intergovernmental review of agency actions that may affect State and local governments. (see paragraph 212).

Change 7. Provide procedures for adopting EAs prepared by other agencies (see paragraph 404d).

Change 8. Provide a new optional procedure for preparing scoping documents. The purpose of scoping is to identify the potential effects on the environment of the proposed action and set the temporal and geographic boundaries of the study. Depending on the nature and complexity of the action, some or all of the information needed during the scoping process may be obtained by letter, telephone, or other means. A scoping document would be extremely useful if the scoping is done by mail or telephone, or the project's location or locations are so remote, scattered, or widespread that affected agencies and other interested persons are unable to visit the site or sites. (see paragraph 505).

Change 9. Add a new procedure to paragraph 516, Revised or Supplemental Environmental Impact Statement (EIS). The FAA is proposing to add paragraph (d) that would include a procedure for circulating status sheets or supplemental environmental information, such as reports, on long-term or complex EISs to provide information that does not require preparation of a supplemental EIS. The responsible FAA official would notify EPA to ensure that the official log is accurate and to include this information as a separate section within the Notice of Availability (see EPA Filing system for Implementing the CEQ Regulations, 54 FR 9593, March 7, 1989).

Change 10. Provide a new procedure for integrating Clean Water Act section 404 permitting requirements and NEPA (see section 18, Appendix 1, Analysis of Environmental Impact Areas).

Change 11. Add new or amend existing categorical exclusions to the Categorical Exclusion List (Figure 3–2). Categorical exclusions are those types of Federal actions that meet the criteria contained in 40 CFR 1508.4 of the NEPA regulations promulgated by the Council on Environmental Quality. Categorical exclusions represent actions that, based on the FAA's past experience with similar actions, do not normally require an EA or EIS because they do not individually or cumulatively have a significant effect on the human environment, with the exception of extraordinary circumstances as set forth in paragraph 304. The proposed additions and changes represent the FAA's accumulated experience with assessment of the environmental consequences of the indicated action. Several of the proposed amendments to existing categorical exclusions are intended to add applicable actions of the Associate Administrator for Commercial Space Transportation.

The proposed new or amended categorical exclusions are as follows (the proposed new categorical exclusions and the proposed amendment of existing categorical exclusions are shown in *italics*):

(1) Administrative/General Actions:

(a) *Issuance of Notices to Airmen (NOTAMS), which notify pilots and other interested parties of interim or temporary conditions. (AFS, AVN)*

(b) *FAA actions related to conveyance of land for airport purposes, surplus property, and joint use arrangements that do not substantially change the operating environment of the airport. (APP, AND, ANI, and ASU)*

(c) *Mandatory actions required under any treaty or international agreement to which the United States is a party, or required by the decisions of international organizations or authorities in which the United States is a member or participant except when the United States has substantial discretion over implementation of such requirements.*

(d) Agreements with foreign governments, *foreign civil aviation authorities,* international organizations, or U.S. Government departments calling *for cooperative activities* or the provision of technical assistance, advice, *equipment,* or services to those parties, *and the implementation of such agreements; negotiations and agreements to establish and define bilateral aviation safety relationships with foreign governments, and the implementation of such agreements;* attendance at international conferences and the meetings of international organizations, including participation in votes and other similar actions.

(2) Certification Actions:

(a) Approvals of aircraft *or launch vehicles* and engine repairs, parts, and alterations not affecting noise, emissions, or wastes. (All)

(3) Equipment and Instrumentation Actions:

(a) Construction of Remote Communications Outlet (RCO), *or replacement with essentially similar facilities or equipment,* to provide air-to-ground communication between pilots of general aviation aircraft and personnel in Flight Service Stations (FSS). (AAF, AND)

(b) Establishment, installation, upgrade, or relocation within the perimeter of an airport: airfield or approach lighting systems, such as Runway End Identifier Lights (REIL), Omnidirectional Airport Lighting Systems (ODALS), *High Intensity Approach Lighting System With Flashers (ALSF–2); Medium Approach Lighting System with a REIL (MALSR/SALSR);* visual approach aids, beacons, and electrical distribution systems, such as Visual Approach Slope Indicators (VASIs) and Precision Approach Path Indicators (PAPIs). (AAF, AND, APP, ANI)

(c) Federal financial assistance or ALP approval or FAA installation of facilities and equipment, other than radars, within a facility or within the perimeter of an airport *or launch facility* (e.g. weather systems, navigational aids, and hygrothermometers). Weather systems include Automated Weather Observing System (AWOS), Automatic Surface Observation System (ASOS), Runway Visual Range (RVR), Low Level Wind Shear Alert System (LLWAS), other essentially similar facilities and equipment that provides for modernization or enhancement of the service provided by these facilities. Navigational aids include Instrument Landing System (ILS) equipment or components of ILS equipment, other essentially similar facilities and equipment, and equipment that provides for modernization or enhancement of the service provided by that facility. (AAF, AUA, AND, APP)

(d) Federal financial assistance or ALP approval or FAA installation of radar facilities and equipment, within a facility or within the perimeter of an airport *or launch facility, that conform to the current American National Standards Institute/Institute of Electrical and Electronic Engineers (ANSI/IEEE) guidelines for maximum permissible exposure to electromagnetic fields.* Radar facilities and equipment include Terminal Doppler Weather Radar (TDWR), Next Generation Weather Radar (NEXRAD), Precision Runway Monitor (PRM), Airport Surface Detection Equipment (ASDE), Air Route Surveillance Radar (ARSR), Airport Surveillance Radar (ASR), Air Traffic Control Beacon (ATCB), *and other essentially similar facilities and equipment.* In addition, this includes equipment that provides for modernization or enhancement of the service provided by these facilities, such as Radar Bright Display Equipment (RBDE) with Plan View Displays (PVD), Direct Access Radar Channel (DARC), and a beacon system on an existing radar. (AAF, AUA, AND, APP)

(e) Replacement of power and control cables for facilities and equipment, such as airport lighting systems (ALS), *launch facility lighting systems,* airport surveillance radar (ASR), *launch facility surveillance radar,* Instrument Landing System (ILS), and Runway Visual Range (RVR). (AAF, AND)

(f) Acquisition of security equipment required by rule or regulation for the

safety or security of personnel and property on the airport *or launch facility* (14 CFR part 107, Airport Security), safety equipment required by rule or regulation for certification of an airport (14 CFR part 139, Certification and Operation: Land Airports Serving Certain Air Carriers) or *licensing of a launch facility*, or snow removal equipment. (APP, AST)

(3) Facility Siting and Maintenance Actions:

(a) *Federal financial assistance, Airport Layout Plan (ALP) approval, or FAA installation of de-icing/anti-icing facilities that comply with National Pollutant Discharge Elimination System (NPDES) permits or other permits protecting the quality of receiving waters, and for which related water detention or retention facilities are designed not to attract hazardous wildlife, as defined in FAA Advisory Circular 150–5200–33. (AAF, APP)*

(b) Federal financial assistance, licensing, or Airport Layout Plan (ALP) approval to build or repair an existing runway, taxiway, apron, or loading ramp, including extension, strengthening, reconstruction, resurfacing, marking, grooving, fillets and jet blast facilities, provided the action will not create environmental impacts outside of an airport *or launch facility* property. (APP, AST)

(c) Federal financial assistance, licensing, Airport Layout Plan (ALP) approval, or FAA construction *or limited expansion* of accessory on-site structures, including storage buildings, garages, small parking areas, signs, fences, *and other essentially similar minor airport development items.* (AAF, AND, APP, AST)

(d) Construction of Remote Transmitter/Receiver (RT/R), *or other essentially similar* facilities and equipment, to supplement existing communications channels installed in the Air Traffic Control Tower (ATCT) or Flight Service Station (FSS). (AAF, AND)

(e) *Federal financial assistance, licensing, or ALP approval for construction or limited expansion of facilities, such as terminal passenger handling facilities or cargo buildings, at existing commercial service airports and launch facilities that do not substantially expand those facilities. (All)*

(f) Federal financial assistance, licensing, or FAA grading of land or removal of obstructions on airport *or launch facility* property, and erosion control measures having no impacts outside of airport property *or outside of the launch facility.* (AAF, AND, APP, AST)

(g) Construction and installation, on airports *or launch facilities,* of noise abatement measures, such as noise barriers to diminish aircraft *and launch vehicle* engine exhaust blast or noise, and installation of noise control materials. (All)

(h) Purchase, *lease, or acquisition* of three acres or less of land with associated easements and rights-of-way for new facilities. (ASU, AND, AAF)

(i) Federal financial assistance, Airport Layout Plan (ALP) approval, or licensing of a new heliport on an existing airport *or launch facility that would not significantly increase noise over noise sensitive areas.* (APP, AST)

(j) *Repair or replacement of underground storage tanks (UST), or replacement of UST with above ground storage tanks at the same location. (AAF)*

(k) *Maintenance of existing roads and rights-of-way, including, for example, snow removal, landscape repair, and erosion control work. (All)*

(l) *Federal financial assistance, licensing, Airport Layout Plan (ALP) approval, or FAA action related to topping or trimming trees to meet 14 CFR part 77 (Objects Affecting Navigable Airspace) standards for removing obstructions which can adversely affect navigable airspace. (All)*

(m) Upgrading of building electrical systems or maintenance of existing facilities, such as painting, replacement of siding, *roof rehabilitation, resurfacing, or reconstruction of paved areas, and replacement of underground facilities.* (AAF, AST)

(4) Procedural Actions:

(a) *Actions to return all or part of special use airspace (SUA) to the National Airspace System (NAS) (such as revocation of airspace or a decrease in dimensions or times of use). (AAT)*

(b) *Designation of alert areas and controlled firing areas. (AAT)*

(c) *Establishment or modification of Special Use Airspace (SUA), (e.g., restricted areas, warning areas), and military training routes for subsonic operations that have a base altitude of 3,000 feet above ground level (AGL), or higher. (AAT)*

(d) *Establishment or modification of Special Use Airspace (SUA) for supersonic flying operations over land and above 30,000 feet mean sea level (MSL) or over water above 10,000 feet MSL and more than 15 nautical miles from land. (AAT)*

(e) *Establishment of Global Positioning System (GPS), Flight Management System (FMS), or essentially similar systems, that use overlay of existing procedures. (AAF, AAT, AFS, AVN, AST)*

(f) Establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); instrument procedures conducted below 3,000 feet (AGL) that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved instrument procedures conducted below 3,000 feet (AGL) that do not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. *For Air Traffic modifications to procedures at or above 3,000 feet (AGL), the Air Traffic Noise Screening Procedure (ATNS) should be applied.* (AAT, AFS, AVN)

(g) *Establishment of procedural actions dictated by emergency determinations. (AAT, AST)*

(h) *Publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change concentration of aircraft on these tracks. (AAT, AFS, AVN)*

(i) *A short-term change in air traffic control procedures, not to exceed six months, conducted under 3,000 feet above ground level (AGL) to accommodate airport construction. (AAT)*

(j) *Tests of air traffic departure or arrival procedures conducted under 3,000 feet above ground level (AGL), provided that: (1) the duration of the test does not exceed six months; (2) the test is requested by an airport or launch operator in response to mitigating noise concerns, or initiated by the FAA for safety or efficiency of proposed procedures; and (3) test data collected will be used to assess operational and noise impacts of the test.*

(k) *Approval under 14 CFR part 161 of a restriction on the operations of Stage 3 aircraft that does not have the potential to significantly increase noise at the airport submitting the restriction proposal or at other airports to which restricted aircraft may divert. (APP)*

(5) Regulatory Actions:

(a) *Issuance of regulatory documents (e.g., Notices of Proposed Rulemaking, and issuance of Final Rules) covering administrative or procedural requirements (not including Air Traffic procedures unless otherwise categorically excluded). (AFS, AGC)*

Change 12. Add references to the use of demographic information of the geographic area of potentially significant impacts for purposes of anticipating and responding to public concerns about environmental justice and children. (see paragraph 201(b) and appendix 1, section 16).

Change 13. Add a new subject, ''Supplemental Noise Guidance.'' to the Noise section of Appendix 1. Supplemental noise analyses are most often used to describe aircraft noise impacts for specific noise-sensitive locations or situations and to assist in the public's understanding of the noise impact. Accordingly, the description should be tailored to enhance understanding of the pertinent facts surrounding the changes. The FAA's selection of supplemental analyses will depend upon the circumstances of each particular case. In some cases, this may be accomplished with a more complete narrative description of the noise events contributing to the yearly day/night average sound level (DNL) contours with additional tables, charts, maps, or metrics. In other cases, supplemental analyses may include the use of metrics other than DNL. Use of supplemental metrics selected should fit the circumstances. There is no single supplemental methodology that is preferable for all situations and these metrics often do not reflect the magnitude, duration, or frequency of the noise events under study

Change 14. Add a new appendix 4, FAA Guidance on Third-Party Contracting, with a brief cross-reference in paragraph 204d. This proposed appendix would provide guidance on the use of third-party contractors in the preparation of NEPA documents consistent with 40 CFR 1506.5(c). Third-party contracting refers to the preparation of an EIS by a contractor selected by the FAA and under contract to, and paid for by, an applicant.

Change 15. Delete from the characteristics for extraordinary circumstances actions that are likely to be highly controversial with respect to the availability of adequate relocation housing. In FAA's experience, we are not aware of any EA's required by this circumstance alone. Rather, when this situation has occurred, it has been accompanied by other extraordinary circumstances. Therefore, the FAA believes this circumstance should be deleted from the list. (see Section 304).

Change 16. Clarify that the FAA follows the guidelines of the American National Standards Institute/Institute of Electrical and Electronic Engineers (ANSI/IEEE) for electromagnetic radiation. (see Appendix 1, Section 16)

In addition to requesting comments on the foregoing proposed changes, the FAA requests general comments on the potential usefulness of requiring NEPA documents to be prepared and submitted in electronic form suitable for access via the Internet.

The FAA encourages full public participation during this comment period. Comments submitted will be considered in preparing the final Order 1050.1E.

Issued in Washington, DC on September 30, 1999.

James D. Erickson,

Director, Office of Environment and Energy.

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Chapter 1. General

1. Purpose

This order provides Federal Aviation Administration (FAA) policy and procedures to ensure agency compliance with the requirements set forth in the Council on Environmental Quality (CEQ) regulations for implementing the provisions of the National Environmental Policy Act of 1969 (NEPA), 40 Code of Federal Regulations (CFR) parts 1500–1508; Department of Transportation (DOT) Order DOT 5610.1C, Procedures for Considering Environmental Impacts; and other related statutes, and directives.

2. Distribution

This order is distributed to the division level in the Washington headquarters, regions, and centers with a limited distribution to all field offices and facilities.

3. Cancellation

Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, dated December 5, 1986, including Changes 1–4, is cancelled.

4. Background

NEPA and its implementing regulations, promulgated by CEQ in accordance with Executive Order (E.O.) 11514, Protection and Enhancement of Environmental Quality, March 5, 1970, as amended by E.O. 11991 (sections 2(g) and 3(h)), May 24, 1977, establish a broad national policy to protect the quality of the human environment, and provide policies and goals to ensure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government. Section 101 of NEPA sets forth Federal policies and goals to encourage productive harmony between people and their environment. Section 102(2) provides specific direction to Federal agencies, sometimes called ''action-forcing'' provisions (40 CFR 1500.1(a), 1500.3, and 1507) on how to implement the goals of NEPA. The major provisions include the requirement to use a systematic, interdisciplinary approach (section 102(2)(A)) and develop implementing methods and procedures (section 102(2)(B)). Section 102(2)(C) requires detailed analysis for proposed major Federal actions significantly affecting the quality of the human environment, providing authority to prepare environmental impact statements (EIS). Section 102(2)(E) provides authority for preparing environmental assessments (EAs). NEPA was enacted as Public Law (P.L.) 91–190 (January 1, 1970), which was amended by P.L. 94–52 (July 3, 1975), P.L. 94–83 (August 9, 1975), and P.L. 97–258, section 4(b) (Sept. 13, 1982), and codified at 42 United States Code (U.S.C.) 4231–4347. The CEQ implementing regulations are found at Title 40 of the Code of Federal Regulations (CFR), parts 1500–1508 (43 FR 55978, November 29, 1978; amended 51 FR 15618, April 25, 1986). DOT's implementing requirements are prescribed under Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, October 1, 1979), and Order 5610.1, Changes 1 & 2 (July 13, 1982 and July 30, 1985)).

This order also addresses environmental laws, regulations, and executive orders in addition to NEPA. The environmental process established by this order is intended to implement the objective of the DOT and CEQ to use a single process to meet requirements for environmental studies, consultations, and reviews to the maximum extent possible.

5. Explanation of Changes

This order:

a. Reflects current environmental requirements.

b. Provides a procedure for program offices to adopt supplemental guidance in consultation with the Office of Environment and Energy (AEE) and the Office of Chief Counsel (AGC) (see paragraph 7).

c. Adds a reference in the paragraph on ''Initial Review'' (paragraph 201) and paragraph 15, Appendix 1, Analysis of Environmental Impact Areas, to the use of demographic information of the geographic area of potentially significant impacts for purposes of anticipating and responding to public concerns about environmental justice and children in accordance with E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), the accompanying Presidential Memorandum, DOT Strategy on Environmental Justice (60 FR 33896, June 25, 1995), DOT Order 5610.2 (62 FR 18377, April 15, 1997), CEQ Environmental Justice: Guidance Under the National Environmental Policy Act (December 10, 1997), EPA Guidance for Consideration of Environmental Justice in Clean Air Act Section 309 Reviews (July 1999), E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), and 40 CFR 1501.2(c), 1507.2(d), and 1508.27(b)(2) (see paragraph 200c(4) and appendix 1, section 16).

d. Has been reorganized to place the categorical exclusions, including new and modified categorical exclusions, for all FAA programs in chapter 3, eliminating the separate appendixes for each program, including the Office of Airports and the Office of Commercial Space Transportation (see Figure 3–2, Categorical Exclusions List). For reference, offices that originated and would normally use a categorical exclusion are listed in parentheses following each categorical exclusion. Additions and modifications to categorical exclusions are identified in bold in figure 3–2.

e. Has been reorganized to place the types of actions that normally require preparation of EAs and EISs for all programs into Chapters 4 and 5, respectively. Appendix 6, Airports, of Order 1050.1D (which references FAA Order 5050.4A, Airport Environmental Handbook, October 8, 1985) is continued as appendix 3 of this order. Order 5050.4A will be updated to ensure consistency with this order in consultation with AEE (Environment and Energy Team, AEE–200) and AGC (Environmental Law Branch, AGC–620).

f. Provides guidance for the Office of Air Traffic to accept the U.S. Department of Defense's (DOD) use of a categorical exclusion for actions relating to a request for designation of special use airspace when that request is subject to a categorical exclusion under the regulations of the requesting military department, except when FAA actions are subject to an EA, in accordance with a Memorandum of Understanding, dated January 26, 1998 (see paragraph 303c).

g. Adds a reference to Tribes in defining extraordinary circumstances when actions are likely to be highly controversial on environmental grounds based on concerns raised by a Federal, State, Tribal, or local government agency or by a substantial number of the persons affected by the action (see paragraph 304i); likely to violate Tribal

water quality standards under the Clean Water Act and Safe Drinking Water Act (see paragraph 304h), or air quality standards established under the Clean Air Act Amendments of 1990 (see paragraph 304g); or likely to be inconsistent with any Tribal law relating to environmental aspects of the proposed action. Includes new guidance on government-to-government consultation with Tribes, in accordance with Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, dated May 14, 1998 (63 FR 27655, May 19, 1998), and Presidential Memorandum on Government-to-Government Relations with Native American Tribal Governments, dated April 29, 1994 (59 FR 22951, May 4, 1994) (see paragraph 212). Incorporates references to tribal consultation into appendix 1, section 11 on cultural resources, in accordance with regulations governing section 106 consultation under the National Historic Preservation Act (36 CFR part 800) and compliance with the Native American Graves Protection and Repatriation Act (43 CFR part 10), the American Indian Religious Freedom Act of 1978 (P.L. 95–341), and E.O. 13007, Indian Sacred Sites (61 FR 26771, May 29, 1996).

h. Provides guidance on intergovernmental review of agency actions that may affect State and local governments, in accordance with Executive Order 12372, Intergovernmental Review of Federal programs (July 14, 1982), and 49 CFR part 17, Intergovernmental Review of DOT Programs and Activities (see paragraph 210).

i. Provides guidance for determining when it may be useful to document that a project qualifies for categorical exclusion (see paragraph 305).

j. Provides procedures for adopting EAs prepared by other agencies (see paragraph 404d), as recommended by CEQ in its Memorandum: Guidance Regarding NEPA Regulations (48 FR 34263, July 28, 1983).

k. Provides a new optional procedure for joint documents that include both findings of no significant impact (FONSI) and decision documents (see paragraph 408).

l. Provides a new optional procedure for preparing scoping documents (see paragraph 505).

m. Provides a new optional procedure for publishing records of decisions (RODs) in the **Federal Register** (see paragraph 512e).

n. Provides a new procedure for circulating supplemental environmental information, such as reports, for public comment on points of concern, regarding environmental impacts set forth in an EIS (see paragraph 516d).

o. Provides a new procedure for integrating Clean Water Act section 404 permitting requirements and NEPA (see section 18, Appendix 1, Analysis of Environmental Impact Areas).

p. Provides revised appendices for analyses of environmental impact areas (appendix 1, replacing Attachment 2 of Change 4 of 1050.1D) and third-party contracting (appendix 4).

q. Provides new appendices containing: CEQ scoping guidance (appendix 5); CEQ's ''40 Most Asked Questions'' (appendix 9); and Order DOT 5610.2, Environmental Justice in Low-Income Populations and Minority Populations (appendix 10).

r. Deletes from the characteristics for extraordinary circumstances actions that are likely to be highly controversial with respect to the availability of adequate relocation housing. In FAA's experience, we are not aware of any EA's required by this circumstance alone. Rather, when this situation has occurred, it has been accompanied by other extraordinary circumstances. Therefore, the FAA believes this circumstance should be deleted from the list. (see Section 304).

s. Clarifies that the FAA follows the guidelines of the American National Standards Institute/Institute of Electrical and Electronic Engineers (ANSI/IEEE) for electromagnetic radiation. (see Appendix 1, Section 16)

t. This order adds the following new categorical exclusions, or modifies existing categorical exclusions previously provided in order 1050.ID: (changes are shown in *italics*)

(1) Administrative/General Actions

(a) *Issuance of Notices to Airmen (NOTAMS), which notify pilots and other interested parties of interim or temporary conditions. (AFS, AVN)*

(b) *FAA actions related to conveyance of land for airport purposes, surplus property, and joint use arrangements that do not substantially change the operating environment of the airport. (APP, AND, ANI, and ASU)*

(c) *Mandatory actions required under any treaty or international agreement to which the United States is a party, or required by the decisions of international organizations or authorities in which the United States is a member or participant except when the United States has substantial discretion over implementation of such requirements.*

(d) Agreements with foreign governments, *foreign civil aviation authorities*, international organizations, or U.S. Government departments calling *for cooperative activities* or the provision of technical assistance, advice, *equipment*, or services to those parties, *and the implementation of such agreements; negotiations and agreements to establish and define bilateral aviation safety relationships with foreign governments, and the implementation of such agreements;* attendance at international conferences and the meetings of international organizations, including participation in votes and other similar actions.

(2) Certification Actions

(a) Approvals of aircraft *or launch vehicles* and engine repairs, parts, and alterations not affecting noise, emissions, or wastes. (All)

(3) Equipment and Instrumentation Actions

(a) Construction of Remote Communications Outlet (RCO), *or replacement with essentially similar facilities or equipment*, to provide air-to-ground communication between pilots of general aviation aircraft and personnel in Flight Service Stations (FSS). (AAF, AND)

(b) Establishment, installation, upgrade, or relocation within the perimeter of an airport: airfield or approach lighting systems, such as Runway End Identifier Lights (REIL), Omnidirectional Airport Lighting Systems (ODALS), *High Intensity Approach Lighting System With Flashers (ALSF–2); Medium Approach Lighting System with a REIL (MALSR/SALSR)*; visual approach aids, beacons, and electrical distribution systems, such as Visual Approach Slope Indicators (VASIs) and Precision Approach Path Indicators (PAPIs). (AAF, AND, APP, ANI)

(c) Federal financial assistance or ALP approval or FAA installation of facilities and equipment, other than radars, within a facility or within the perimeter of an airport *or launch facility* (e.g. weather systems, navigational aids, and hygrothermometers). Weather systems include Automated Weather Observing System (AWOS), Automatic Surface Observation System (ASOS), Runway Visual Range (RVR), Low Level Wind Shear Alert System (LLWAS), other essentially similar facilities and equipment that provides for modernization or enhancement of the service provided by these facilities. Navigational aids include Instrument Landing System (ILS) equipment or components of ILS equipment, other essentially similar facilities and equipment, and equipment that provides for modernization or

enhancement of the service provided by that facility. (AAF, AUA, AND, APP)

(d) Federal financial assistance or ALP approval or FAA installation of radar facilities and equipment, within a facility or within the perimeter of an airport *or launch facility, that conform to the current American National Standards Institute/Institute of Electrical and Electronic Engineers (ANSI/IEEE) guidelines for maximum permissible exposure to electromagnetic fields.* Radar facilities and equipment include Terminal Doppler Weather Radar (TDWR), Next Generation Weather Radar (NEXRAD), Precision Runway Monitor (PRM), Airport Surface Detection Equipment (ASDE), Air Route Surveillance Radar (ARSR), Airport Surveillance Radar (ASR), Air Traffic Control Beacon (ATCB), *and other essentially similar facilities and equipment.* In addition, this includes equipment that provides for modernization or enhancement of the service provided by these facilities, such as Radar Bright Display Equipment (RBDE) with Plan View Displays (PVD), Direct Access Radar Channel (DARC), and a beacon system on an existing radar. (AAF, AUA, AND, APP)

(e) Replacement of power and control cables for facilities and equipment, such as airport lighting systems (ALS), *launch facility lighting systems,* airport surveillance radar (ASR), *launch facility surveillance radar,* Instrument Landing System (ILS), and Runway Visual Range (RVR). (AAF, AND)

(f) Acquisition of security equipment required by rule or regulation for the safety or security of personnel and property on the airport *or launch facility* (14 CFR part 107, Airport Security), safety equipment required by rule or regulation for certification of an airport (14 CFR part 139, Certification and Operation: Land Airports Serving Certain Air Carriers) or *licensing of a launch facility,* or snow removal equipment. (APP, AST)

(3) Facility Siting and Maintenance Actions

(a) *Federal financial assistance, Airport Layout Plan (ALP) approval, or FAA installation of de-icing/anti-icing facilities that comply with National Pollutant Discharge Elimination System (NPDES) permits or other permits protecting the quality of receiving waters, and for which related water detention or retention facilities are designed not to attract hazardous wildlife, as defined in FAA Advisory Circular 150–5200–33. (AAF, APP)*

(b) Federal financial assistance, licensing, or Airport Layout Plan (ALP) approval to build or repair an existing runway, taxiway, apron, or loading ramp, including extension, strengthening, reconstruction, resurfacing, marking, grooving, fillets and jet blast facilities, provided the action will not create environmental impacts outside of an airport *or launch facility* property. (APP, AST)

(c) Federal financial assistance, licensing, Airport Layout Plan (ALP) approval, or FAA construction *or limited expansion* of accessory on-site structures, including storage buildings, garages, small parking areas, signs, fences, *and other essentially similar minor airport development items.* (AAF, AND, APP, AST)

(d) Construction of Remote Transmitter/Receiver (RT/R), *or other essentially similar* facilities and equipment, to supplement existing communications channels installed in the Air Traffic Control Tower (ATCT) or Flight Service Station (FSS). (AAF, AND)

(e) *Federal financial assistance, licensing, or ALP approval for construction or limited expansion of facilities, such as terminal passenger handling facilities or cargo buildings, at existing commercial service airports and launch facilities that do not substantially expand those facilities. (All)*

(f) Federal financial assistance, licensing, or FAA grading of land or removal of obstructions on airport *or launch facility* property, and erosion control measures having no impacts outside of airport property *or outside of the launch facility.* (AAF, AND, APP, AST)

(g) Construction and installation, on airports *or launch facilities,* of noise abatement measures, such as noise barriers to diminish aircraft *and launch vehicle* engine exhaust blast or noise, and installation of noise control materials. (All)

(h) Purchase, lease, or acquisition of three acres or less of land with associated easements and rights-of-way for new facilities. (ASU, AND, AAF)

(i) Federal financial assistance, Airport Layout Plan (ALP) approval, or licensing of a new heliport on an existing airport *or launch facility that would not significantly increase noise over noise sensitive areas.* (APP, AST)

(j) *Repair or replacement of underground storage tanks (UST), or replacement of UST with above ground storage tanks at the same location. (AAF)*

(k) *Maintenance of existing roads and rights-of-way, including, for example, snow removal, landscape repair, and erosion control work. (All)*

(l) *Federal financial assistance, licensing, Airport Layout Plan (ALP) approval, or FAA action related to topping or trimming trees to meet 14 CFR part 77 (Objects Affecting Navigable Airspace) standards for removing obstructions which can adversely affect navigable airspace. (All)*

(m) Upgrading of building electrical systems or maintenance of existing facilities, such as painting, replacement of siding, *roof rehabilitation, resurfacing, or reconstruction of paved areas, and replacement of underground facilities.* (AAF, AST)

(4) Procedural Actions

(a) *Actions to return all or part of special use airspace (SUA) to the National Airspace System (NAS) (such as revocation of airspace or a decrease in dimensions or times of use). (AAT)*

(b) *Designation of alert areas and controlled firing areas. (AAT)*

(c) *Establishment or modification of Special Use Airspace (SUA), (e.g., restricted areas, warning areas), and military training routes for subsonic operations that have a base altitude of 3,000 feet above ground level (AGL), or higher. (AAT)*

(d) *Establishment or modification of Special Use Airspace (SUA) for supersonic flying operations over land and above 30,000 feet mean sea level (MSL) or over water above 10,000 feet MSL and more than 15 nautical miles from land. (AAT)*

(e) *Establishment of Global Positioning System (GPS), Flight Management System (FMS), or essentially similar systems, that use overlay of existing procedures. (AAF, AAT, AFS, AVN, AST)*

(f) Establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); instrument procedures conducted below 3,000 feet (AGL) that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved instrument procedures conducted below 3,000 feet (AGL) that do not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. *For Air Traffic modifications to procedures at or above 3,000 feet (AGL), the Air Traffic Noise Screening Procedure (ATNS) should be applied.* (AAT, AFS, AVN)

(g) *Establishment of procedural actions dictated by emergency determinations. (AAT, AST)*

(h) *Publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change*

concentration of aircraft on these tracks. (AAT, AFS, AVN)

(i) *A short-term change in air traffic control procedures, not to exceed six months, conducted under 3,000 feet above ground level (AGL) to accommodate airport construction. (AAT)*

(j) *Tests of air traffic departure or arrival procedures conducted under 3,000 feet above ground level (AGL), provided that: (1) the duration of the test does not exceed six months; (2) the test is requested by an airport or launch operator in response to mitigating noise concerns, or initiated by the FAA for safety or efficiency of proposed procedures; and (3) test data collected will be used to assess operational and noise impacts of the test.*

(k) *Approval under 14 CFR part 161 of a restriction on the operations of Stage 3 aircraft that does not have the potential to significantly increase noise at the airport submitting the restriction proposal or at other airports to which restricted aircraft may divert. (APP)*

(5) Regulatory Actions

(a) *Issuance of regulatory documents (e.g., Notices of Proposed Rulemaking, and issuance of Final Rules) covering administrative or procedural requirements (not including Air Traffic procedures unless otherwise categorically excluded). (AFS, AGC)*

6. Policy

a. The FAA will comply with both the procedures and policies of NEPA and other related environmental laws, regulations, and orders applicable to FAA actions. This policy requires that the FAA decisionmaking process facilitate public understanding and scrutiny by including a consideration of the effect of a proposed action and its alternatives on the quality of the human environment, the avoidance or minimization of adverse effects of proposed actions, and the restoration or enhancement of resources and environmental quality of the nation. FAA will integrate NEPA and other environmental reviews and consultations into agency planning processes as early as possible.

b. The environmental review process outlined in this order shall be the focal point for assuring that NEPA and other environmental considerations are taken into account. EISs and EAs/FONSIs document FAA compliance with these considerations and shall reflect a thorough review of all relevant environmental issues, using a systematic, interdisciplinary approach.

c. Funding requirements will be justified and requested in accordance with existing budgetary and fiscal policies. Each FAA program office is responsible for seeking sufficient funds through the budget process to implement provisions of this order.

7. More Detailed Guidance

a. This order sets forth policy and procedures for implementing NEPA. All FAA offices that have issued supplemental detailed guidance for implementing NEPA within their programs must update their orders within a reasonable time to be consistent with this revised order.

b. A program office may develop more detailed guidance to implement 40 CFR 1507.3 if it is consistent with CEQ regulations and this order.

(1) Development of More Detailed Guidance

The program office shall consult with AEE (Environment and Energy Team, AEE–200) and AGC (Environmental Law Branch, AGC–620) in developing its more detailed guidance, publish notice of availability for comment of its proposed more detailed guidance in the **Federal Register**, and take other steps to seek public input during the development of its more detailed guidance.

(2) Review

The program office shall submit its proposed more detailed guidance to AEE (Environment and Energy Team, AEE–200) and AGC (Environmental Law Branch, AGC–620) for a 60-day review period. If AEE–1 finds the more detailed guidance to be consistent with this order, after joint consultation with the AGC for legal sufficiency, AEE–200 shall notify the program office and the program office may adopt these as its final guidance.

(3) Notice

The program office shall notify the parties with which it has consulted and publish notice of its final more detailed guidance in the **Federal Register**.

8. Scope

a. The NEPA process addresses impacts of Federal actions on the human environment, such as noise, socioeconomic, land uses, air quality, and water quality. Chapter 2 of this order presents an overview of the NEPA process and generally applicable information. Depending upon the context and intensity of potential impacts, NEPA procedures differ in complexity and duration. Chapter 3 of this order addresses those types of FAA actions that do not normally require preparation of an EA or EIS, called categorical exclusions (see figure 3–2), absent extraordinary circumstances (see paragraph 304). Chapters 4 and 5 of this order outline the processes for preparing EAs and EISs. These procedures apply to classes of FAA actions that may have a significant impact on the human environment. Appendix 1, Analysis of Environmental Impact Areas, presents, for each environmental impact category, brief descriptions of statutory and regulatory requirements and a list of agencies of specialized expertise or legal jurisdiction. Appendixes 3 and 4 provide additional FAA guidance on airports environmental review, and third-party contracting. Appendixes 5–10 provide copies of NEPA, CEQ regulations, CEQ guidance, DOT NEPA procedures, and the DOT order on environmental justice. Appendixes 11–12 provide a list of acronyms, an annotated list of generally applicable executive orders, DOT and FAA orders, memoranda of agreement or understanding, and related CEQ and FAA guidance.

9. Relation to CEQ Regulations

This order implements the mandate of NEPA, as defined and elaborated upon by CEQ's regulations, within the programs of the FAA. The order is not a substitute for the regulations promulgated by CEQ, rather, it supplements the CEQ regulations by applying them to FAA programs. Therefore, all program offices and administration offices shall comply with both the CEQ regulations and the provisions of this order.

10. Authority To Issue Changes to This Order

a. When the Administrator has not specifically reserved authority to make changes or updates, the Director of the Office of Environment and Energy (AEE–1) may issue changes or updates to this order, provided:

(1) When a change or update may affect an office or offices, AEE will formally coordinate with that office to afford it an opportunity to review and discuss the proposed change; and

(2) When a change or update is substantial, AEE will:

(a) formally coordinate with the Office of Chief Counsel (AGC), the Office of the Assistant Secretary for Transportation Policy (P–1) and the Office of the General Counsel (C–1), consult with CEQ; and then

(b) publish the proposed change or update in the **Federal Register** for public comment.

b. Each program office may submit to AEE proposed modifications to this order. For substantial changes, AEE

shall initiate formal coordination and consultation with AGC, P–1, C–1, and CEQ, after which the requesting office may continue the inter-divisional and interagency coordination and publish public notices and requests for comment in the **Federal Register**, provided it informs AEE of the proceedings. AEE may participate in the consultation at its option. The Associate or Assistant Administrator for the requesting office's program shall provide AEE with a memo describing the proposed change, a summary of the basis for the change, and, for substantial changes, comments from other program offices, AGC, P–1, C–1, CEQ, other Federal, State, Tribal, and local agencies and the public, as well as FAA's response. AEE will then issue change orders to this order, as needed. For substantial changes, AEE and the requesting office shall coordinate, to the extent possible, public notice in the **Federal Register** and internal clearance of proposed change orders. Alternatively, AEE may continue the coordination and public notice under subparagraph a, in cooperation with the requesting office.

11. Definitions

a. The terminology used in the CEQ regulations (see 40 CFR part 1508 in appendix 8) and Title 49 of the United States Code is applicable.

b. In addition, this paragraph defines basic NEPA and other terms as used throughout this order, as follows:

(1) Approving Official

This is the FAA official who has the authority to approve findings of no significant impact (FONSIs) or environmental impact statements (EISs) (see FAA Order 1100.154A, Delegation of Authority, June 1990, which provides delegation of authority to agency officials to sign environmental documents).

(2) Decisionmaker

This is the FAA official who has authority to approve a record of decision (ROD) or other types of formal decision documents for the agency (see FAA Order 1100.154A, Delegation of Authority, June 1990, which provides delegation of authority to agency officials to sign environmental documents).

(3) Environmental Due Diligence Audit (EDDA)

An EDDA is a detailed assessment of past property use with respect to storage, use, and disposal of hazardous materials. An EDDA is prepared using historical record searches, photographic interpretation, and site inspections to determine the likelihood of environmental contamination prior to acquisition by, or transfer to or from, the FAA. Where an EDDA has been determined necessary by the FAA, it will be conducted prior to completing the NEPA document and will be incorporated by reference (see FAA Order 1050.19, Environmental Due Diligence Audits in the Conduct of FAA Real Property Transactions, for further information on EDDAs).

(4) Environmental Studies

The investigation of potential environmental impacts to determine the environmental process to be followed and to assist in the preparation of the environmental document. (see, e.g., 23 CFR 7.107(a)).

(5) Noise Sensitive Area

An area is noise sensitive if noise interferes with normal activities associated with its use. Noise sensitive areas are residential, educational, health, and religious structures and sites, and outdoor recreational, cultural, wildlife refuges, and historical sites. For example, in the context of noise from airplanes and helicopters, noise sensitive areas include such areas within the DNL 65 noise contour. Individual, isolated, residential structures may be considered compatible within the 65 DNL noise contour where the primary use of land is agricultural and adequate noise attenuation is provided. Also, transient residential use such as motels should be considered compatible within the 65 DNL noise contour where adequate noise attenuation is provided. A site that is unacceptable for outside use may be compatible for use inside of a structure, provided adequate noise attenuation features are built into that structure. (See section 4, table 1, on land use and section 14 on noise in appendix 1and 14 CFR part 150, Airport Noise Planning, Land Use Compatibility Guidelines). In the context of launch vehicle operations, noise sensitive areas may include such sites within approximately 40 miles of the launch site for launches of very large rockets, whereas noise sensitive areas may include such sites within approximately 2 miles of the launch site for launches of small rockets. In the context of facilities and equipment, such as emergency generators or explosives firing ranges, but not including aircraft, noise sensitive areas may include such sites in the immediate vicinity of operations, pursuant to the Noise Control Act of 1972, (See State and local ordinances, which may be used as guidelines for evaluating noise impacts from operation of such facilities and equipment.)

(6) Responsible FAA Official

This term refers to the FAA employee designated with overall responsibility to furnish guidance and participate in the preparation of NEPA documents, to evaluate the documents, and to take responsibility for the scope and content of the documents (see FAA Order 1100.154A, Delegation of Authority, June 1990, which provides delegation of authority to agency officials to sign environmental documents).

(7) Tribe

In general, the term ''Tribe'' refers to the recognized tribal government and tribal members (as determined by each tribe) of any tribe, band, nation, Pueblo, or other organized group or community, including any Alaska Native Village (as defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*)) that is acknowledged by the Federal government to constitute a tribe with a government-to-government relationship with the United States and eligible for the programs, services and other relationships established by the United States for Indians because of their status as Indians and tribes. Under the Federally Recognized Indian Tribe List Act (P.L. 103–454, 25 U.S.C. 479a, note, to 479a–1), the Department of the Interior annually publishes a list of Federally recognized tribes in the **Federal Register**. The term ''tribe'' may also refer to State recognized tribes under specific authorities for certain DOT programs, especially related to surface transportation that may be associated with a particular FAA project.

12.–199. Reserved

Chapter 2. NEPA Planning and Integration

200. Introduction

a. By providing a means for assuring informed decisionmaking, NEPA compliance is an integral component of the FAA's comprehensive environmental responsibilities that enable FAA to carry out its primary mission of assuring aviation safety, security, and efficiency. NEPA provides a means for assuring that environmental concerns and interests of the public and other Federal, State, Tribal, or local agencies are appropriately considered as part of the decisionmaking process. NEPA also provides a means for efficiently complying with related statutes, orders, and regulations. Effective, efficient, and timely

environmental analyses, public involvement, and interagency and intergovernmental coordination depend upon determining the appropriate level of review early in planning, budgeting, and scheduling.

b. In accordance with NEPA, environmental issues shall be identified and considered early in an action's planning process, using a systematic, interdisciplinary approach and appropriate community involvement and interagency and intergovernmental coordination to expand the potential sources of information or identify areas of concern regarding the proposed action. Environmental permits and other forms of approval, concurrence, or consultation may be required, often from other agencies. Applicable permit application and other review processes should be included in the planning process to ensure that necessary supporting information is collected and provided to the permitting or reviewing agencies in a timely manner, especially if applicable laws, regulations, or executive orders specify timeframes for these processes.

c. By conducting the NEPA review at the earliest possible time in the planning and decisionmaking process, the responsible FAA official can use the NEPA process most effectively as an umbrella process or vehicle for giving appropriate consideration to specific environmental concerns by:

(1) Describing the purpose and need for the proposed action.

(2) Identifying reasonable alternatives (must include no action).

(3) Rigorously analyzing the reasonably foreseeable direct, indirect, and cumulative environmental impacts of those alternatives, and of nearby activities.

(4) Providing the basis for public disclosure and comment, and a mechanism for responding to public comments.

(5) Providing the basis for informed selection of the preferred alternative.

(6) Evaluating measures to mitigate adverse effects of the preferred alternative and ensuring that these measures are implemented.

(7) Facilitating compliance with applicable environmental laws, regulations, and executive orders.

d. This chapter guides the responsible FAA official, approving official, and decisionmaker in starting the NEPA process by determining the following:

(1) Whether an action requires an EA or an EIS.

(2) Whether the FAA is the lead Federal agency for the NEPA process.

(3) Which FAA office is responsible for NEPA compliance, including preparing environmental analyses and documents, ensuring public involvement, and completing interagency and intergovernmental coordination and consultation

201. Initial Review

a. The responsible FAA official should initially review whether the proposed action:

(1) could significantly affect the quality of the human environment, for example, with respect to noise, land, air quality, water quality, wildlife, energy supply and natural resources, or historic or archeological resources;

(2) would be located in wetlands, floodplains, coastal zones, prime, unique or state or local important farmlands, habitat of Federally listed endangered or threatened species or affected wildlife, wild and scenic river areas, or areas protected under DOT section 4(f); or

(3) would be highly controversial on environmental grounds (40 CFR 1508.27(b)(4)).

b. Based on the initial environmental review, the responsible FAA official shall identify issues and problems having potentially significant environmental impacts. Further, the responsible FAA official shall determine whether such issues and problems, as they pertain to the proposed action, have been previously addressed in a broad system, program, or regional assessment (see paragraphs on tiering in chapters 3 and 4). Consideration should be given to the existence of minority populations, low-income populations, and children in the geographic area of potentially significant impacts. The responsible FAA official can then decide which type of analysis and documentation, and what extent of public involvement and interagency and intergovernmental coordination and consultation, are appropriate.

c. When appropriate, the responsible FAA official should provide pertinent information to the affected community and agencies and consider their opinions at the earliest formative stage of the action and early in the process of preparing NEPA documentation. The extent of early coordination will depend on the complexity, sensitivity, degree of Federal involvement, and anticipated environmental impacts of the proposed action. Comments received during early coordination on environmental impacts of proposed actions shall be considered, as appropriate, in determining whether an EA, FONSI, or EIS is required (see also paragraph 207 on lead and cooperating agencies, paragraph 208 on public involvement, paragraph 209 on plain language and geographic information, paragraph 210 on reducing paperwork, paragraph 211 on reducing delay, paragraph 212 on interagency and intergovernmental coordination, and appendix 1 on specific requirements for interagency coordination and consultation and public notice and comment under other environmental laws, regulations, and executive orders.)

202. Determination of Federal Actions Requiring Preparation of an EA or an EIS

The three major levels of NEPA review are categorical exclusions and extraordinary circumstances, environmental assessments (EA), and environmental impact statements (EIS).

a. The first analytical step is to determine whether the proposed action is an advisory action, an emergency action, or a categorical exclusion. If an action is advisory, it is not subject to NEPA review. If an action is an emergency action, and not categorically excluded, then the provisions in Chapter 3, Advisory and Emergency Actions and Categorical Exclusions, for implementing NEPA in the context of an emergency apply. If an action is included in one of the categories in Figure 3–2, Categorical Exclusion List, and no extraordinary circumstances (see paragraph 304) apply to the proposed action, the FAA can take action without further environmental review. (See appendix 1 for associated findings and determinations which may need to be made, and, in certain situations, in consultation with relevant oversight agencies, under special purpose statutes, regulations, and executive orders.)

b. For proposed actions subject to NEPA that do not qualify for categorical exclusion, an EA or an EIS is required. The purpose of an EA is to inform decisionmaking generally or to determine whether a proposed action or its alternatives has the potential to significantly affect the environment. If the FAA has decided to prepare an EIS, it does not need to prepare an EA. If the EA indicates no significant impacts from the proposed action, a FONSI is prepared. The FONSI is a determination that the action lacks potentially significant environmental impacts and does not represent the agency's decision to implement the proposed action. The FONSI may be incorporated, along with other required findings, a description of the proposed action, the place and time of implementation, and the point of contact for additional information, into the agency's decision document, sometimes called a Record of Decision or FONSI/ROD. A formal decision document after a FONSI is optional

because the agency's decision to act may be evidenced by other documents such as rules, licenses, or approvals. The FONSI and other findings, however, must be documented in the project file.

c. For proposed actions that include mitigation measures to avoid, eliminate, or reduce anticipated significant impacts below applicable significance thresholds, a FONSI must be prepared and include appropriate mitigation commitments. A formal decision document after a FONSI is issued, sometimes called a Record of Decision or FONSI/ROD, is optional because the agency's decision to act may be evidenced by other documents such as rules, licenses, or approvals. The FONSI with the appropriate mitigation commitments, and other required findings, however, must be documented in the project file.

d. If the EA indicates that potentially significant environmental impacts may result from the proposed action, an EIS is required to proceed. An EIS provides additional, detailed evaluations of the proposed action and its alternatives, including the No Action alternative. Where the FAA anticipates that significant effects would result, a decision can be made to prepare an EIS without first developing an EA. No sooner than 30 days after the final EIS has been prepared and the FAA approving official has approved the document, the responsible FAA official may prepare a ROD for the signature of the appropriate decisionmaker. The ROD presents the agency's official decision on the proposed action and identifies any mitigation and monitoring measures.

e. When an application or request is received that requires FAA approval or implementation, environmental analysis may be required. The responsible FAA official may require the applicant or other interested parties to provide sufficient environmental information or analysis to ensure the environmental analysis meets the requirements of this order. In such cases, the responsible FAA official will recommend deferring final action pending receipt of the necessary information or environmental studies from the applicant. Upon receipt of the additional information or environmental studies, the responsible FAA official will determine if the information is sufficient to proceed. FAA may request that the applicant prepare the EA.

203. Responsibilities of the FAA and Applicants

a. The provisions of this order and the CEQ regulations apply to actions directly undertaken by the FAA and where the FAA has sufficient control and responsibility to condition the license or project approval of a non-Federal entity.

b. Where actions are directly undertaken by FAA, the FAA may prepare EAs and EISs, or use contractors in accordance with paragraph 204a.

c. Applicants may prepare EAs. In all other cases, the role of the applicant is limited to providing environmental studies and information. Applicants may fund the preparation of EISs through third-party contracting (see paragraph 204 and appendix 4).

d. For projects directly undertaken by Federal agencies and requiring an EIS, the statement shall be prepared at the feasibility analysis stage, and may be supplemented at a later stage. For applications to the FAA requiring an EA or EIS, the EA or EIS shall be commenced no later than immediately after the application is received.

204. Use of Contractors

a. Contractor consulting services may be used to prepare EAs and EISs. Contractors also may be used to prepare background or supplemental material and otherwise assist in preparing draft or final environmental documents for which the FAA takes responsibility. When contractors prepare EAs and EISs for the FAA, they must comply with the provisions of this order.

b. The responsible FAA official has overall responsibility for furnishing guidance on, participating in the preparation of, and independently evaluating the environmental document, taking responsibility for scope and content, including computer modeling. Duties of the responsible FAA official may be delegated typically to an environmental specialist, including the authority to sign FONSIs, but not the authority to approve EISs. The agency official authorized to approve FONSIs and EISs is called the approving official. The agency official authorized to approve a record of decision (ROD) based on review of an EIS and formal decision documents to proceed with the action based on review of the EA/FONSI is called the decisionmaker. (See paragraph 11, Definitions.)

c. In some circumstances, a procurement request may be needed to obtain consultant services to perform environmental analyses. FAA procurements for an EA and final design work must be separate to avoid a conflict of interest; however, an EA and preliminary design work may be combined provided the design work is of a generic nature, i.e., not site specific.

d. When an EIS is required, the lead Federal agency is required to select the contractor, who will assist the lead agency in preparing the EIS. (See 40 CFR 1506.5(c) and Appendix 4, FAA Guidance on Third-Party Contracting). If these procedures are not followed in preparing an EA, and the EA results in a decision to prepare an EIS, delay may occur, associated with selecting the contractor in accordance with this paragraph and appendix 4.

e. When a contractor prepares an EIS, the FAA requires the contractor to execute a disclosure statement prepared by the lead agency, or when appropriate, by the cooperating agency (for its portion of the EIS), specifying that the contractor has no financial or other interest in the outcome of the action (see 40 CFR 1506.5(c)).

205. Applicability

This order is effective immediately upon signature, with the following exception. This order does not apply to decisions made and final environmental documents issued prior to the effective date of this order.

206. Special Instructions

For actions subject to NEPA, the responsible FAA official should not take any action or make any irretrievable and irreversible commitments of resources until appropriate environmental review has been completed that meets the requirements of this order (see 40 CFR 1502.2(f) and 1502.4(c)(3)).

a. Requirements that apply to EISs may also be considered in preparing EAs.

b. Land acquisition and facility construction.

(1) Unless the acquisition of land is inextricable from the proposed project, that is, part of one continuous project leading inevitably and inexorably to the proposed Federal action, transfer of title or other interests in real property, including land, is not a major Federal action significantly impacting the environment or an irretrievable commitment of resources under NEPA. In some situations, it may not be appropriate to begin negotiations for the land acquisition before completing the environmental impact analysis and documentation. In other situations, it may not be possible to obtain some necessary information to complete the environmental review until after the property has been acquired, in which case, the responsible FAA official must decide whether to proceed with the property acquisition contingent upon obtaining the necessary information, and at the risk of FAA not approving a decision to proceed with the proposed action at the particular site.

(2) The responsible FAA official will review a proposed action by an applicant that has acquired land or constructed a facility for operation by FAA, but without prior approval by FAA, to determine whether the action was consistent with the policies of this order and has not limited full and objective consideration of alternatives.

c. The responsible FAA official will give particular attention to its responsibilities under DOT section 4(f) to insure that a special effort is made to preserve the natural beauty of countryside, public parks, and recreation lands, wildlife and waterfowl refuges, wild and scenic rivers or study rivers, and historic sites. FAA will not approve actions requiring the use of DOT section 4(f) properties unless there is no feasible and prudent alternative and the program includes all possible planning to minimize harm.

d. The responsible FAA official also will give particular attention to actions involving properties included in or eligible for inclusion in the National Register of Historic Places and the provisions of Title VI of the Civil Rights Act of 1964 and the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970.

207. Role of Lead and Cooperating Agencies

Section 1501.5 of the CEQ regulations describes the role of the lead agency in preparing EISs when more than one agency is involved in a proposed action. Section 1501.6 describes the relationship of the lead agency with cooperating agencies. Sections 1501.7 and 1501.8 describe the role of the lead agency in the scoping process and in setting time limits.

a. Lead agencies may ask Federal agencies with special expertise or jurisdiction by law to be cooperating agencies.

b. The definition of a cooperating agency in 40 CFR 1508.5 also includes any ''State or local agency of similar qualifications [i.e., with jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal] or, when the effects are on a reservation, a Native American Tribe, may by agreement with the lead agency become a cooperating agency.'' For further guidance, see CEQ Memorandum on Designation of Non-Federal Agencies to be Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act (July 28, 1999).

c. See also Memorandum of Understanding Between the FAA and the Department of Defense (November 1989) regarding NEPA compliance for special use airspace designations, available from the Environmental Programs Division of the FAA Office of Air Traffic Airspace Management, and Memorandum of Agreement Among Department of Defense, Federal Aviation Administration and National Aeronautics and Space Administration on Federal Interaction with Launch Site Operators (August 21, 1997), available from the Space Systems Development Division of the FAA Office for Commercial Space Transportation.

208. Public Involvement

a. Public involvement shall be initiated as early as possible and continued throughout the development of the proposed action in accordance with the FAA Community Involvement Policy Statement, dated April 17, 1995, and 40 CFR 1500.2(d) to obtain meaningful public input (see also paragraph 201c). Public involvement may be appropriate in defining the scope of work of a NEPA document developed by the FAA or the consultant the FAA selects. It may also be appropriate in defining the scope of work for an EA to be prepared by an applicant for grants-in-aid or an FAA approval or license. Comments from individuals and groups will be considered, as appropriate, in preparing an EA and FONSI or EIS. A summary of public involvement and the environmental issues raised shall be documented in the EA or EIS. Additional information on public involvement can be found in FAA's ''Community Involvement Manual,'' FAA–EE–90–03 (August 1990), and Community Involvement Policy Statement (April 1995), which may be obtained from the Office of Environment and Energy, and 40 CFR 1506.6. Other laws, regulations, and executive orders have specific requirements for public involvement, including but not limited to during rulemaking affecting children's environmental health risks under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, dated April 21, 1997 (62 FR 19885, April 23, 1997). See also recommendations for public involvement, including documentation of public involvement activities, related to implementing E.O. 12898 on environmental justice and the accompanying Presidential Memorandum of February 11, 1994 can be found in the Department of Transportation Strategy on Environmental Justice (60 FR 33896, June 25, 1995), Order DOT 5610.2, Environmental Justice in Minority Populations and Low-Income Populations (62 FR 18377, April 15, 1997), EPA Guidance for Consideration of Environmental Justice in Clean Air Act Section 309 Reviews (July 1999), and CEQ Environmental Justice: Guidance Under the National Environmental Policy Act (December 10, 1997).

b. The responsible FAA official shall:

(1) Make efforts to solicit from and provide appropriate information to the public.

(2) Inform those persons and agencies who may be interested or affected by providing full and fair discussion of environmental effects.

(3) Provide timely public notice of scoping meetings, public hearings, workshops, and availability of environmental documents (e.g., NOI (Notice of Intent) to prepare and Notice of Availability of environmental documents).

c. If permits, licenses, or other forms of review and approval requiring public involvement are applicable, such as under sections 106 and 110 of the National Historic Preservation Act, section 7 of the Endangered Species Act, section 404 of the Clean Water Act, E.O. 11988, Wetlands, E.O. 11990, Floodplains, section 176(c) of the Clean Air Act, and other air, water, and solid waste permits, and clean-up activities under the Comprehensive Environmental Response, Compensation, and Liability Act, then the responsible FAA official is encouraged to work cooperatively with the other agencies to combine public involvement activities and documents wherever possible and appropriate to integrate the NEPA and applicable permitting and other review processes in accordance with 40 CFR 1500.2(c), 1500.4(k) and (n), and 1500.5.

d. Public hearings. Hearings are lead by a public hearing officer. Agency staff help disseminate information, particularly when a public hearing is combined with an open house. For additional information about the public hearings and meetings, consult with the Office of Environment and Energy. See also, chapter 6 of FAA's Community Involvement Manual (August 1990) and chapter 2 of DOT and the Federal Highway Administration's (FHWA) Public Involvement Techniques for Transportation Decision-making (September 1996).

(1) The following elements are to be considered in deciding whether a public hearing is appropriate in cases where it is not statutorily mandated.

(a) The magnitude of the proposed action in terms of environmental impact or controversy, economic costs, the size and location of the geographic area

involved, and the uniqueness or amount of the resources to be committed.

(b) The degree of interest in the proposed action, as evidenced by requests from the public of Federal, Tribal, State, and local authorities that a public hearing be held.

(c) The complexity of the issues and the likelihood that information presented at the hearing will be of assistance to the agency in fulfilling its responsibilities.

(d) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, or written comments on the proposed action.

(2) The following shall be included in the notice for a public hearing:

(a) A description of the proposed action.

(b) The scheduling of the public hearing (time, date, and place).

(c) The availability and location of a DEIS, FONSI, or EA.

(3) Notice of the public hearing shall be in an areawide or local newspaper of general circulation. CEQ section 1506.6 states that, ''In all cases the agency shall mail notice to those who have requested it on an individual action. In the case of an action with effects of national concern notice shall include publication in the **Federal Register** and notice by mail to national organizations reasonably expected to be interested in the matter * * *.''

(4) A draft EIS, FONSI, or EA shall be available to the public at least 30 days prior to the public hearing.

(5) For FAA hearings, the responsible official may assign program officers the responsibility for convening a hearing and serving as hearing officer.

(6) Records of public hearings will be maintained in the docket of the Chief Counsel's office.

209. Plain Language and Geographic Information

40 CFR 1500.4(d), 1502.1, 1502.2(c), and 1502.8, Order DOT 5610.1C, paragraph 14, and the Executive Orders on environmental justice and intergovernmental consultation encourage the availability of information to the public in a manner that will facilitate public involvement in decisions affecting the human environment. The following executive orders also apply:

a. Executive Order 12906, Coordinating Geographic Data Acquisition and Access: The National Spatial Data Infrastructure, April 11, 1994, requires studies and geospatial data collected in the course of preparing an EA or EIS to conform to quality standards established through the intergovernmental coordinating mechanism provided for in the executive order, and chaired by the Federal Geographic Data Committee. For additional information, contact the Office of Environment and Energy.

b. Executive Order 12866, Regulatory Planning Review, and the Presidential Memorandum on Plain Language in Government Writing, dated June 10, 1998 (63 FR 31885, June 10, 1998), requires all Federal agencies to use plain language in all proposed and final rulemaking documents published in the **Federal Register** and in government documents generally.

210. Reducing Paperwork

The CEQ regulations (40 CFR 1500.4) encourage the reduction of paperwork while still demonstrating in the administrative record that the agency has met the requirements of NEPA and other applicable environmental laws, regulations, and executive orders.

a. The responsible FAA official should integrate NEPA requirements and other applicable environmental reviews and consultation requirements (40 CFR 1500.4(k)).

b. The responsible FAA official should refer to appendixes 1 and 12 for an overview of analyses required under other applicable environmental laws, regulations, and executive orders.

c. CEQ regulations also encourage joint preparation of NEPA documents so that each agency may adopt appropriate documents prepared by another agency (40 CFR 1506.3).

d. Relevant information may be incorporated by reference if the effect will be to reduce bulk without hindering agency and public review. The information must be briefly described, properly cited, and reasonably available for inspection by potentially interested persons within the time allowed for comment. (See 40 CFR 1502.21).

211. Reducing Delay

CEQ regulations encourage the reduction of delay while allowing for public involvement and interagency and intergovernmental consultation.

a. To reduce delay, the responsible FAA official should integrate NEPA requirements, and those of associated permitting and review processes, with the agency's planning and decisionmaking process for the project as early as possible.

b. The responsible FAA official should, where appropriate, use tiering for EISs (40 CFR 1502.20):

(1) A broad or programmatic impact statement may be used to consider similar actions.

(2) A phased approach may be used to focus on issues ripe for decision at each level of environmental review, while summarizing previously discussed issues and disclosing reasonably foreseeable actions. Tiering may also be used in preparing EAs.

c. The responsible FAA official should refer to appendixes 1 and 12 for an overview of requirements under other applicable environmental laws, regulations, and executive orders, identify the information and time required by the oversight agencies to complete their review and, where applicable, jointly prepare or adopt the FAA's EA or EIS to meet their own NEPA requirements (see 40 CFR 1500.5(g) and (h) and 1506.2)).

d. The responsible FAA official should identify any need for additional studies or documentation.

212. Intergovernmental and Interagency Coordination and Consultation

a. The responsible FAA official should consult affected local units of government, and pertinent Federal, State agencies, and Tribal governments early in the NEPA process (see also paragraph 201c). Comments on the environmental impacts of the proposed action shall be considered, as appropriate, in determining whether the proposed action requires an EA/FONSI or EIS and in preparing the EA/FONSI or EIS. See specific requirements for coordination and consultation, which may apply under other environmental laws, regulations, and executive orders. Environmental permits and other forms of approval, concurrence, or consultation may be required from other agencies. Applicable permit application and other review processes should be included in the planning process to ensure that the necessary supporting information is collected and provided to the permitting or reviewing agencies in a timely manner, especially if the applicable laws, regulations, or executive orders specify timeframes for these processes.

b. The following executive orders also apply generally:

(1) State and Local Governments

In accordance with Executive Order 12372, Intergovernmental Review of Federal Programs, dated July 14, 1982 (as supplemented by Executive Order 13132, Federalism, dated August 4, 1999 (64 FR 43255, August 10, 1999)), and 49 CFR part 17, Intergovernmental Review of DOT Programs and Activities, the responsible FAA official shall

provide the opportunity for State and local officials to review and comment on Federal actions for Federal assistance or actions affecting them. A few States have established a point of contact, often within the governor's office, to coordinate comments by State agencies. Otherwise, the responsible FAA official should contact appropriate State agencies directly. Please refer to the Council of State Governments' directories and webpage (www.statesnews.org, which, as currently organized, includes under ''other resources'' links to ''State pages'') to identify appropriate State agencies. See also specific requirements for consultation with State and local governments in Appendix 1, Analysis of Environmental Impact Areas.

(2) Tribal Governments

In accordance with Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, May 14, 1998 (63 FR 27655, May 19, 1998), the responsible FAA official must consult in a timely and meaningful manner with Tribal governments in formulating policies, including regulatory policies, significantly or uniquely affecting tribal governments and be guided, to the extent permitted by law, by principles of respect for Indian tribal self-government and sovereignty, for Tribal treaty and other rights, and for responsibilities that arise from the unique legal relationship between the Federal Government and Indian Tribal governments. The Presidential Memorandum on Government-to-Government Relations with Native American Tribal Governments, dated April 29, 1994 (59 FR 22951, May 4, 1994), outlines principles for government-to-government consultation with Indian Tribal governments. The Office of Management and Budget's Memoranda M–95–09 (March 31, 1995) and M–95–20 (September 21, 1995) provide additional information on principles of government-to-government consultation. Consultation should be initiated with the recognized leader of the Tribal government and by the appropriate agency official and advice sought on how to proceed with consultation based on tribal culture and organization. See also specific requirements for consultation with tribal governments in Appendix 1, Analysis of Environmental Impact Areas. Sources of information for addresses to contact Tribal governments include, for example, Tiller's Guide to Indian Country (1996: BowArrow Publishing Company, Albuquerque, New Mexico), State Historic Preservation Offices, the Bureau of Indian Affairs, and the FAA Federal Historic Preservation Officer.

(3) Foreign Governments

In accordance with Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, dated January 4, 1979 (44 FR 18722, March 29, 1979), specific treaties, and DOT Order 5610.1C, paragraph 16, the responsible FAA official should consult with the Office of Environment and Energy and P–1, to initiate consultation with foreign governments for proposed actions outside the United States, its territories, and possessions that have the potential to significantly affect the global commons or the environment of other nations.

c. The responsible FAA official should refer to relevant interagency memoranda of agreement and understanding. (See also Appendix 1, Analysis of Environmental Impact Areas; Appendix 12, Related Executive Orders, DOT & FAA Orders, and Memoranda/Guidance; and contact the Environment, Energy and Employee Safety Division (AEE–200) or the Environmental Branch (AGC–620) of the Office of Chief Counsel for information on the status of this and other interagency memoranda).

d. Various laws, regulations, executive orders, and departmental orders establish interagency coordinating mechanisms, *e.g.*, related to invasive species, coral reefs, and children's environmental health risks. The responsible FAA official should review Appendix 1, Analysis of Environmental Impact Areas, and contact the Environment, Energy and Employee Safety Division (AEE–200) or the Environmental Branch (AGC–620) of the Office of Chief Counsel for more specific information.

e. In accordance with 40 CFR 1503.2, when FAA is invited to comment or is a cooperating agency because it has jurisdiction by law or special expertise with respect to any environmental impact involved or is authorized to develop and enforce environmental standards, the responsible FAA official shall, if it is satisfied that its views are adequately reflected in the environmental document, reply that it has no comment. If the responsible FAA official or the Office of Environment and Energy prepares comments, the comments should be as timely and specific as possible, indicating what additional information it needs to fulfill other applicable environmental reviews or consultation requirements, and, if it objects or expresses a reservation about the proposed action based on potential environmental impacts, what mitigation measures it considers necessary to allow the program office to grant or approve applicable permit, license, or related requirements or concurrences.

213. Roles and Responsibilities

The roles and responsibilities of the offices, services, regions, and centers in the FAA for complying with this order are described below. Responsibilities may be delegated in accordance with appropriate FAA orders, such as Order 1100.154A, Delegations of Authority.

a. Assistant Administrator for Region and Center Operations (ARC) is responsible for overseeing Regional Administrators and the Director of the Mike Monroney Aeronautical Center, or designee, who are responsible for coordinating cross-divisional and cross-regional environmental matters and for overseeing regional environmental activities.

b. Associate Administrator for Airports (ARP) is responsible for considering the environmental impacts of proposed FAA approvals of airport layout plans and FAA-funded airport actions to assure compliance with NEPA requirements and other Federal and Departmental environmental laws, regulations, and orders. Airports personnel shall comply with the NEPA requirements in the most current versions of FAA Order 5050.4. ARP's Office of Airport Planning and Programming, Community and Environmental Needs Division, APP–600, provides guidance to Regional and District Airports personnel concerning Federal, Departmental, and agency environmental policy regarding airport development actions.

c. Assistant Administrator for Policy, Planning, and International Aviation (API) is responsible for providing policy guidance to the agency on implementing a wide range of environmental laws and regulations. The Office of Environment and Energy (AEE) provides policy oversight on FAA environmental actions; issues regulations for aircraft noise and emissions under 14 CFR parts 34 and 36; provides assistance as necessary in developing guidelines and procedures for FAA program areas; serves as the designated FAA NEPA liaison in accordance with 40 CFR 1507.2 ''to be responsible for overall review of agency NEPA compliance'' and Federal Preservation Officer in accordance with section 110 of the National Historic Preservation Act; interprets policies established in this order; provides assistance with computerized environmental tools, such as the ''Integrated Noise Modeling'' (INM) for aircraft noise and the

''Emissions Dispersion Modeling System'' (EDMS) for air quality; and provides advice to and supplements NEPA training programs in cooperation with the Office of Learning and Development and other applicable organizational elements.

d. Office of the Chief Counsel (AGC) is responsible for providing legal advice on NEPA compliance and legal requirements. AGC reviews section 4(f) on FEIS's; counsels and assists headquarters staff in accomplishing FAA environmental actions, and advises on the legal sufficiency of environmental documents. Regional Counsel and Center Counsel are responsible for providing legal counsel, assistance, and review in the conduct of regional environmental activities related to FAA environmental actions and in advising on the legal sufficiency of regional and center environmental documents.

e. Associate Administrator for Air Traffic Services (ATS) is responsible for evaluating the environmental impacts for all actions arising out of ATS responsibilities that require NEPA compliance.

(1) Air Traffic Service (AAT) is responsible for ensuring that the appropriate NEPA documentation is prepared for all air traffic actions originating in their region. The division manager or designee ensures that the depth of environmental study appropriate for a proposed action has been determined, and that the required documentation is prepared in a complete and timely manner. AAT's headquarters office, which originates a proposed system-wide action, is responsible for preparing the associated EA, FONSI, EIS, or ROD. Input may be requested from regional offices and field facilities for an action originating within headquarters.

(2) Airway Facilities Service (AAF) is responsible for considering the environmental impacts of the acquisition, management, and disposition of facilities and equipment (F&E). These are usually of local nature in the region. The regional division manager is responsible for site-specific NEPA processing and preparing documents for modifying, expanding, or upgrading existing facilities and supporting land acquisition and construction design documents that are required by the regional Logistics Division (also see paragraph 210g(1) below). In addition, Airway Facilities Service is responsible for being the agency's program manager for non-Federal facility actions (see 14 CFR part 171, Non-Federal Navigation Facilities). An example of such an action is a request from a non-Federal sponsor to change a VOR procedure.

(3) Aviation System Standards (AVN) is responsible for complying with FAA requirements under the aircraft program and maintenance of agency aircraft. The National Flight Procedures Office or designee is responsible for ensuring that environmental factors are considered for all its instrument procedures that require NEPA compliance.

f. Associate Administrator for Commercial Space Transportation (AST) is responsible for considering the environmental impacts of commercial launch activities. The FAA is authorized to regulate and license U.S. commercial launch and re-entry activities and as such, AST is responsible for ensuring that launch services provided by private enterprises are consistent with national security and foreign policy interests of the United States and do not jeopardize public safety and the safety of property. AST's authority extends to licensing of commercial launch vehicles (LVs) and is considered to be a major Federal action subject to NEPA requirements. Launch and re-entry licenses also identify the requirement for the proper oversight and control of launch activities. AST issues launch and re-entry specific and launch and re-entry site operators licenses.

g. Associate Administrator for Regulation and Certification (AVR) is responsible for ensuring that environmental factors are considered for all actions arising out of AVR responsibilities that require NEPA compliance.

(1) The preparation of required environmental analysis within AVR is delegated, as appropriate, to the Flight Standards Service, Aircraft Certification Service, regional Flight Standards Service division managers, and Aircraft Certification Directorate managers.

(2) Normally, the district or field office responsible for the action is responsible for the environmental assessment (EA). Regional division managers and staff will assist and monitor district and field offices activities in the preparation of EAs. Regional Flight Standards division managers and directorate managers are responsible for coordination of actions involving environmental documents which cross organizational lines within AVR and with other FAA organizations. The headquarters divisions, with assistance from the regions, will develop and coordinate findings of no significant impact (FONSI).

(3) Documentation, including the analysis of environmental factors, shall be retained in the project folder to substantiate the EA.

(4) An EA or EIS pertaining to a regulatory action shall be prepared for the signature of the appropriate Service Director. Prior coordination and concurrence is required from the Office of the Chief Counsel (AGC) and the Office of Rulemaking (ARM), for any EA or EIS pertaining to a regulatory action.

h. Associate Administrator for Research and Acquisitions (ARA) is responsible for ensuring that environmental factors are considered for all actions arising out of ARA responsibilities that require NEPA compliance.

(1) Office of Communications, Navigation, and Surveillance Systems (AND) is responsible for preparing EAs or EISs for broad actions (programmatic EAs or EISs) to consider the environmental impacts of fielding systems. AND preparation of programmatic EISs is selective and will be decided on a program-by-program basis. Subsequent, related site-specific environmental documents may tier upon these EISs. Regional Airway Facilities divisions are responsible for site-specific NEPA processing and preparing documents for modifying, expanding, or upgrading existing facilities. AND will provide guidance and oversight. Regional Airway Facilities Divisions are usually responsible for processing and preparing all site-specific NEPA documents for new systems; however, upon agreement, AND will share this responsibility.

(2) Office of Acquisitions (ASU) is responsible for considering environmental impacts of policy and procedures for the acquisition, management, and disposal of land. The regional Logistics Division is responsible for ensuring that construction contracts, acquisitions, disposal of lands, or other real property interests do not commence until all agency environmental requirements have been completed.

(3) Office of System Architecture and Investment Analysis (ASD) is responsible for considering environmental impacts of establishing procedures for the National Airspace System (NAS) programs, facilities (e.g., Airport Traffic Control Towers (ATCT), Terminal Radar Approach Controls (TRACON), Air Route Traffic Control Centers (ARTCC), Flight Service Stations (FSS), remote unmanned facilities, depots), and research/development activities.

(4) Director of the William J. Hughes Technical Center (ACT), or designee is responsible for coordinating cross-divisional environmental matters and

for overseeing center environmental activities, including NEPA compliance.

i. Assistant Administrator for Financial Services (ABA) is responsible for assuring that adequate funding is available for NEPA activities in the budget outyears. ABA assures that services, regions, centers, and offices consider NEPA activities in their budget submittals in the annual call for estimates. The Office of Budget (ABU) also uses this order as the basis for supporting the annual call for estimates related to additional costs required for environmental activities.

j. The Assistant Administrator for Human Resource Management (AHR) is responsible for incorporating training requirements in the individual development plans for appropriate personnel. Within AHR, the Office of Learning and Development (AHT) assures that FAA training is updated to include instruction on NEPA for appropriate personnel, in cooperation with the Center for Management Development, AHM, the FAA Academy, AMA, at the Mike Monroney Aeronautical Center, AMC, the Office of Environment and Energy within the Associate Administrator for Policy, Planning, and International Aviation, and the Environmental Law Branch of the Office of Chief Counsel, AGC, and training staff within the program offices.

k. The Office of Civil Rights (ACR) is responsible for determining whether projects receiving Federal financial assistance from the FAA comply with the appropriate civil rights laws and regulations, and executive orders, including those requirements under the E.O. 12898 and the accompanying Presidential Memorandum concerning environmental justice and DOT Order 5610 on environmental justice in the context of Title VI of the Civil Rights Act of 1964, as amended. (see Order 1400.11, Nondiscrimination in Federally Assisted Programs of FAA).

l. Associate Administrator for Civil Aviation Security (ACS) is responsible for NEPA compliance in security activities.

214.–299. Reserved

Chapter 3. Advisory and Emergency Actions and Categorical Exclusions

300. Introduction

This chapter provides guidance on whether a proposed action should be classified as an advisory action, emergency action, or an action that is categorically excluded from further environmental review.

301. Advisory Actions

Some Federal actions are of an advisory nature and neither permissive nor enabling. Actions of this type are not considered major Federal actions under NEPA, and EAs or EISs are not required as a condition for implementing the action. If it is known or anticipated that some subsequent Federal action would require processing in accordance with environmental procedures, the FAA shall so indicate in the advisory action. Examples of advisory actions include:

a. Determinations under 14 CFR part 77, Objects Affecting Navigable Airspace, and

b. Determinations under 14 CFR part 157, Notice of Construction, Alteration, Activation, and Deactivation of Airports, and Marking and Lighting Recommendations. Determinations under 14 CFR part 157 apply to airports, helipads, and heliports.

302. Emergency Actions

Section 1506.11 of Title 40 of the CFR allows CEQ to grant alternative arrangements for, but not eliminate, NEPA compliance where a national emergency, disaster, or similar great urgency makes it necessary to take actions with significant environmental impacts without observing other provisions of CEQ regulations. The processing times may be reduced or, if the emergency situation warrants, preparation and processing of environmental documents may be abbreviated. The responsible FAA official should consult with AEE (Environment, Energy and Employee Safety Division, AEE–200) and AGC (Environmental Law Branch, AGC–620) for evaluation to assure national consistency. FAA should then consult CEQ as appropriate about alternative arrangements for complying with NEPA.

303. Categorical Exclusions

a. Categorical exclusions are those types of Federal actions that meet the criteria contained in 40 CFR 1508.4. They represent actions that, based on past experience with similar actions, do not normally require an EA or EIS because they do not individually or cumulatively have a significant effect on the human environment, with the exception of extraordinary circumstances as set forth in paragraph 304. Categorical exclusions are presented in figure 3–2 by functional group.

b. The responsible FAA official must first determine whether a proposed action is within one of the categorical exclusions listed in figure 3–2. An action on the categorically excluded list is *not* automatically exempted from environmental review under NEPA. The responsible FAA official must also review paragraph 304, Extraordinary Circumstances, before finalizing a decision to categorically exclude a proposed action. If it is uncertain whether an extraordinary circumstance applies to the proposed action, the responsible FAA official shall consult with appropriate offices for guidance. Figure 3–1, Categorical Exclusion Process, summarizes the categorical exclusion process. The following paragraphs provide more information on the categorical exclusion process.

c. Responsible officials in the FAA Office of Air Traffic may accept the categorical exclusion of the U.S. Department of Defense for actions relating to a request for designation of special use airspace when that request is subject to a categorical exclusion under the regulations of the requesting military department, except when the actions of the FAA are subject to an EA or an EIS, in accordance with a Memorandum of Understanding, dated January 26, 1998. The responsible Federal official must also determine that extraordinary circumstances, as defined in this order, do not exist.

304. Extraordinary Circumstances

Proposed Federal actions, normally categorically excluded, which have any of the following characteristics, shall be the subject of an EA, or, if potential impacts are significant, an EIS:

a. Likely to have a significant adverse effect on cultural resources pursuant to the National Historic Preservation Act of 1966, as amended.

b. Likely to result in a significant impact on properties protected under section 4(f) of the Department of Transportation Act.

Figure 3–1.—Categorical Exclusion Determination Process

Step 1	Step 2	Step 3	Step 4	Step 5
Responsible FAA official or project proponent defines proposed action.	Responsible FAA official reviews proposed action with list of categorical exclusions.	Responsible FAA official reviews action for extraordinary circumstances.	Responsible FAA official has an option to issue and file a categorical exclusion determination if extraordinary circumstances are not involved.	Approving FAA official proceeds with action.

c. Likely to have significant impact on natural, ecological (*e.g.*, invasive species), or scenic resources of Federal, Tribal, State, or local significance (including, for example, Federally listed or proposed endangered, threatened, or candidate species or designated or proposed critical habitat under section 7 of the Endangered Species Act, resources protected by the Fish and Wildlife Coordination Act, wetlands under section 404 of the Clean Water Act, section 10 of the Rivers and Harbors Act, and E.O. 11988, floodplains under E.O. 11990, coastal resources under the Coastal Zone Management Act and Coastal Barriers Act, prime, unique, State or locally important farmlands under the Federal Farmlands Protection Act, energy supply and natural resources, and wild and scenic rivers, study or eligible river segments under the Wild and Scenic Rivers Act) and solid waste management.

d. Likely to cause substantial division or disruption of an established community, or disrupt orderly, planned development, or is likely to be not reasonably consistent with plans or goals that have been adopted by the community in which the project is located.

e. Likely to cause a significant increase in congestion from surface transportation (by causing decrease in Level of Service below acceptable level determined by appropriate transportation agency, such as a highway agency).

f. Likely to have a significant impact on noise levels of noise-sensitive areas.

g. Likely to have a significant impact on air quality or violate local, State, Tribal, or Federal air quality standards under the Clean Air Act Amendments of 1990.

h. Likely to have a significant impact on water quality, sole source aquifers, contaminate a public water supply system, or violate State or Tribal water quality standards established under the Clean Water Act and the Safe Drinking Water Act.

i. Likely to be highly controversial on environmental grounds. A proposed Federal action is considered highly controversial when the action is opposed on environmental grounds by a Federal, State, Tribal, or local government agency or by a substantial number of the persons affected by the action. If in doubt about whether a proposed action is highly controversial, consult the program office's headquarters environmental division, AEE (Environment and Energy Team, AEE–200), regional counsel, or AGC (Environmental Law Branch, AGC–620) or assistance.

j. Likely to be inconsistent with any Federal, State, Tribal, or local law relating to the environmental aspects of the proposed action.

k. Likely to directly or indirectly create a significant impact on the human environment, including, but not limited to, actions likely to cause a significant lighting impact on residential areas or commercial use of business properties, likely to cause a significant impact on the visual nature of surrounding land uses (see sections 11 and 12, appendix 1 for additional information), likely to be contaminated with hazardous materials based on Phase I or Phase II Environmental Due Diligence Audit (EDDAs), or likely to cause such contamination (see section 10, appendix 1 for additional references and discussion).

305. Categorical Exclusion Documentation

Categorical exclusions are allowed under CEQ regulations to reduce delay and paperwork. Once categorical exclusions are developed according to paragraph 303, CEQ guidance strongly discourages additional paperwork to document that an activity is within a listed categorical exclusion and no extraordinary circumstances exist. The decision that a proposed action is within a categorical exclusion and that no extraordinary circumstances exist shall not be considered deficient if it is not supported by documentation verifying that the proposed action is categorically excluded (see, however, paragraph 306 and appendix 1 for information about specific findings or determinations and associated public notice and comment requirements under other applicable environmental laws, regulations, and executive orders.). Unique circumstances may occur where the responsible FAA official may decide, for record-keeping purposes or in anticipation of litigation, to informally document the agency's review of potential extraordinary circumstances supporting the categorical exclusion determination for the proposed action. The responsible FAA official should consider documenting the review of whether extraordinary circumstances exist when there is a high degree of public controversy, when the applicability of a categorical exclusion is not intuitively clear, in anticipation of litigation, or when the project is perceived by the public as having the potential for adverse environmental effects. There is no prescribed format for any documentation that the responsible FAA official decides to include in the record to support a categorical exclusion. The responsible FAA official should use reasonable judgment on the type and minimum amount of information needed to document that extraordinary circumstances were considered and did not apply to the proposed action. For additional information, contact AEE–200 and AGC–620.

306. Other Environmental Laws and Requirements

Paragraph 304 identifies categories of environmental impacts that are subject to laws, regulations, or executive orders in addition to NEPA and which must be complied with before a Federal action is approved. The responsible FAA official must assure, to the fullest extent possible, that compliance with all applicable environmental requirements is reflected in the determination to apply a categorical exclusion. Such compliance, including any required consultations, findings or determinations, should be documented. Additional information on other environmental laws, regulations, and executive orders is provided in appendices 1 and 12.

307.–399. Reserved

Figure 3–2.—Categorical Exclusion List

Figure 3–2 is a comprehensive list of FAA's categorically excluded actions. Previously, only the categorical exclusions of general application were listed in the body of the order, while categorical exclusions of actions commonly carried out by one or a few services were listed in the appendices. This revised order consolidates both kinds of categorical exclusions into figure 3–2. The categorical exclusion list is classified by the following functions.

Administrative/General: Actions that are administrative or general in nature.

Certification: Actions concerning issuance of certificates or compliance with certification programs.

Equipment and Instrumentation: Actions involving installation, repair, or upgrade of equipment or instruments necessary for operations and safety.

Facility Siting and Maintenance: Actions involving acquisition, repair, replacement, maintenance, or upgrading of grounds, infrastructure, buildings, structures, or facilities that generally are minor in nature.

Procedural: Actions involving establishment, modification, or application of airspace procedures.

Regulatory: Actions involving compliance with, or exemptions to, regulatory programs or requirements.

Figure 3–2 also lists those categorical exclusions that refer to those actions for which there is no reasonable expectation of a change in use and thus should not cause environmental impacts.

All offices should use figure 3–2 in determining whether an action is categorically excluded. For reference, the office(s) that would *most commonly* use a categorical exclusion are provided in parentheses following the type of action. These actions may be used by more than one office.

Proposed additions and modifications to categorically excluded actions under this notice of availability for public comment are depicted in *italics.*

Note: Categorically excluded actions *proposed* under this notice and public procedure are depicted in *italics.*

Administrative/General Actions

1. Emergency measures regarding air or ground safety. (All)

2. Release of airport land from Federal obligations and consent to long-term leases of dedicated airport property to the status of revenue-producing property. (APP)

3. Approval of projects to carry out an FAA-approved 14 CFR part 150 noise compatibility program (NCP). (APP)

4. *Issuance of Notices to Airmen (NOTAMS), which notify pilots and other interested parties of interim or temporary conditions. (AFS, AVN)*

5. *FAA actions related to conveyance of land for airport purposes, surplus property, and joint use arrangements that do not substantially change the operating environment of the airport. (APP, AND, ANI, and ASU)*

6. *Mandatory actions required under any treaty or international agreement to which the United States is a party, or required by the decisions of international organizations or authorities in which the United States is a member or participant except when the United States has substantial discretion over implementation of such requirements.*

The following categorical exclusions refer to those actions for which there is no reasonable expectation of a change in use or activity that would cause environmental impacts.

7. Issuance of airport policy and planning documents including the National Plan of Integrated Airport Systems (NPIAS), Airport Improvement Program (AIP) priority system, and advisory circulars on planning, design, and development which are issued as administrative and technical guidance. (APP)

8. Approval of an airport sponsor's request solely to impose Passenger Facility Charges (PFC). (ARP)

9. Actions that are tentative, conditional, and clearly taken as a preliminary action to establish eligibility under an FAA program, including, for example, Airport Improvement Program (AIP) actions that are tentative and conditional and clearly taken as a preliminary action to establish an airport sponsor's eligibility under the AIP. (All)

10. Administrative and operating actions, such as procurement documentation, organizational changes, personnel actions, and legislative proposals not originating in the FAA. (All)

11. Agreements with foreign governments, *foreign civil aviation authorities,* international organizations, or U.S. Government departments calling *for cooperative activities* or the provision of technical assistance, advice, *equipment,* or services to those parties, *and the implementation of such agreements; negotiations and agreements to establish and define bilateral aviation safety relationships with foreign governments, and the implementation of such agreements;* attendance at international conferences and the meetings of international organizations, including participation in votes and other similar actions. (All)

12. All delegations of authority to designated examiners, designated engineering representatives (DER), or airmen under section 314 of the FAA Act (49 U.S.C. 44702(d) and 45303). (AFS, AIR)

13. FAA administrative actions associated with transfer of ownership or operation of an existing airport, by acquisition or long-term lease, as long as the transfer is limited to ownership, right of possession, and/or operating responsibility. (APP)

14. Issuance of grants to prepare noise exposure maps and noise compatibility programs (NCP) under 49 U.S.C. 47503(2) and 47504 and, under 14 CFR part 150, FAA determinations to accept noise exposure maps and approve noise compatibility programs. (APP)

15. Issuance of planning grants or state block grants (see most current version of FAA Order 5050.4). (APP)

16. Conditional approval of an Airport Layout Plan (ALP). (APP)

17. Planning and development of training, personnel efficiency, and performance projects and programs. (All)

18. Policy and planning documents and legislative proposals not intended for, or which do not cause direct implementation of, project or system actions. (All)

19. Project amendments (for example, increases in costs) that do not alter the environmental impact of the action. (All)

20. Actions related to the retirement of the principal of bond or other indebtedness for terminal development. (APP)

Administrative/General Actions (end)

Note: Categorically excluded actions *proposed* under this notice and public procedure are depicted in *italics.*

Certification Actions

1. Actions that demonstrate compliance with 14 CFR part 36, Noise Certification: Aircraft and Airworthiness Certification. (AFS, AIR)

2. Approvals of aircraft *or launch vehicles* and engine repairs, parts, and alterations not affecting noise, emissions, or wastes. (All)

3. Issuance of certificates such as: (1) new, amended, or supplemental aircraft types that meet environmental regulations; (2) new, amended, or supplemental engine types that meet emission regulations; (3) new, amended, or supplemental engine types that have been excluded by the EPA (14 CFR 34.7); (4) medical, airmen, export, manned free balloon type, glider type, propeller type, supplemental type certificates not affecting noise, emission, or waste; and (5) mechanic schools, agricultural aircraft operations, repair stations, and other air agency ratings. (AFS, AIR)

4. Operating specifications and amendments that do not significantly change the operating environment of the airport. These would include, but are not limited to, authorizing use of an alternate airport, administrative revisions to operations specifications, or use of an airport on a one-time basis. The use of an airport on a one-time basis means the operator will not have scheduled operations at the airport, or will not use the aircraft for which the operator requests an amended operations specification, on a scheduled basis. (AFS)

The following categorical exclusions refer to those actions for which there is no reasonable expectation of a change in use or activity that would cause environmental impacts.

5. Issuance of certificates and related actions under the Airport Certification Program (14 CFR part 139). (APP)

6. Issuance of Airworthiness Directives (ADs) to ensure aircraft safety. (AFS, AIR)

Note: Categorically excluded actions *proposed* under this notice and public procedure are depicted in *italics.*

Equipment and Instrumentation Actions

1. Construction of Remote Communications Outlet (RCO), *or replacement with essentially similar facilities or equipment,* to provide air-to-ground communication between pilots of general aviation aircraft and personnel in Flight Service Stations (FSS). (AAF, AND)

2. Establishment, installation, upgrade, or relocation within the perimeter of an airport: airfield or approach lighting systems, such as Runway End Identifier Lights (REIL), Omnidirectional Airport Lighting Systems (ODALS), *High Intensity Approach Lighting System With Flashers (ALSF–2); Medium Approach Lighting System with a REIL (MALSR/SALSR);* visual approach aids, beacons, and electrical distribution systems, such as Visual Approach Slope Indicators (VASIs) and Precision Approach Path Indicators (PAPIs). (AAF, AND, APP, ANI)

3. Federal financial assistance or ALP approval or FAA installation of facilities and equipment, other than radars, within a facility or within the perimeter of an airport *or launch facility* (e.g. weather systems, navigational aids, and hygrothermometers). Weather systems include Automated Weather Observing System (AWOS), Automatic Surface Observation System (ASOS), Runway Visual Range (RVR), Low Level Wind Shear Alert System (LLWAS), *other essentially similar facilities and equipment* that provides for modernization or enhancement of the service provided by these facilities. Navigational aids include Instrument Landing System (ILS) equipment or components of ILS equipment, other essentially similar facilities and equipment, and equipment that provides for modernization or enhancement of the service provided by that facility. (AAF, AUA, AND, APP)

4. Federal financial assistance or ALP approval or FAA installation of radar facilities and equipment, within a facility or within the perimeter of an airport *or launch facility, that conform to the current American National Standards Institute/Institute of Electrical and Electronic Engineers (ANSI/IEEE) guidelines for maximum permissible exposure to electromagnetic fields.* Radar facilities and equipment include Terminal Doppler Weather Radar (TDWR), Next Generation Weather Radar (NEXRAD), Precision Runway Monitor (PRM), Airport Surface Detection Equipment (ASDE), Air Route Surveillance Radar (ARSR), Airport Surveillance Radar (ASR), Air Traffic Control Beacon (ATCB), *and other essentially similar facilities and equipment.* In addition, this includes equipment that provides for modernization or enhancement of the service provided by these facilities, such as Radar Bright Display Equipment (RBDE) with Plan View Displays (PVD), Direct Access Radar Channel (DARC), and a beacon system on an existing radar. (AAF, AUA, AND, APP)

5. Federal financial assistance or Airport Layout Plan (ALP) approval of miscellaneous items including wind indicators, wind measuring devices, landing directional equipment, segmented circles (visual indicators providing traffic pattern information at airports without air traffic control towers), and fencing. (APP)

6. Installation or replacement of engine generators used in emergencies when commercial power fails. (AAF, AND, AST)

7. Replacement of power and control cables for facilities and equipment, such as airport lighting systems (ALS), *launch facility lighting systems,* airport surveillance radar (ASR), *launch facility surveillance radar,* Instrument Landing System (ILS), and Runway Visual Range (RVR), (AAF, AND)

8. Location of wind and other weather instruments within the perimeter of airports and launch facilities. (AAF, AND, AST)

The following categorical exclusions refer to those actions for which there is no reasonable expectation of a change in use or activity that would cause environmental impacts.

9. Acquisition of security equipment required by rule or regulation for the safety or security of personnel and property on the airport *or launch facility* (14 CFR part 107, Airport Security), safety equipment required by rule or regulation for certification of an airport (14 CFR part 139, Certification and Operation: Land Airports Serving Certain Air Carriers) or *licensing of a launch facility,* or snow removal equipment. (APP, AST)

Equipment and Instrumentation Actions (end)

Note: Categorically excluded actions *proposed* under this notice and public procedure are depicted in *italics.*

Facility Siting and Maintenance Actions

1. Access road construction and relocation or repair of entrance and service roadways that do not reduce the Level of Service on local traffic systems below acceptable levels. (AAF, AND, APP, AST)

2. Acquisition of land and relocation associated with a categorically excluded action. (ASU, APP)

3. Actions such as installation or repair of radars at existing facilities that conform to the current American National Standards Institute/Institute of Electrical and Electronics Engineers (ANSI/IEEE) guidelines for maximum permissible exposures to electromagnetic fields and do not significantly change the impact on the environment of the facility. (All)

4. *Federal financial assistance, Airport Layout Plan (ALP) approval, or FAA installation of de-icing/anti-icing facilities that comply with National Pollutant Discharge Elimination System (NPDES) permits or other permits protecting the quality of receiving waters, and for which related water detention or retention facilities are designed not to attract hazardous wildlife, as defined in FAA Advisory Circular 150–5200–33. (AAF, APP)*

5. Federal financial assistance, licensing, or Airport Layout Plan (ALP) approval to build or repair an existing runway, taxiway, apron, or loading ramp, including extension, strengthening, reconstruction, resurfacing, marking, grooving, fillets and jet blast facilities, provided the action will not create environmental impacts outside of an airport *or launch facility* property. (APP, AST)

6. Federal financial assistance, licensing, Airport Layout Plan (ALP) approval, or FAA construction or *limited expansion* of accessory on-site structures, including storage buildings, garages, small parking areas, signs, fences, *and other essentially similar minor airport development items.* (AAF, AND, APP, AST)

7. Construction of Remote Transmitter/Receiver (RT/R), or *other essentially similar* facilities and equipment, to supplement existing communications channels installed in the Air Traffic Control Tower (ATCT) or Flight Service Station (FSS). (AAF, AND)

8. *Federal financial assistance, licensing, or ALP approval for construction or limited expansion of facilities, such as terminal passenger handling facilities or cargo buildings, at existing commercial service airports and launch facilities that do not substantially expand those facilities.* (All)

9. Demolition and removal of buildings and structures, except those of historic, archaeological, or architectural significance as officially designated by Federal, State, or local government; and alteration of an existing facility that does not alter or change environmental impacts of the existing facility or structure, provided no toxic or hazardous substances contamination is present on the site or in equipment on the site. (AND, AST)

10. Extension of water, sewage, electrical, gas, or other utilities of temporary duration to serve construction. (AAF, AND, AST)

11. Filling of earth into previously excavated land with material compatible with the natural features of the site, provided the land is not delineated as a wetland. (AAF, AND, AST)

12. Federal financial assistance, licensing, or FAA grading of land or removal of obstructions on airport *or launch facility* property, and erosion control measures having no impacts outside of airport property *or outside of the launch facility*. (AAF, AND, APP, AST)

13. Lease of space in buildings or towers for a firm-term of one year or less. (ASU)

14. Minor expansion of facilities, including the addition of equipment, such as telecommunications equipment, on an existing facility where no additional land is required, or when expansion is due to remodeling of space in current quarters or existing buildings. Additions may include antennas, concrete pad and minor trenching for cable. (AAF, AOP, AND, AST)

15. Minor trenching and backfilling where the surface is restored and the excavated material is protected against erosion and runoffs during the construction period. (AAF, AND, APP, AST)

16. New gardening or landscaping, and maintenance of existing landscaping. (AAF, AND, APP, AST)

17. Construction and installation, on airports *or launch facilities*, of noise abatement measures, such as noise barriers to diminish aircraft *and launch vehicle* engine exhaust blast or noise, and installation of noise control materials. (All)

18. Purchase, *lease, or acquisition* of three acres or less of land with associated easements and rights-of-way for new facilities. (ASU, AND, AAF)

19. Repairs and resurfacing of existing access to remote facilities and equipment, such as Air Route Surveillance Radar (ARSR), Remote Center Air/Ground Communications Facility (RCAG), Remote Communications Outlet (RCO), and VHF Omnidirectional Range (VOR) with TACAN (VORTAC). Upgrading facilities and equipment to improve operational efficiency, such as existing runway approach lighting installations, conversion of VOR to VOR with TACAN (VORTAC), or conversion of ILS to category II or III standards. (AAF, AND)

20. Federal financial assistance, Airport Layout Plan (ALP) approval, or *licensing* of a new heliport on an existing airport *or launch facility that would not significantly increase noise over noise sensitive areas.* (APP, AST)

21. *Repair or replacement of underground storage tanks (UST), or replacement of UST with above ground storage tanks at the same location. (AAF)*

22. Replacement or reconstruction of a *terminal*, structure, or facility with a new one of substantially the same size and purpose, where location will be on the same site as the existing building or facility. (AAF, AND, APP, AST)

23. *Maintenance of existing roads and rights-of-way, including, for example, snow removal, landscape repair, and erosion control work. (All)*

24. Routine facility decommissioning, exclusive of disposal. (AND, AST)

25. Take over of non-Federal facilities by the FAA. (AAF, AVN)

26. *Federal financial assistance, licensing, Airport Layout Plan (ALP) approval, or FAA action related to topping or trimming trees to meet 14 CFR part 77 (Objects Affecting Navigable Airspace) standards for removing obstructions which can adversely affect navigable airspace. (All)*

27. Upgrading of building electrical systems or maintenance of existing facilities, such as painting, replacement of siding, *roof rehabilitation, resurfacing, or reconstruction of paved areas, and replacement of underground facilities.* (AAF, AST)

Facility Siting and Maintenance Actions (end)

Note: Categorically excluded actions *proposed* under this notice and public procedure are depicted in *italics*.

Procedural Actions

1. Rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (14 CFR part 71, ''Designation of Class A, Class B, Class C, Class D, and Class E Airspace Areas; Airways; Routes; and Reporting Points''). (AAT)

2. Actions regarding: establishment of Federal airways (14 CFR 71.75); operation of civil aircraft in a defense area, or to, within, or out of the United States through a designated Air Defense Identification Zone (ADIZ), (14 CFR part 99, ''Security Control of Air Traffic''); authorizations for operation of moored balloons, moored kites, unmanned rockets, and unmanned free balloons (14 CFR part 101, ''Moored Balloons, Kites, Unmanned Rockets and Unmanned Free Balloons''); and, authorizations of parachute jumping and inspection of parachute equipment, (14 CFR part 105, ''Parachute Jumping''). (AAT)

3. *Actions to return all or part of special use airspace (SUA) to the National Airspace System (NAS) (such as revocation of airspace or a decrease in dimensions or times of use). (AAT)*

4. Modification of the technical description of SUA involving minor adjustments to the dimensions, altitudes, or times of designation of that airspace (such as changes in designation of the controlling or using agency). (AAT)

5. *Designation of alert areas and controlled firing areas.* (AAT)

6. *Establishment or modification of Special Use Airspace (SUA), (e.g., restricted areas, warning areas), and military training routes for subsonic operations that have a base altitude of 3,000 feet above ground level (AGL), or higher. (AAT)*

7. *Establishment or modification of Special Use Airspace (SUA) for supersonic flying operations over land and above 30,000 feet mean sea level (MSL) or over water above 10,000 feet MSL and more than 15 nautical miles from land. (AAT)*

8. *Establishment of Global Positioning System (GPS), Flight Management System (FMS), or essentially similar systems, that use overlay of existing procedures. (AAF, AAT, AFS, AVN, AST)*

9. Establishment of helicopter tracks that channel helicopter activity over major thoroughfares. (AAT, AFS, AVN)

10. Establishment of new procedures that routinely route aircraft over non-noise sensitive areas. (AAT)

11. Establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); instrument procedures conducted below 3,000 feet (AGL) that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved instrument procedures conducted below 3,000 feet (AGL) that do not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. *For Air Traffic modifications to procedures at or above 3,000 feet (AGL), the Air Traffic Noise Screening Procedure (ATNS) should be applied.* (AAT, AFS, AVN)

12. *Establishment of procedural actions dictated by emergency determinations. (AAT, AST)*

13. *Publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change concentration of aircraft on these tracks. (AAT, AFS, AVN)*

14. Removal of a displaced runway threshold on an existing runway. (APP, AST)

15. *A short-term change in air traffic control procedures, not to exceed six months, conducted under 3,000 feet above ground level (AGL) to accommodate airport construction. (AAT)*

16. *Tests of air traffic departure or arrival procedures conducted under 3,000 feet above ground level (AGL), provided that: (1) the duration of the test does not exceed six months; (2) the test is requested by an airport or launch operator in response to mitigating noise concerns, or initiated by the FAA for safety or efficiency of proposed procedures; and (3) test data collected will be used to assess operational and noise impacts of the test.*

17. Procedural actions requested by users on a test basis to determine the effectiveness of new technology and measurement of possible impacts on the environment. (AAT)

18. *Approval under 14 CFR part 161 of a restriction on the operations of Stage 3 aircraft that does not have the potential to significantly increase noise at the airport submitting the restriction proposal or at other airports to which restricted aircraft may divert. (APP)*

Procedural Actions (end)

Note: Categorically excluded actions *proposed* under this notice and public procedure are depicted in *italics*.

Regulatory Actions

1. All FAA actions to ensure compliance with EPA aircraft emissions standards. (AEE)

2. Authorizations and waivers for infrequent or one-time actions, such as an airshow, that may result in some temporary impacts that revert back to original conditions upon action completion. (APP, AAF, AFS, AVN)

3. Denials of routine petitions for: (1) exemption; (2) reconsideration of a denial of exemption; (3) rulemaking; (4) reconsideration of a denial of a petition for rulemaking; and (5) exemptions to technical standard orders (TSOs) . (AEE, AFS, AIR, AST, ATS)

4. *Issuance of regulatory documents (e.g., Notices of Proposed Rulemaking, and issuance of Final Rules) covering administrative or procedural requirements (not including Air Traffic procedures unless otherwise categorically excluded). (AFS, AGC)*

5. Issuance of special flight authorizations controlled by operating limitations, specified in 14 CFR 21.199, 14 CFR 91.319, 14 CFR 91.611, and 14 CFR 91.859. (AFS, AIR, AEE)

Chapter 4. Environmental Assessments and Findings of no Significant Impact

400. Introduction

This chapter summarizes and supplements CEQ requirements for environmental assessments (EA) and findings of no significant impact (FONSI). According to 40 CFR 1508.9 and Order DOT 5610.1C CHG 1, paragraph 4d (July 13, 1982), an environmental assessment (EA) is a concise document used to describe a proposed action's anticipated environmental impacts. In 1978, the CEQ revised its regulations to allow agencies to prepare EAs in accordance with section 102(2)(E) and 40 CFR 1501.2c and 1507.2(d), when the following conditions apply or at any time to aid in agency planning and decisionmaking.

a. When to prepare an EA. An EA, at a minimum, must be prepared for a proposed action when the initial review of the proposed action indicates that:

(1) It is not categorically excluded (see figure 3–2 and paragraph 303);

(2) It is normally categorically excluded but, in this instance, involves at least one extraordinary circumstance (see paragraph 304);

(3) It is highly controversial on environmental grounds (see paragraph 304n); or

(4) The action is not one known normally to require an RIS and is not categorically excluded.

b. Actions not causing significant environmental effects. If, based on an EA, the responsible FAA official determines that the proposed action would not cause a significant environmental effect, the responsible FAA official shall prepare a FONSI for the signature of the approving official.

c. Actions causing significant environmental effects. If, based on an EA, the responsible FAA official determines that the proposed action would cause a significant environmental effect, and mitigation would not reduce that effect below applicable significance thresholds, the responsible FAA official shall publish a notice of intent (NOI) to prepare an EIS in the **Federal Register** and begin the EIS process. When the responsible FAA official anticipates that significant effects may result, a decision can be made to prepare an EIS without first developing an EA.

401. Actions Normally Requiring an Environmental Assessment (EA)

The following actions are examples of actions that normally require an EA. Some FAA projects involve actions by multiple FAA program offices.

The overall significance of these actions, when viewed together, governs whether an EA or an EIS is required.

a. Acquisition of land for, and the construction of, new FAA facilities.

b. Issuance of aircraft type certificates for new, amended, or supplemental aircraft types for which environmental regulations have not been issued, or new, amended, or supplemental engine types for which regulations have not been issued, or where an environmental analysis has not been prepared in connection with regulatory action.

c. Evaluation of new launch vehicles for new, amended, or supplemental types of launch vehicles, for which licenses have not been issued, or where an environmental analysis has not been prepared in connection with regulatory action.

d. Aircraft/avionics maintenance bases to be operated by the FAA.

e. Authorization to exceed Mach 1 flight under 14 CFR 91.817.

f. Establishment of FAA housing, sanitation systems, fuel storage and distribution systems, and power source and distribution systems.

g. Establishment or relocation of facilities such as Air Route Traffic Control Centers (ARTCC), Air Traffic Control Towers (ATCT), Air Route Surveillance Radars (ARSR), Beacon Only Sites, and Next Generation Radar (NEXRAD).

h. Establishment, relocation, or construction of facilities used for communications and navigation which are not on airport property.

i. Establishment or relocation of assisted landing systems (e.g., ILS) and approach light systems (ALS).

j. Federal financial participation in, or unconditional airport layout plan approval of, the following categories of airport actions:

(1) Airport location.

(2) New runway.

(3) Major runway extension.

(4) Runway strengthening having the potential to increase off-airport noise impacts by DNL 1.5 dB or greater over noise sensitive land uses within the day-night level (DNL) 65 dB noise contour.

(5) Construction or relocation of entrance or service road connections to public roads which substantially reduce the Level of Service rating of such public roads below the acceptable level determined by the appropriate transportation agency (i.e., a highway agency).

(6) Land acquisition associated with any of the items in paragraph 402j(1) through 402j(5).

k. Issuance of an operating certificate, issuance of an air carrier operating certificate, or approval of operations specifications or amendments that may significantly change the character of the operational environment of an airport, and including, but not limited to:

(1) Approval of operations specifications authorizing an operator to use turbojet aircraft for scheduled passenger or cargo service into an airport when that airport has not previously been served by any scheduled turbojet aircraft.

(2) Approval of operations specifications authorizing an operator to use the Concorde for any scheduled or nonscheduled service into an airport, unless environmental documentation for such service has been prepared previously and circumstances have not changed.

(3) Issuance of an air carrier operating certificate or approval of operations specification when a commuter upgrades to turbojet aircraft.

l. New instrument approach procedures, departure procedures, en route procedures, and modifications to currently approved instrument procedures which routinely route aircraft over noise sensitive areas at less than 3,000 feet above ground level (AGL).

m. New or revised air traffic control procedures which routinely route air traffic over noise sensitive areas at less than 3,000 feet AGL.

n. Regulations (and exemptions and waivers to regulations) which may affect the human environment.

o. Special Use Airspace if the floor of the proposed area is below 3,000 feet AGL, or if supersonic flight is anticipated at any altitude. This airspace shall not be designated, established, or modified until:

(1) The notice (notice of proposed rulemaking (NPRM) or non-rule circular) contains a statement supplied by the requesting or using agency that they will serve as lead agency for purposes of compliance with NEPA, and in accordance with paragraph 207, Lead and Cooperating Agencies; (e.g., restricted airspace for military use in accordance with the Memorandum of Understanding (MOU) between the FAA and the Department of Defense (January 1998)).

(2) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on the environmental aspects can be addressed (applicable only if an EIS is to be filed by the requesting agency).

(3) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on any

land use problems can be addressed (applicable only if Special Use Airspace extends to the surface).

(4) The rule, determination, or other publication of the airspace action contains a statement that the FAA has reviewed and adopted the EA prepared by the requesting agency in accordance with paragraph 404.

403. Impact Categories

Appendix 1 of this order identifies environmental impact categories that FAA examines for most of its actions. Appendix 1 provides references to current requirements; information about permits, certificates, or other forms of approval and review; an overview of specific responsibilities for gathering data, assessing impacts, consulting other agencies, and involving the public; and any established significant impact thresholds. The responsible FAA official should contact the reviewing or pertinent approving agencies for information regarding specific timeframes for applicable review or approval processes.

404. Environmental Assessment Process

When the responsible FAA official has determined that the proposed action cannot be categorically excluded the responsible FAA official will begin preparing an EA. Figure 4–1, Environmental Assessment Process, presents the EA review process for a typical action. The responsible FAA official does not need to prepare an EA if an EIS is prepared.

a. The responsible FAA official or applicant begins by gathering data, coordinating or consulting with other agencies, and analyzing potential impacts. The responsible FAA official or applicant contacts appropriate Federal, Tribal, State, and local officials to obtain information concerning potential environmental impacts and maintain appropriate contact with these parties for the remainder of the NEPA process. Public involvement is an integral part of the NEPA process and the CEQ regulations require agencies to make diligent efforts to involve the public in implementing their NEPA procedures (40 CFR 1506.6(a); and paragraph 208 regarding public involvement). When the agency receives comments from the public, the comments should be handled as formal comments and included in the administrative record (see FAA ''Community Involvement Manual,'' August 1990, and Appendix 5, Scoping Guidance).

b. Program offices must prepare concise EA documents with sufficient analysis for the following purposes to:

(1) Understand the purpose and need for the proposed action, identify reasonable alternatives, including a no action alternative, and assess the proposed action's potential environmental impacts.

(2) Determine if an EIS is needed because the proposed action's potential environmental impacts will be significant.

(3) Determine if a FONSI can be issued because the proposed action will have no significant impacts.

(4) Determine if a FONSI can be issued because mitigation will avoid the proposed action's significant impacts or reduce those impacts below significant thresholds.

(5) Provide a comprehensive approach for identifying and satisfying applicable environmental laws, regulations, and executive orders in an efficient manner (see figure 1–1 and appendix 1). Although the NEPA process does not preclude separate compliance with these other laws, regulations, and executive orders, the responsible FAA official should integrate NEPA requirements with other planning and environmental reviews, interagency and intergovernmental consultation, as well as public involvement requirements to reduce paperwork and delay, in accordance with 40 CFR 1500.4(k) and 1500.5(g). Additionally, 40 CFR 1508.27(b) and (b)(10), which define ''significance'' in terms of the intensity or severity of the impact and specifically in terms of ''whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment,'' should be considered in the event of a change in the status of the proposed action's impacts.

(6) Identify any permits, licenses, other approvals, or reviews that apply to the proposed action.

(7) Identify agencies, including cooperating agencies, consulted.

(8) Identify any public involvement activities.

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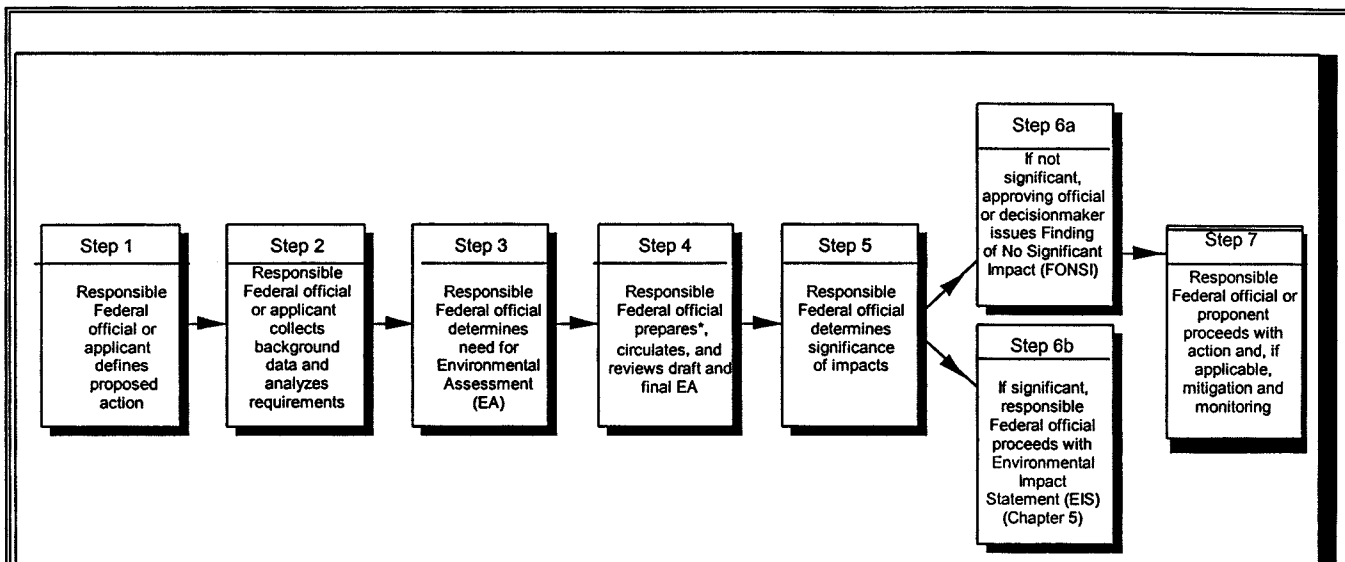
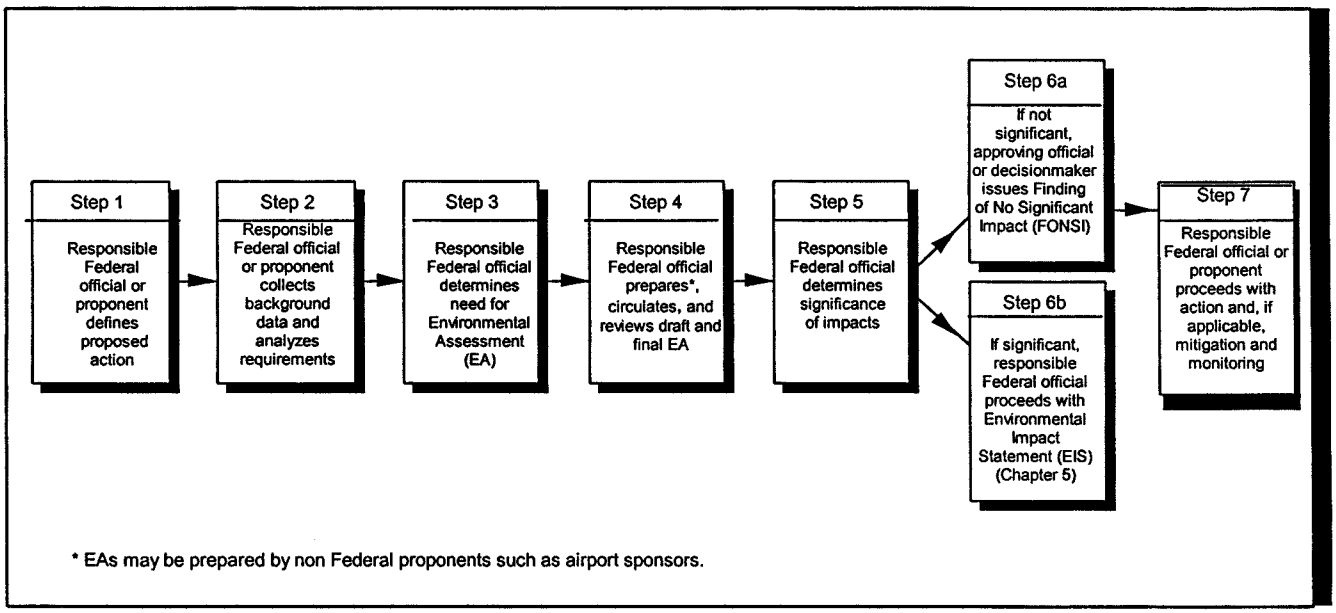
Figure 4-1. Environmental Assessment Process





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c. The EA should present detailed analysis, commensurate with the level of impact of the proposed action and alternatives to determine whether any impacts will be significant. If the proposed action and its alternatives will not cause impacts within specific categories of environmental impacts, a brief statement that the action is not likely to cause environmental impacts within these impact categories is sufficient. The EA may also be tiered to cover broad or programmatic proposed actions, such as rulemaking, policy decisions, and regional or national programs (see also paragraphs 409 and 513 regarding tiering).

d. FAA may adopt, in whole or in part, EAs or EA/FONSIs prepared by other agencies. When the FAA adopts an EA or the EA portion of another agency's EA/FONSI, the responsible FAA official must independently make a written evaluation of the information contained in the EA, take full responsibility for scope and content that addresses FAA actions, and issue its own FONSI. The responsible FAA official may also summarize the adopted portion followed by a direct reference to the EA. If more than three years have elapsed since the FONSI was issued, the responsible FAA official should prepare a written reevaluation of the EA (see paragraph 516). The responsible FAA official should forward a copy of the FONSI to EPA when it adopts another agency's EA or EA/FONSI (see also paragraph 518 regarding adoption of NEPA documents).

e. Internal review of the EA is conducted by potentially affected FAA program offices having an interest in the proposed action to assure that all FAA concerns have been addressed, and with AGC or Regional Counsel to assure that the EA is technically and legally adequate. For projects that originate in or are approved at FAA headquarters, the EA and FONSI should be coordinated with AGC for legal sufficiency. For projects that originate in and are approved by the regions, the EA and FONSI should be reviewed by regional counsel. The responsible FAA official should contact the environmental divisions of program offices to determine appropriate levels of coordination. The responsible FAA official should consult with AEE (Environment and Energy Team; AEE–200) for general advice on compliance with NEPA and other applicable environmental laws, regulations, and executive orders, especially for actions of national importance or which are highly controversial.

f. Upon review of the completed EA, public comments, and applicable interagency and intergovernmental consultation (see paragraph 210), the responsible FAA official will determine whether any adverse environmental impacts analyzed in the EA are significant. If the responsible FAA official determines that these impacts do not exceed applicable significance levels, or mitigation discussed in the EA and made an integral part of the project clearly will reduce identified impacts below significance levels, the responsible FAA official will prepare a FONSI. The approving official, who may also be the responsible FAA official, will sign the FONSI. This FONSI will either state that no significant impacts are expected or list those mitigation measures discussed in the EA that the responsible FAA official deems necessary to prevent significant environmental impacts and will make a condition of project approval. If the responsible FAA official determines that mitigation will not reduce significant environmental impacts below applicable significance thresholds, the responsible FAA official will publish a Notice of Intent (NOI) to prepare an EIS in the **Federal Register** to proceed.

g. If the responsible FAA official does not accept an EA prepared by another agency, the responsible FAA official shall specify in its comments to that agency whether it needs any additional information or describe the mitigation measures the FAA considers necessary to grant or approve an applicable permit, license, or related requirements or concurrences. If the responsible FAA official comments on the action agency's predictive methodology, the responsible FAA official should describe the preferred alternative methodology and explain why the FAA prefers this methodology.

Figure 4–2.—Environmental Assessment Overview

Purpose	Scope	Content	Public participation
Assist agency planning and decision-making by summarizing environmental impacts to determine need for: • An EIS • Mitigation measures	Addresses the proposed action's impacts on affected environmental resources	Describes and identifies: • Purpose and need for the proposed action • Proposed action • Alternatives considered (including the no action alternative) • Affected environment (baseline conditions) • Environmental consequences of the proposed action and alternatives • Mitigation • Agencies and persons consulted	As appropriate. Varies from none for simple EAs where no public interest exists to substantial participation in complex or controversial actions.

405. Sample Environmental Assessment Format

Figure 4–2, Environmental Assessment Overview, presents an overview of the EA process, while the following text describes the contents and purpose of an EA. The CEQ regulations do not specify a required format for an EA (see 40 CFR 1508.9); however, following the sample or a similar format will facilitate preparation of an EA, or EIS if an EIS is needed, and integrate compliance with other environmental laws, regulations, and Executive Orders with NEPA review. The following sample format for an EA is optional for FAA program offices to use.

a. Cover Page

This page is labeled ''Environmental Assessment.'' It identifies the proposed action and the geographic location of the proposed action. When EAs are prepared by an applicant or contractor

for an applicant, the following notification would be located at the bottom: ''This Environmental Assessment becomes a Federal document when evaluated and signed and dated by the responsible FAA official.''

b. Proposed Action

This discussion describes the proposed action with sufficient detail in terms that are understandable to individuals who are not familiar with aviation.

c. Purpose and Need

This discussion identifies the problem facing the proponent (that is, the need for an action), the purpose of the action (that is, the proposed solution to the problem), and the proposed timeframe for implementing the action. The purpose and need for the proposed action must be clearly justified and stated in terms that are understandable to individuals who are not familiar with aviation or aerospace activities.

d. Alternatives (Including Proposed Action)

The range of alternatives discussed in an EA will include those to be considered by the approving official. At a minimum, the proposed action and the no action alternatives must be considered. Other reasonable alternatives are to be considered in preparing an EA to the degree commensurate with the nature of the proposed action. Generally, the greater the degree of impacts, the wider the range of alternatives that should be considered to avoid or minimize the impacts. Whether a proposed alternative is reasonable depends upon the extent to which it meets the purpose and need for the proposed action (see also paragraph 506e for more information on alternatives). The EA briefly presents the environmental impacts of the proposed action and the alternatives in comparative form to sharply define the issues and provide a clear basis for choice among options by the approving official. For alternatives considered but eliminated from further study, the EA will briefly explain why these were eliminated. The alternatives discussion of the EA includes:

(1) A list of alternatives considered, including the proposed action and the no action alternatives. For each alternative, any connected or cumulative actions should also be considered.

(2) A statement identifying the preferred alternative, if one has been identified.

(3) A concise statement explaining why any initial alternatives considered have been eliminated from further study, i.e., they are not reasonable because they fail to meet the purpose and need for the proposed action.

(4) A listing under each alternative of any other applicable laws, regulations, and executive orders and associated permits, licenses, approvals, and reviews.

(5) Charts, graphs, and figures, if appropriate, to aid in understanding the alternatives, for example, to depict alternative runway configurations.

e. Affected Environment

This section shall succinctly describe existing environmental conditions of the potentially affected geographic area(s). This discussion may highlight important background material, such as previous and reasonably foreseeable development and actions, whether Federal or non-Federal. It also may include such information as actions taken or proposed by the community or citizen groups pertinent to the proposal, or any other unique factors associated with the action. However, data and analyses should be commensurate with the importance of the impact. The discussion of the affected environment in the EA may include the following, if appropriate:

(1) Location map, vicinity map, project layout plan, and photographs.

(2) Existing and planned land uses and zoning including: industrial and commercial growth characteristics in the affected vicinity, affected residential areas, schools, places of outdoor assemblies of persons, churches, and hospitals; public parks, wildlife and waterfowl refuges; Federally listed or proposed candidate, threatened, or endangered species or Federally designated or proposed critical habitat; wetlands; floodplains; farmlands; coastal zones, coastal barriers, or coral reefs; recreation areas; wilderness areas, eligible, study or designated wild and scenic rivers, Native American cultural sites, and historic and archeological sites eligible for or listed on the National Register of Historic Places.

(3) Political jurisdictions affected by the proposed action.

(4) Population estimates and other relevant demographic information for the affected environment, including a census map where appropriate.

(5) Past, present, and reasonably foreseeable future actions, whether Federal or non-Federal, and including related or connected actions (40 CFR 1501.7(a), 1502.4(a), 1508.25(a)(1), and 1508.27(b)(7)), to show the cumulative effects (40 CFR 1508.7) of these actions on the affected environment (see CEQ Guidance on Considering Cumulative Effects Under the National Environmental Policy Act (January 1997) and EPA Guidance on Consideration of Cumulative Impacts in EPA Review of NEPA Documents (May 1999).

f. Environmental Consequences

(1) At a minimum, the EA must discuss the reasonably foreseeable environmental consequences of the proposed action and no action alternatives in comparative form. Environmental impacts of other alternatives that are being considered should also be discussed in the EA. Any adverse environmental effects that cannot be avoided if the proposed action is implemented and mitigation, if applicable, must be discussed. This section should not duplicate discussions in the Alternatives section. Instead, the environmental consequences section shall, for each alternative, include considerations of the following effects (40 CFR 1508.8):

(a) Direct effects and their significance (40 CFR 1508.8(a));

(b) Indirect effects and their significance (40 CFR 1508.8(b));

(c) Cumulative effects and their significance (40 CFR 1508.7; see CEQ ''Considering Cumulative Effects Under the National Environmental Policy Act,'' January 1997); and

(d) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of an Indian reservation, Tribal) land use plans, policies and controls for the area concerned (40 CFR 1502.16(c)).

(e) Other unresolved conflicts (40 CFR 1501.2(c)).

(2) For those types of impacts that the proposed action and alternatives would have, directly or indirectly, the analysis required in the respective environmental impact categories listed in appendix 1 shall be discussed to the level of detail necessary to determine the significance of the impact.

(3) Appendix 1, Analysis of Environmental Impact Areas, briefly describes the major laws, regulations, and executive orders in addition to NEPA that must be complied with for different impact areas before a proposed Federal action is approved. A proposed Federal action may fall within the purview of one or more of these requirements. The responsible FAA official must assure that proposed Federal actions comply with applicable requirements. To reduce paperwork and delay and assure that the necessary approvals and permits will be issued

with or immediately following issuance of the EA and FONSI, the responsible FAA official should identify the timeframes established for review by the oversight agency and the information that the FAA will need to provide to the oversight agency to complete its review, and integrate these into the EA process. If an EA is being prepared it should include the information required to demonstrate compliance, as appropriate, with other applicable requirements.

g. Mitigation

The EA may include reasonable mitigation measures. If mitigation is discussed, it shall be in sufficient detail to describe the benefits of the mitigation. Each impact category in appendix 1 identifies conditions that normally indicate a threshold beyond which the impact is considered significant and an EIS is required for the action (see also paragraph 506h regarding mitigation). If the EA contains mitigation measures necessary to reduce potentially significant impacts below applicable significance thresholds, an EIS is not needed and the approving official may issue a FONSI after considering:

(1) Whether the agency took a ''hard look'' at the problem.

(2) Whether the agency identified the relevant areas of environmental concern.

(3) For the areas of environmental concern identified and studied, whether the EA supports the agency's determination that the potential impacts will be insignificant.

(4) Whether the agency has identified mitigation measures that will be sufficient to reduce potential impacts below applicable significance thresholds and has assured commitments to implement these measures.

Proposed changes in or deletion of a mitigation measure that was included as a condition of approval of the FONSI must be reviewed by the same FAA offices that reviewed the original FONSI and must be approved by the same approving official (see paragraph 407 for monitoring mitigation). If the changes in mitigation will result in significant impacts, the responsible FAA official must then initiate the EIS process by preparing an NOI to prepare an EIS.

h. List of Preparers

When an EA is prepared by the FAA, the EA must include a list of the names and qualifications of personnel who prepared the EA. When EAs are prepared for the FAA, the EA must list the names and qualifications of the preparers of an EA. Contractors will be identified as having assisted in preparing the EA.

i. List of Agencies and Persons Consulted

The EA must include a list of agencies and persons consulted.

j. Appendixes

The EA may include the following appendixes, if applicable:

(1) Any documentation that supports statements and conclusions in the body of the EA, including methodologies and references used. Proper citations to reference materials should be provided.

(2) Evidence of coordination or required consultation with affected Federal, Tribal, State and local officials and copies or a summary of their comments or recommendations and the responses to such comments and recommendations.

(3) A summary of public involvement, including evidence of the opportunity for a public hearing, if required under applicable Federal laws, regulations, and Executive Orders, and a summary of issues raised at any public hearing or public meeting as well as agency responses to those comments.

406. Finding of No Significant Impact (FONSI)

a. Purpose

The purpose of an EA is to determine if a proposed action has the potential for significant environmental impacts. If none of the potential impacts is likely to be significant, then the responsible FAA official shall prepare a finding of no significant impact (FONSI), which briefly presents, in writing, the reasons why an action, not otherwise categorically excluded, will not have a significant impact on the human environment, and the Approving Official may approve it. Issuance of a FONSI signifies that the FAA will not prepare an EIS and the FAA has completed the NEPA process for the proposed action. (The issuance of a FONSI does not mean that the agency has decided to act, only that it has found that the proposed action will not have a significant impact on the environment, see paragraph 408.) An overview of a FONSI is presented in Figure 4–3, Findings of No Significant Impact Overview.

b. Scope of Documentation

The CEQ regulations do not specify a format for FONSIs, but FONSIs must contain the information discussed in 40 CFR 1508.13.

(1) The FONSI may be attached to an EA, or the EA and FONSI may be combined into a single document. If the EA is not attached or combined with FONSI, the FONSI must include a summary of the EA and note any other environmental documents related to it. If the EA is attached or included with the FONSI, the FONSI does not need to repeat any of the discussion in the EA but may incorporate it by reference. However, the FONSI shall briefly describe the proposed action, its purpose and need, the alternatives considered, including the no action alternative, and assess and document all relevant matters necessary to support the conclusion that the action is not a major Federal action significantly affecting the quality of the human environment. The degree of attention given to different environmental factors will vary according to the nature, scale, and location of the proposed action, and thus, depending on the complexity and degree of impact of a proposed action, a FONSI may range in content from a simple conclusion, supported with pertinent facts, that the action is not a major action significantly affecting the quality of the human environment, to an analysis involving the format and content necessary for EISs.

(2) The FONSI shall determine the proposed action's consistency or inconsistency with community planning, and shall document the basis for the determination.

(3) The FONSI shall present any measures that must be taken to mitigate adverse impacts on the environment and which are a condition of project approval (see paragraph 406e). The FONSI should also reflect coordination of proposed mitigation commitments with, and consent and commitment from, those with the authority to implement specific mitigation measures committed to in the FONSI.

(4) The FONSI shall reflect compliance with all applicable environmental laws and requirements, including interagency and intergovernmental coordination and consultation, public involvement, and documentation requirements (see paragraph 403f(4) and appendix 1). Findings and determinations required under special purpose environmental laws, regulations, and executive orders, if not made in the EA, must be included in the FONSI, which may be combined with a decision document, sometimes called a Record of Decision or FONSI/ROD.

Figure 4–3.—Finding of No Significant Impact Overview

Purpose	Scope	Content	Public participation
Documents Finding of No Significant Impact (FONSI) and supporting mitigation measures that will be taken.	Explains why an action will not have a significant effect on the human environment.	• A conclusion that an action will not have a significant effect on the environment. • Describes the proposed action, its purpose and need, and alternatives considered, including the no action alternative. • Assesses information necessary to support findings and determinations. • Describes applicable mitigation measures necessary to ensure that the preferred alternative will not significantly affect the environment and that are a condition of project approval. • Describes changes that have been made in the proposed action to eliminate significant impacts. • Includes statement of consistency or inconsistency with State, local, and Tribal, for impacts on a reservation, community planning. • Attaches the EA or a summary of the EA for reference.	• Varies as appropriate (see 40 CFR 1501.4(e)(1) and 1506.6, and also CEQ's ''40 Most Asked Questions,'' number 37). • In certain cases (e.g., actions similar to those normally addressed in an EIS or the nature of the proposed action is one without precedent), a 30-day public comment period is required before proceeding with action (see 40 CFR 1501.4(e)(2) and CEQ's ''40 Most Asked Questions,'' number 38). • Agencies also must allow a period of public review of the FONSI, for example, if the proposed action would be located in a floodplain or wetland (E.O. 11988, section 2(a)(4), and E.O. 11990, Sec. 2(b)), or affect an eligible or listed historic property (36 CFR 800).

c. Internal Review Process and Approval

(1) FONSIs originating in the regions. The responsible FAA official will coordinate the review of the FONSI and underlying EA with affected program divisions and Regional Counsel. The responsible FAA official should contact affected program offices to obtain guidance on program office procedures for coordination. Upon request of the responsible FAA official, Regional Counsel may waive their review of the EA and FONSI for legal sufficiency. After appropriate coordination, the Division Manager or designee may approve the FONSI.

(2) FONSIs originating in the Washington, D.C. headquarters. The responsible FAA official will coordinate the review of the FONSI and underlying EA with affected program divisions, AEE, and AGC. The responsible FAA official should contact affected program offices to obtain guidance on program office procedures for coordination. Upon request from a Program or Office Director, AEE and AGC may waive their review. After appropriate coordination, the approving official may approve the FONSI.

(3) All FONSIs shall include the following approval statement:

After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101of the NEPA and other applicable environmental requirements and that it will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102(2)(C) of NEPA.

Approved: _____

Date: _____

d. Coordination

FONSIs are required to be coordinated outside of the agency for purposes of complying with special purpose environmental laws or administrative directives. Examples include but are not limited to actions involving section 404 of the Clean Water Act, section 4(f) of the DOT Act, section 106 of the National Historic Preservation Act, section 7 of the Endangered Species Act, section 307 of the Coastal Zone Management Act, section 176(c) of the Clean Air Act, section 7 of the Wild and Scenic Rivers Act, and the American Indian Religious Freedom Act. When a FONSI and any other associated required findings or determinations and their supporting documentation, if not previously submitted, are circulated to oversight agencies, for example to the State or Tribal Historic Preservation Officer for concurrence with findings required under section 106 of the National Historic Preservation Act, the FONSI and any other required findings or determinations should be accompanied by a cover letter identifying the purpose for which the information is being sent to the oversight agency, such as ''in compliance with section 106 of the National Historic Preservation Act.''

e. Public Review in Special Circumstances

The responsible FAA official must determine whether any of the following circumstances apply, and if so, allow for the appropriate amount of public review.

(1) The CEQ regulations (40 CFR 1501.4(e)(2); see also CEQ's ''40 Most Asked Questions,'' number 37b) provide that in certain limited circumstances the agency shall make the FONSI available for public review for 30 days before the agency makes its final determination whether or not to prepare an EIS and before the action may begin. The 30-day public review period may run concurrently with any other Federally review. These circumstances are:

(a) The proposed action is, or is closely similar to, one normally requiring the preparation of an EIS.

(b) The nature of the proposed action is one without precedence.

(2) When the action involves special purpose environmental laws, regulations, or executive orders which require public notice of specific findings or determinations apart from the FONSI made under NEPA. Examples include but are not limited to section 2(a)(4) of E.O. 11988, Floodplain Management, section 2(b) of E.O. 11990, Protection of Wetlands, section 7 of the Endangered Species Act, section 106 of the National Historic Preservation Act.

f. Distribution

The FONSI and EA are filed in the office of the responsible FAA official. A copy of the FONSI and EA shall be sent to the affected program offices, if required by those offices. A copy of the FONSI and EA shall also be sent to any reviewing agencies, organizations, or individuals that had substantive comments.

g. Public Availability

The CEQ regulations state that Federal agencies shall make FONSIs available to interested or affected persons or agencies (see 40 CFR 1506.6). Methods of announcing the availability of a FONSI, such as publication in local newspaper or notice through local media, are described in 40 CFR 1506.6(b). The announcement will indicate locations at which the FONSI and its associated EA are available and other appropriate locations of general public access. Copies of FONSIs and associated EAs will be provided, on request, free of charge or at a fee commensurate with the cost of reproduction.

407. Monitoring Mitigation

Mitigation and other conditions established in the EA and FONSI, or during their review, and included as a condition of the project approval or licensing shall be implemented by the lead agency or other appropriate consenting agency. The FAA shall take steps through grant agreements, licenses, contract specifications, operating specifications, directives, other project review or implementation procedures, or other appropriate mechanisms to monitor implementation of mitigation set forth in the approved EA/FONSI. Mitigation included as special conditions in the FONSI can be imposed as enforceable conditions of the final decision or of funding or grant agreements, contract specifications, preferential arrival and departure procedures, licenses, permits, directives, other project review or implementation procedures, or other appropriate follow-up actions to ensure that mitigation is implemented (see CEQ's ''40 Most Asked Questions,'' number 39).

408. Decision Documents for Findings of No Significant Impact

a. Immediately following the approval of a FONSI, except in the circumstances identified in paragraph 406e, the FAA decisionmaker may decide whether to take the proposed action. Mitigation measures which were made a condition of approval of the FONSI and the steps taken to assure appropriate commitment and follow-up of mitigation measures shall be included in the FONSI and incorporated in the decision to implement the action. If the FAA decides to proceed with the proposed Federal action, then the decision may be included with the FONSI or in a separate decision document, sometimes called a ROD or FONSI/ROD. Preparation of a record of decision to proceed with an action for which a FONSI has been approved is optional. A record of decision is recommended in the circumstances described in paragraph 408b. If the responsible FAA official prepares a record of decision, it should include a description of the action, the location and timing of the action, the FONSI, any other required findings or determinations, and the signature, name, title, address, and telephone number of the approving FAA official.

b. The responsible FAA official should prepare formal documentation of the decision to proceed (e.g., a record of decision (ROD) or FONSI/ROD) for:

(1) Actions which have been redefined to include mitigation measures necessary to reduce potentially significant impacts below applicable significant thresholds (see paragraph 405g).

(2) Actions that are highly controversial.

(3) Actions that are, or are closely similar to, those normally addressed in an EIS (see paragraph 406e).

(4) Actions that have no precedent (see paragraph 406e).

In cases of doubt, the responsible FAA official should consult the Environmental Law Branch (AGC–620) of the Office of the Chief Counsel or Regional Counsel.

409. Tiering and Programmatic Environmental Assessments

The concept of tiering for EISs may be used for preparing EAs. The responsible FAA official may tier off completed EAs and EISs if the responsible FAA official after finding that these are current and meet FAA requirements. Permitting and review agencies may have independent requirements for review of previously prepared documents (see paragraph 513).

410. Written Reevaluation

The procedures in paragraph 515 may also be applied to EAs.

411. Revised or Supplemental Environmental Assessments or FONSIs

The procedures in paragraph 519 may also be applied to EAs.

412. Review and Adoption of EAs Proposed by Other Agencies

See paragraphs 404d, 404g and 518.

413.–499. Reserved

Chapter 5. Environmental Impact Statements and Records of Decision

500. Introduction

a. This chapter summarizes and supplements CEQ requirements for Environmental Impact Statements (EISs) and Records of Decision (RODs). EISs and RODs are summarized as follows:

(1) An EIS is a clear, concise, and detailed document that provides the agency decisionmakers and the public with a full and fair discussion of significant environmental impacts of the proposed action (40 CFR 1502.1) and implements the requirement in NEPA section 102(2)(C) for a detailed written statement. Using an interdisciplinary approach (40 CFR 1501.2(a)), an EIS describes the purpose and need of the proposed action (40 CFR 1502.13), the affected environment (40 CFR 1502.15), and, in a comparative form, the environmental effects of the alternatives, including the proposed action, the no action alternative, and other reasonable alternatives (including those not within the agency's jurisdiction (40 CFR 1502.14(c)) and those that would avoid or minimize adverse impacts (40 CFR 1502.13 and 1502.14)). The discussion must be in adequate detail so that the environmental effects can be compared to economic and technical analyses (40 CFR 1501.2(b)). An EIS discusses means to mitigate adverse environmental impacts if not covered in the discussion of alternatives (40 CFR 1502.14(f)) and identifies unavoidable impacts (40 CFR 1502.16). For each alternative and mitigation measure, an EIS also discusses the energy and natural resources requirements, urban quality, historic and cultural resources, and the design of the built environment, and the potential for reuse and conservation of these resources (40 CFR 1502.16(e) through (g)). An EIS identifies possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies, and controls for the area concerned (40 CFR 1502.17(c)), and the extent to which the agency would reconcile its proposed action with the plan or law (40 CFR 1506.2(d)). If reasonable alternatives are eliminated from detailed study, the EIS briefly discusses the reasons why these alternatives were eliminated (40 CFR 1502.14(a)). The EIS identifies the

agency-preferred alternative or alternatives in the draft EIS if a preferred alternative exists and in the final EIS unless prohibited by law (40 CFR 1502.14(e)). An EIS identifies methodologies and sources used (40 CFR 1502.24), identifies where information is incomplete or unavailable (40 CFR 1502.22), lists the preparers (40 CFR 1502.17), lists the agencies, organizations, and persons to whom copies of the EIS are sent (40 CFR 1502.10(i)), and summarizes the major conclusions, areas of controversy (including issues raised by agencies and the public), and issues to be resolved (40 CFR 1502.12)). The final EIS also includes the agency's response to comments (40 CFR 1502.9(b) and 1503).

(2) A ROD (40 CFR 1505.2) is concise public record of decision, which may be integrated into any other record prepared by the agency. The ROD states what the decision is; identifies all alternatives considered in reaching the agency's decision, specifying which were environmentally preferable. The ROD discusses all other relevant factors considered, including any essential considerations of national policy, economic and technical considerations, and the agency's statutory mission. The ROD states whether all practicable means to avoid or minimize environmental harm from the selected alternative have been adopted, and if not, why not. Where applicable, the ROD may include a monitoring and enforcement program for mitigation. Grants, permits, or other approvals and decisions to fund of agency actions on implementation of the selected mitigation include conditions requiring implementation of the mitigation measures that were adopted by the agency in making its decision (40 CFR 1505.3(a) through (b)).

b. The depth of analysis and documentation of impacts will be in direct proportion to the potential significance of the impacts. EISs should give greater emphasis to significant impacts and less emphasis to insignificant impacts. A significant impact is identified generally through the scoping process, through analysis of the direct, indirect, and cumulative effects of the proposed action, and in comparison with the threshold of significance for each impact category. As in an EA, the discussion in an EIS of insignificant impacts is generally limited to an explanation of why further analysis of these impacts is not warranted. See 40 CFR 1500.4(g) (Reducing paperwork), 1501.1(d) (Purpose), and 1501.7 (Scoping).

c. An EIS is required not only when the impact of the proposed action itself is significant, but also when the cumulative impact of the proposed action and any connected agency actions or other past, present, and reasonably foreseeable future actions, whether Federal or non-Federal, is significant (see 40 CFR 1508.7, 1508.8, 1508.25, and 1508.27(b)(7) and CEQ guidance for Considering Cumulative Effects Under the National Environmental Policy Act, January 1997). A series of actions, when assessed on an individual basis, may each have a limited environmental impact. However, the same series of actions may have a significant cumulative impact when assessed together and with other Federal or non-Federal actions that are ongoing or are reasonably foreseeable (40 CFR 1508.7 and 1508.27(b)(7)).

(1) Connected action should be considered in the same EIS. Connected actions are those actions that automatically trigger other actions which may require environmental impact statements, cannot or will not proceed unless other actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for their justification (40 CFR 1508.25(a)(1)). Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts (40 CFR 1508.27(b)(7)). Proposed actions or parts of proposed actions which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement (40 CFR 15082.4(a)).

(2) Cumulative actions should also be discussed in the same EIS. Cumulative actions and those actions which when viewed with other past, present, and reasonably foreseeable future actions, whether Federal or non-Federal, have cumulatively significant impacts (40 CFR 1508.25(a)(2)).

(3) Similar actions, such as those with common timing or geography, may be considered in a broad EIS, sometimes called a ''programmatic'' EIS, when the best way to assess their combined impacts or reasonable alternatives to such actions is in a single impact statement (40 CFR 1502.4(b) through (c) and 1508.25(a)(3)).

(4) CEQ regulations permit ''tiering'' from broad EISs to subsequent narrower or site-specific EISs or EAs or from an EIS on a specific action at an early stage to a supplement or subsequent EIS or EA at a later stage (40 CFR 1502.4(c)(3) and 1508.28). See paragraph 513.

d. In cases of doubt as to whether an EIS is necessary for a particular action, the responsible FAA official should consult with the AGC, Regional Counsel, or AEE. Airports personnel should contact APP–600.

501. Actions Requiring Environmental Impact Statements (EIS)

An EIS shall be prepared for major Federal actions significantly affecting the quality of the human environment. The term ''major'' reinforces but does not have a meaning independent of ''significantly'' (40 CFR 1508.18). Significance is defined in terms of context and intensity (40 CFR 1508.27). Paragraphs 400 and 402 list actions normally requiring an EA.

a. If the analysis in the EA of environmental impact categories discussed in appendix 1 indicates that impacts will be significant, then the responsible FAA official would prepare an EIS and the EA may be used in the scoping process described below; however, if the responsible FAA official has decided to prepare an EIS, an EA need not be prepared.

b. The addition of mitigation to reduce impacts below significance does not necessarily avoid the requirement to prepare an EIS. However, if mitigation is integrated into the design of the proposed action, or if, through scoping or the EA process, the proposed action is redefined to include mitigation, then the responsible FAA official may rely on the mitigation measures in determining that the overall effects would not be significant and prepare an EA/FONSI. In that event, the responsible FAA official must circulate the EA/FONSI for public and agency comment for 30 days (CEQ's 40 Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations (40 CFR 1500–1508), number 40, 46 FR 18026, March 23, 1981).

c. After an EA has been prepared an EIS shall be prepared if the FAA action:

(1) Has a significant adverse effect on cultural resources pursuant to the National Historic Preservation Act of 1966, as amended.

(2) Results in significant use on properties protected under section 4(f) of the Department of Transportation Act.

(3) Has a significant impact on natural, ecological (e.g., invasive species), or scenic resources of Federal, Tribal, State, or local significance (including, for example, Federally listed or proposed endangered, threatened, or candidate species or designated or proposed critical habitat under section 7 of the Endangered Species Act, resources protected by the Fish and Wildlife Coordination Act, wetlands under section 404 of the Clean Water Act, section 10 of the Rivers and Harbors Act, and E.O. 11988,

floodplains under E.O. 11990, coastal resources under the Coastal Zone Management Act and Coastal Barriers Act, prime, unique, State or locally important farmlands under the Federal Farmlands Protection Act, energy supply and natural resources, and wild and scenic rivers, study or eligible river segments under the Wild and Scenic Rivers Act) and solid waste management.

(4) Causes substantial division or disruption of an established community, or disrupt orderly, planned development, or is likely to be not reasonably consistent with plans or goals that have been adopted by the community in which the project is located.

(5) Causes a significant increase in congestion from surface transportation (by causing decrease in Level of Service below acceptable level determined by appropriate transportation agency, such as a highway agency).

(6) Has a significant impact on noise levels of noise-sensitive areas.

(7) Has a significant impact on air quality or violate local, State, Tribal, or Federal air quality standards under the Clean Air Act Amendments of 1990.

(8) Has a significant impact on water quality, sole source aquifers, contaminate a public water supply system, or violate State or Tribal water quality standards established under the Clean Water Act and the Safe Drinking Water Act.

(9) Is inconsistent with any Federal, State, Tribal, or local law relating to the environmental aspects of the proposed action.

(10) Directly or indirectly creates a significant impact on the human environment, including, but not limited to, actions likely to cause a significant lighting impact on residential areas or commercial use of business properties, likely to cause a significant impact on the visual nature of surrounding land uses (see sections 11 and 12, appendix 1 for additional information), is contaminated with hazardous materials based on Phase I or Phase II Environmental Due Diligence Audit (EDDAs), or causes such contamination (see section 10, appendix 1 for additional references and discussion).

502. Impact Categories

The responsible FAA official should review appendix 1 to identify the level of analysis needed in the EIS for each applicable environmental impact category. The responsible FAA official should include in the EIS, under appropriate impact categories, all applicable permit or license requirements. The EIS also will report on the status of any special consultation required, such as consultation under the Endangered Species Act, the National Historic Preservation Act, the Fish and Wildlife Coordination Act, Archeological Resources Protection Act, or American Indian Religious Freedom Act. These reviews should occur concurrently. The level of analysis for categories not significantly impacted should be similar to the level of analysis in an EA (see paragraph 404c)). These impacts will be discussed in as much detail as is necessary to support the comparisons of alternatives and agency decisionmaking. Many of the impact categories listed in appendix 1 are interrelated, and, therefore, the responsible FAA official should first review the impact category of concern and then the remaining related categories for guidance.

503. Environmental Impact Statement Process

When the determination has been made that the action does have potential significant impacts, the preparation of the EIS will begin. Figure 5–1, Environmental Impact Statement Process, presents an overview of the EIS process.

Figure 5–1. Environmental Impact Statement Process

Step 1—Responsible FAA official or applicant defines proposed action.

Step 2—Responsible FAA official or applicant collects background data and analyzes the information.

Step 3—Responsible FAA official determines need for EIS (anticipated significant impact).

Step 4—Responsible FAA official prepares and publishes Notice of Intent (NOI) in **Federal Register** and local press.

Step 5—Responsible FAA official initiates EIS scoping activities and determines issues and alternatives to be addressed.

Step 6—Responsible FAA official prepares draft EIS, distributes it to other agencies and public, and files copy with EPA.

Step 7—Responsible FAA official receives and evaluates comments (90-day period). Comment periods may be extended by agency.

Step 8—Responsible FAA official prepares final EIS, distributes it to other agencies and public, and files copy with EPA.

Step 9—30-day waiting period unless the final EIS is filed within 90 days after a DEIS is filed with the EPA, in which case the 30-day and 90-day periods may run concurrently but must not be less than 45 days, subject to a 30-day request for extension by EPA. Comment periods may be extended by agency.

Step 10—Approving FAA official issues ROD and proceeds with action, mitigation, and monitoring.

504. Notice of Intent

Once the decision is made to proceed with an EIS, the responsible FAA official publishes a Notice of Intent (NOI) in the **Federal Register**. The NOI is an announcement that an EIS will be prepared. Figure 5–2, Notice of Intent and Notice of Availability Overview, shows that a NOI will include an overview of the proposed action; the alternatives being considered (including the no action); and the name and address of a person within the agency who can answer questions about the proposed action and the EIS (see 40 CFR 1508.22). If a scoping meeting is being planned (see paragraph 505 regarding scoping) and sufficient information is available at the time, the NOI should also announce the meeting, including the time and place of the meeting, and any other appropriate information, such as the availability of a scoping document. Otherwise, the scoping meeting may be announced separately. If the responsible FAA official is using the NOI to satisfy public notice and comment requirements of other environmental laws, regulations, or executive orders in addition to NEPA, the NOI should include a statement to that effect with a reference to the specific law, regulation, or executive order. The responsible FAA official should consider also publishing the NOI, notices of scoping meetings, and other information in other formats pursuant to Order DOT 5610.1C, paragraph 14a and CEQ regulations section 1506.6.

a. The responsible FAA official sends the NOI, the original and three copies, to the docket clerk in the Office of the Chief Counsel (AGC–200). All NOIs initiated in the regions should be

reviewed by the Regional Counsel before being forwarded to AGC–200. The applicable division manager or designee may sign the NOI for the **Federal Register**.

b. After publishing the NOI, the responsible FAA official selects the environmental review team and develops the EIS outline, schedule, and management framework.

Figure 5–2. Notice of Intent and Notice of Availability Overview

Purpose	Content	Public Participation

• Notice of Intent (NOI) announces to the public that the EIS process has begun for a proposed FAA action.
• If appropriate, the NOI announces the availability of a scoping document (document is optional).
• The NOI announces the scoping meeting, if one is planned and the details of time and place are known; otherwise, if and when a scoping meeting is scheduled, a separate notice is published at least 30 days in advance of the meeting.
	• Describes:
	  • Proposed action and possible alternatives.
	  • Proposed scoping process including whether, when, and where any scoping meeting will be conducted.
	  • States an FAA point of contact for public inquiries.
		The FAA publishes the NOI in FEDERAL REGISTER and local press.
		• An NOI or other notice of a scoping meeting must be published at least 30 days prior to the meeting.

• Notice of Availability (NOA) announces the availability of a DEIS or an FEIS.	• Announces the availability of the DEIS and FEIS. • Provides information about where to review copies and send comments.	• EPA drafts and publishes the NOA in FEDERAL REGISTER. • FAA publishes NOA in local press.

505. Scoping

a. Scoping is an early and open process for determining the scope of issues to be addressed and identifying the significant issues related to a proposed action (40 CFR 1501.7). It is an important and required, part of the EIS process. The purpose of scoping is to identify significant environmental issues to be analyzed in greater depth, de-emphasize issues that are significant or which have been covered by prior environmental review, and set the temporal and geographic boundaries of the EIS. Scoping also allows the responsible FAA official to identify available technical information and additional reasonable alternatives. More importantly, information obtained from scoping can be used to insure that planning and decisions reflect environmental values and that delays and conflicts are reduced later in the process. A scoping meeting often will be appropriate when the impacts of a particular action are confined to specific sites. There are no requirements for a scoping meeting or for a specific number of meetings. Depending on the nature and complexity of the action, some or all of the information needed during the scoping process may be obtained by letter, telephone, or other means (see Appendix 1, Analysis of Environmental Impact Areas, and Appendix 5, Council on Environmental Quality Scoping Guidance. If an EA has been prepared, the responsible FAA official may use it as the vehicle for scoping. Alternatively, the responsible FAA official may prepare a scoping document. A scoping document is extremely useful if the scoping is done by mail or telephone, or the proposed action's location or locations are so remote, scattered, or widespread that affected agencies and other interested persons are unable to visit the site or sites.

b. The responsible FAA official must take the lead in the scoping process, inviting the participation of affected Federal, State, and local agencies, any affected Indian Tribe, the applicant of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), determining the issues to be analyzed in depth, identifying other environmental review and consultation requirements, and assigning responsibilities among lead and cooperating agencies for inputs to the EIS. If appropriate, a scoping meeting(s) will be held. Public notice of 30 days should be required for a public meeting(s) or hearing(s). At the scoping meeting, the FAA provides additional background on the action and then solicits input from those interested and affected parties attending to:

(1) Determine the scope of analysis required within the EIS;

(2) Identify and eliminate insignificant issues and those covered in previous environmental reviews;

(3) Identify reasonable alternatives not previously addressed; and

(4) Indicate any other EAs or EISs that have been conducted or are planned and which are related to but not part of the action under consideration.

c. Local units of governments, and pertinent Federal, Tribal, and State agencies should be consulted early in the process of preparing an EIS. Where access, intermodal transfer, or other ground transportation issues are involved, consultation with the appropriate metropolitan planning organization or State Department of Transportation and compliance with State Implementation Plans under the Clean Air Act (CAA) is important. Comments on the impacts of the proposed action will be considered, as appropriate, in determining whether the proposed action requires an EIS and in preparing the EIS. Consultation with appropriate agencies also is initiated at this point.

506. EIS Format

The FAA's standard EIS format, which follows the format prescribed in CEQ regulations (40 CFR 1502.10), is outlined below. An overview is presented in Figure 5–3, Environmental Impact Statement Overview.

a. Cover Page

This single page will include:

(1) A list of the responsible agencies (identifying the lead agency);

(2) The title of the proposed action (together with the State(s) and county(ies) where the action is located);

(3) The name, address, and telephone number of the responsible FAA official;

(4) The designation of the statement as draft, final, or supplement;

(5) A one paragraph abstract of the EIS with a heading as follows: DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION; and

(6) For DEISs, a statement that this EIS is submitted for review pursuant to

the following public law requirements and list those that are applicable, such as section 102(2)(C) of the National Environmental Policy Act of 1969, section 4(f) of the Department of Transportation Act of 1966.

b. Executive Summary

An executive summary will be included to adequately and accurately summarize the EIS. The summary describes the proposed action, stresses the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). It also discusses major environmental considerations and how these have been addressed, summarizes the analysis of alternatives, and identifies any environmentally preferred, agency preferred and sponsor preferred alternatives. It discusses mitigation measures, including planning and design to avoid or minimize impacts. It identifies interested agencies, lists permits, licenses, and other approvals that must be obtained, and reflects complied with other applicable environmental laws, regulations, and executive orders.

c. Table of Contents

The table of contents lists the chapters, figures, maps, tables, and exhibits presented throughout the EIS. It will also list the appendixes, if any, and the list of acronyms, glossary, references, an index, and an errata page.

d. Purpose and Need

This section defines the proposed action and briefly specifies the underlying purpose and need to which the agency is responding in proposing the alternatives, including the proposed action. It presents the problem being addressed by the proposed action, how the alternatives would resolve the problem, and the benefits of the proposed action. It distinguishes between the need for the proposed action and the desires or preferences of the agency or applicant, and essentially provides the parameters for defining a reasonable range of alternatives to be considered.

e. Alternatives, Including the Proposed Action

This section is the substantive part of the EIS (see 40 CFR 1502.14; see also 40 CFR 1502.10(e) and paragraph 405d for more information on alternatives). It presents a comparative analysis of the no action alternative, the proposed action, and other reasonable alternatives to fulfill the purpose and need for the action. It identifies the environmentally preferred alternatives in accordance with CEQ regulations. Alternatives not within the jurisdiction of the lead agency, but within the jurisdiction of the Federal government, should be considered. To provide a clear basis of choice among the alternatives, graphic or tabular presentation of the comparative analysis is recommended. This section also presents a brief discussion of alternatives that were not considered and the rationale for not analyzing them in further detail. The premise for this rationale should be framed in terms of alternatives that are not reasonable due to their inadequacy in meeting the purpose and need for the proposed action. Environmentally preferred alternatives are identified based on the information and analysis presented in the affected environment and environmental consequences sections of the EIS. The FEIS must identify the preferred alternative if it is other than an environmentally preferred alternative. Other criteria may be applied to select the preferred alternative.

f. Affected Environment

This section describes the existing environmental conditions of the potentially affected geographic area or areas. The discussion of the affected environment will be no longer than is necessary to understand the effects of the alternatives; data and analyses should be presented in detail commensurate with the importance of the impact. This section describes other related activities (past, present or reasonably foreseeable future actions), their interrelationships, and cumulative impacts. It may include such items as action by the community or citizen groups pertinent to the proposed action, or any other unique factors associated with the action. (See paragraph 405e for other factors that may be included in the affected environment discussion.)

g. Environmental Consequences

(1) This section forms the scientific and analytical basis for comparing the proposed action and alternatives. The discussion of environmental consequences will include the environmental impacts of the alternatives including the proposed action; any adverse environmental effects which cannot be avoided should the proposed action be implemented; the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented. This section should not duplicate discussions in the alternative section. It shall include considerations of direct and indirect effects and their significance and possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of an Indian reservation, Tribal) land use plans, policies and controls for the area concerned (see CEQ's ''40 Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations (40 CFR 1500–1508),'' number 23, 46 FR 18026, March 23, 1981 and paragraph 405f).

(2) Specific environmental impact categories listed in appendix 1 shall be discussed to the level of detail necessary to support the comparisons of alternatives. Impacts shall be analyzed for each alternative, including the proposed action which is treated in detail in this section of the EIS. The section shall include, under appropriate impact categories, all applicable permit or license requirements and shall indicate any known problems with obtaining them. This section shall also provide the status of any interagency or intergovernmental consultation required, for example, under the National Historic Preservation Act, the Endangered Species Act , the Coastal Zone Management Act, the American Indian Religious Freedom Act, E.O. 13084, Government-to-Government Consultation with Indian Tribal Governments, the Wild and Scenic Rivers Act, and the Fish and Wildlife Coordination Act.

h. Mitigation

(1) An EIS describes mitigation measures considered or planned to minimize harm from the proposed action. The following types of mitigation measures will be considered: design and construction actions to avoid or reduce impacts; design measures that reduce impacts; management actions that reduce impacts during operation of the facility; and replacement, restoration, and compensation measures.

(2) An EIS describes alternative mitigation measures and identifies any that the FAA has decided to include as part of the proposed action. Mitigation and other conditions established in the EIS, or during its review of the EIS, and committed as part of the decision will be implemented by the lead agency or other appropriate consenting agency. The FAA ensures implementation of such mitigation measures through special conditions, funding agreements, contract specifications, directives, other review or implementation procedures,

and other appropriate follow-up actions in accordance with 40 CFR 1505.3. Monitoring or other follow-up review should also be described. See paragraph 404g for additional information.

i. List of Preparers

This list includes the names, and qualifications (e.g., expertise, experience, professional disciplines) of the FAA that were primarily responsible for preparing the EIS or significant background material, with credit to any contractors who assisted in preparing the EIS or associated environmental studies.

j. List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent

This list is included for reference and to demonstrate that the EIS is being circulated, and thus, that the public review process is being followed.

k. Index

The index reflects the key terms used throughout the EIS for easy reference. The index includes page numbers for each reference.

l. Appendices (if any)

This section consists of material that substantiates any analysis that is fundamental to the EIS, but would substantially contribute to the length of the EIS or detract from the document readability, if included in the body of the EIS. This section should contain information about formal and informal consultation conducted, and related agreement documents prepared, pursuant to other applicable environmental laws, regulations, and executive orders.

m. Comments

Comments received on the DEIS are assessed and responded to in the FEIS in any or all of the following ways:

(1) Written into the text of the FEIS.

(2) Stated in an errata sheet attached to the FEIS.

(3) Included or summarized and responded to in an attachment to the FEIS, and if voluminous, may be compiled in a separate supplemental volume for reference.

n. Footnotes

Footnotes include title, author, date of document, page(s) relied upon, and footnote number used to identify where in the text, figures, and charts of the EIS the source is used.

Figure 5–3.—Environmental Impact Statement Overview

Purpose	Scope	Content	Public participation
• Provides an in-depth review of the environmental impacts for all major FAA actions before a decision is made. • Examines alternatives and the potential for mitigating impacts associated with those alternatives. • Discloses to the public and the decisionmaker the alternatives, impacts, and mitigations.	Provides a comprehensive review of all impacts of the proposed action and alternatives, including the no action alternative.	Includes the following: • Cover sheet • Executive Summary • Table of Contents • Purpose of and need for action • Alternatives considered, including proposed action • Affected environment (baseline conditions) • Environmental consequences of alternatives • Coordination—includes list of agencies, organizations and persons to whom copies of the EIS are sent • List of preparers • Index • Appendices • Summary of public comments on DEIS Exceptions are permitted if the responsible FAA official determines that there is a compelling reason to change the standard format.	• Provides for a 45-day public comment period on the DEIS. • If necessary, a public hearing on the DEIS should occur within 30 days of issuance. • Provides for a 30-day waiting period on the FEIS prior to issuance of the ROD.

507. Timing of Actions

The comment period for a DEIS is 90 days from the date of filing with EP; however, if the FEIS is filed within the 90-day period, the comment period can be reduced to not less than 45 days. Thus, a comment period of at least 45 days for public review is required (see 40 CFR 1506.10(c)). If a public hearing or public meeting is held, the timeframe includes 30 days for review of the DEIS, prior to the public hearing, and 15 days to allow for comments following the public hearing. The number of days is determined from the date that the NOA is available for review by the public (e.g., newspaper, **Federal Register**). EPA may receive a 30-day extension of prescribed periods upon request to the lead agency, or may upon a showing by the lead agency of compelling reasons of national policy reduce or, after consultation with the lead agency, extend prescribed periods. The lead agency may also grant extensions upon written request by the public.

508. Draft EIS

A DEIS is prepared using the format outlined in paragraph 506.

a. Internal Review

The responsible FAA official should plan for internal review of DEISs. For DEISs originating in the regions, the preliminary DEIS or its relevant parts will be reviewed by affected regional program divisions and Regional Counsel before publication, distribution, and filing the DEIS with EPA for public review. For DEISs origininating in headquarters, have national interest, or involve 4(f) determinations, the preliminary DEIS will be reviewed by AGC. Internal review is to assure that DEISs are technically and legally sufficient. Internal review is intended to assure that the concerns of other FAA offices and any related foreseeable agency actions by other FAA offices are properly discussed in the DEIS. Further, internal review is intended to assure

that any commitments that are the responsibility of other FAA offices are coordinated with the appropriate action office so that these commitments will be implemented.

b. Filing With EPA

The responsible FAA official files the DEIS with the EPA (see 40 CFR 1506.9). The EPA will subsequently publish a NOA in the **Federal Register**, which will begin the 90-day period after which the Federal action can be taken. EPA's Office of Federal Activities (OFA) has the responsibility for the EIS filing process.

a. Send five copies of the DEIS to the EPA's Office of Federal Activities (OFA).

(1) When using the regular United States mail service, send to: U.S. Environmental Protection Agency, Office of Federal Activities, NEPA Compliance Division, EIS Filing Section, Mail Code 2252–A, 401 M Street, SW, Washington, D.C. 20460.

(2) When sending the FEISs by special delivery (Federal Express, United Parcel Service, etc.) or hand carrying FEISs to the OFA, the address is: U.S. Environmental Protection Agency, Office of Federal Activities, NEPA Compliance Division, EIS Filing Section, Ariel Rios Building (South Oval Lobby), Mail Code 2252–A, Room 7241, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20044.

c. Public Notice

Public notice by the responsible FAA official is planned and executed to assure that press releases, official notices, or other appropriate media announce to the public that a DEIS has been prepared and is being circulated and that comments on the document are being solicited. The announcement contains information on the availability of the DEIS and should be distributed to local media concurrent with distribution for notice in the **Federal Register** with request for immediate publication and other appropriate media coverage. The following standard language should be used concerning public comments in **Federal Register** notices announcing the availability of DEISs for public comment and any public hearings (also for any FEISs whose availability FAA announces in the **Federal Register**):

All persons interested in the proposed action are encouraged to comment. Comments should be as specific as possible and may address the adequacy of the proposed action or the merits of the alternatives and mitigation being considered. In addition, Federal court decisions have established that reviewers of EISs must structure their participation so that it is meaningful and alerts an agency to the reviewer's positions and contentions. Environmental objections that could have been raised may be waived if not raised before the FEIS is issued. This ensures that substantive comments and objections are made available to the FAA in a timely manner so that the FAA can respond to them.

See also paragraph 208 for additional information on public involvement.

d. Distribution and Coordination for Intergovernmental Review

(1) According to CEQ regulations, comments on the DEIS shall be obtained from or requested of appropriate Federal, State, and local agencies, and Tribal governments (40 CFR 1501.2(d)(2) and 1501.7(a)(1)), and from Tribal governments when the effects may be on a reservation (40 CFR 1502.16(c), 1503.1(a)(2)(ii), 1506.6(b)(3)(ii)). A Federal agency may include State, local, or Tribal governments which have assumed NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974 (40 CFR 1508.12). Summaries of DEISs can be put up on CEQ's home page (http://ceq.eh.doe.gov/). All DEISs will be coordinated with the appropriate regional offices of other Federal agencies having jurisdiction by law or special expertise. However, DEISs that are coordinated with any component of the Department of the Interior (DOI), Department of Commerce (DOC), or Department of Energy (DOE) will be coordinated with the Washington, D.C., headquarters of those departments. Coordination with the DOE is necessary only for transportation proposals having major energy-related consequences. See paragraph 210 for additional information on interagency and intergovernmental review of EISs.

(2). Copies of the DEIS will be sent to::

(a) Federal, State, and local agencies, and Tribal governments when the effects may be on a reservation.

(b) Washington, D.C., headquarters of the Department of Commerce (one copy) and Ecology and Conservation Division of the National Oceanographic and Atmospheric Administration (NOAA) (one copy)

(c) Washington, D.C., headquarters of the Department of Energy, if coordination is necessary (see paragraph 508d(1)) (one copy)

(d) Department of the Interior, Office of Environmental Policy and Compliance (12 to 18 copies of the DEIS depending on the proposed action's geographic location and scope)

(e) EPA headquarters (five copies) and the applicable EPA regional office (five copies)

(f) P–1 (one copy), AEE (one copy), AGC or designee (one copy), the service director, other appropriate DOT and FAA offices;

(g) proposed action;

State and local agencies and Tribal governments (see paragraph 212 on intergovernmental and interagency coordination and consultation), including cooperating agencies, agencies that commented substantively on the Intergovernmental Review of Federal Programs, the Advisory Council on Historic Preservation for actions using 106 process, affected cities and counties, and others known to have an interest in the action (see paragraph 208 on public involvement). For example, various laws, regulations, and executive orders in addition to NEPA, may also require coordination with American Indian and Alaska Native tribes and Native Hawaiian organizations that are not Federally recognized, and with traditional cultural leaders. Consult with AEE, AGC, and the Office of Civil Rights (ACR) and see appendix 1, especially section 11 on cultural resources, for more information.

f. Copies

Copies should be printed by the responsible FAA official in sufficient quantities to meet anticipated demand for the DEIS. A fee, not to exceed reproduction costs, may be charged for copies requested by the public if the original set of copies is exhausted. The DEIS should be available at local libraries or similar public depositories having extended office hours to facilitate accessibility. Material used in developing or referenced in the DEIS must be available for review at the appropriate FAA office(s) or at a designated location.

g. Comment Period

See paragraph 507.

h. Comments

The responsible FAA official must take into consideration all comments received from the public and respond to the substantive comments in the FEIS, as discussed in paragraph 506m. Any comments on the DEIS from the public, including comments made during public hearings (see paragraph 208), will accompany the FEIS through the normal internal review process. In preparing the FEIS, the DEIS will be revised, as appropriate, to reflect comments received, issues raised through the community involvement and public hearing process, or other

considerations. Copies of all substantive comment will be included in the FEIS or as a separate, accompanying appendix. If the number of comments is too voluminous to include, the comments may be summarized. Relevant environmental documents, comments, and responses are part of the agency's public record and will be made available to the public through appropriate regional office procedures.

(1) Comments from EPA on the DEIS are categorized according to the following criteria:

(a) Lack of Environmental Objections (LO);

(b) Environmental Concerns (EC);

(c) Environmental Objections (EO); or

(d) Environmental Unsatisfactory (EU).

(2) The statement adequacy also is categorized by EPA as:

(a) Adequate (1);

(b) Insufficient Information (2); or

(c) Inadequate (3).

509. Review and Approval of FEIS

It is during the EIS process that environmental issues are defined and mitigation determined. Any unresolved environmental issues and efforts to resolve them through further consultation will be identified and discussed in the FEIS. The FEIS will reflect that there has been compliance with the requirements of all applicable environmental laws, regulations, executive orders, and agency orders, such as section 4(f) of the DOT Act. If such compliance is not possible by the time of FEIS preparation, the FEIS will reflect consultation with the appropriate agencies and provide reasonable assurance that the requirements can be met. CEQ regulations, however, strongly encourage early integration of these processes to provide for meaningful public comment and to streamline environmental review and permitting or approval processes.

a. Internal review is coordinated as follows:

(1) FEISs originating in headquarters. The office or service director shall send a copy of the FEIS to AEE and AGC to review for legal sufficiency and concurrence. After the office or service director approves the FEIS, the responsible FAA official will file it with EPA (see paragraphs 509a(6) and 512).

(2) FEISs originating in the fields, and not subject to headquarters' concurrence. The Regional Administrator or Center Director, or designee, shall approve and file the FEIS with EPA, following review for legal sufficiency by the Regional Counsel and concurrence.

(3) FEISs originating in regions or centers, but when headquarters concurrence is requested. The Regional Administrator or Center Director, or designee, shall approve the FEIS and submit it to the appropriate service or office director. Following approval, the FEIS will be filed with EPA (see paragraph 510a(2)).

(4) FEISs originating in regions or centers, but where authority to approve the FEIS is retained in headquarters. The applicable division manager or center shall send the proposed FEIS to the appropriate headquarters' office or service director. The office or service will provide the FEIS to AGC and AEE for review. Following approval, the FEIS will be filed with EPA. Presently, approval for these types of FEISs is being delegated, if comments on the DEIS have been incorporated.

(5) FEISs involving mandatory findings involving section 4(f), wetlands, floodways or floodplains, air quality, historic and archeological resources protected by section 106, and Federally listed endangered and threatened species. These FEISs are subject to legal review for legal sufficiency in headquarters or in the region where the environmental document is to be approved.

(6) For highly controversial FEISs requiring headquarters' review and concurrence. The Office of the Assistant Secretary for Transportation Policy (P–1) and the DOT Office of General Counsel (C–1) will be notified that the FEIS is under review and be provided with a copy of the summary section contained in the FEIS. P–1 and C–1 also will be given at least two weeks notice before approval of the highly controversial FEIS.

b. FEIS Approval

(1) The following declaration shall be added to the summary:

After careful and thorough consideration of the facts contained herein and following consideration of the views of those Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts described, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101(a) of the National Environmental Policy Act of 1969.

Other required environmental findings and conclusions must be included here, if not included in the body, or at the end of, the EIS.

(2) Signature and date blocks will be provided for the decisionmaker's approval and may also be provided for the concurrences of other appropriate offices.

510. Notice of Availability of FEIS

When the lead agency files the FEIS with the EPA, the EPA prepares and publishes a NOA. The FAA can make a final decision to act no sooner than 30 days after the EPA notice of filing is published in the **Federal Register** (40 CFR 1506.10). EPA may obtain a 30-day extension. The responsible FAA official may also extend the waiting period or, with the approval of P–1, request EPA to reduce this period for compelling reasons of national policy (40 CFR 1506.10(d)). The primary purpose for this waiting period is to provide for any pre-decision referral process for resolving interagency disagreements (40 CFR 1504.3). The purpose is not for receiving and incorporating public comments. If the responsible FAA official anticipates public comments on findings in the FEIS, the FAA should address these before the FEIS is approved, distributed, and filed. Further, if anyone fails to comment on an issue that reasonably could have been raised earlier (through scoping and DEIS comment period(s)), their comments need not prevail or delay the final decision. At the conclusion of the 30-day waiting period, the decisionmaker issues the final decision in a ROD (see paragraph 514) and may begin implementing the proposed action.

511. Distribution of Approved FEIS

The originating FAA region, center or service simultaneously distributes the approved FEIS as follows:

a. Send five copies to the EPA Office of Federal Activities (OFA).

(1) When using the regular United States mail service, send to: U.S. Environmental Protection Agency, Office of Federal Activities, NEPA Compliance Division, EIS Filing Section, Mail Code 2252–A, 401 M Street, SW, Washington, D.C. 20460.

(2) When sending the FEISs by special delivery (Federal Express, United Parcel Service, etc.) or hand carrying FEISs to the OFA, the address is: U.S. Environmental Protection Agency, Office of Federal Activities, NEPA Compliance Division, EIS Filing Section, Ariel Rios Building (South Oval Lobby), Mail Code 2252–A, Room 7241, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20044.

b. Five copies to the appropriate regional office of EPA (one copy, if categorized as LO–1 per paragraph 508h of this order).

c. One copy of the FEIS to each of the following: the office director; Regional Administrator; and AEE.

d. One copy of the approved FEIS will be sent to the DOT Office of the Assistant Secretary for Transportation Policy , Environmental Policies Team, P–130.

e. A copy of the FEIS also will be sent to:

(1) Each Federal, Tribal, State, and local agency and to private organizations that made substantive comments on the DEIS and to individuals who requested a copy of the FEIS or who made substantive comments on the DEIS;

(2) DOI (6 to 9 copies of the FEIS depending on the action's geographic location and scope) at the following address: Director, Office of Environmental Policy and Compliance, U.S. Department of the Interior, Main Interior Building, MS 2340, 1849 C Street, N.W., Washington, D.C. 20240.

(3) For transportation proposals having major energy-related consequences, one copy will be sent to DOE headquarters.

f. Adequate number of copies (varies by State) to the appropriate State-designated single point of contact (or specific agency contacts when States have not designated a single contact point), unless otherwise designated by the governor.

g. Additional copies will be sent to accessible locations to be made available to the general public, including headquarters and regional offices; and State, metropolitan, and local public libraries to facilitate accessibility.

h. FEISs, comments received, and supporting documents will be made available to the public without charge to the fullest extent practical or at a reduced charge, which is not more than the actual cost of reproducing copies, at appropriate agency office(s) or at a designated location.

512. Record of Decision (ROD)

Following the review periods described in 40 CFR 1506.10 (i.e., 90 days from DEIS Notice of Availability (NOA) issuance and 30 days for FEIS NOA issuance), the agency's decisionmaker may make a decision on the Federal action. The ROD presents the agency's official decision on the action and identifies applicable mitigation and monitoring actions required (see 40 CFR 1505.2). The ROD may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. The ROD shall identify and discuss all factors including any essential considerations of national policies which were balanced by the agency in making its decision and state how those considerations entered into the decision. The ROD shall state whether all practicable means to avoid or minimize environmental harm from the alternatives selected have been adopted, and if not adopted, why they were not adopted. The draft ROD should accompany the proposed FEIS during the internal review prior to approval only when headquarters' concurrence is required. The decisionmaker must obtain concurrence before approving the ROD. After approving the ROD, the decisionmaker may begin implementing the selected action. Figure 5–4, Record of Decision Overview, presents an overview of the components of a ROD.

Figure 5–4.—Record of Decision Overview

Purpose	Scope	Content	Public participation
Announces the FAA's decision regarding the proposed major action.	• States the FAA's decision and the basis for the decision. • Summarizes the FEIS analyses and selected mitigation measures.	• States the FAA's preferred alternative. • Identifies all alternatives considered by the FAA. • States whether all precautions to avoid or minimize harm to the environment were considered, and if not, explains why environmental precautions would not be taken. • Explains, when appropriate, the mitigation implementation responsibilities. • Makes appropriate findings required by executive order, regulation, or law (e.g., 4(f), wetlands, etc.).	Provides a notice of the decision to the public.

a. Regional Administrators are responsible for signing RODs where proposed actions cross regional or program lines. The lead regional operating division responsible for preparing and approving the FEIS will make this determination, obtain regional counsel concurrence, and facilitate signature by the appropriate decisionmaker. Subject to program-specific procedures for NEPA compliance, the division manager is responsible for signing RODs that do not cross regional or program lines.

b. Any mitigation measure that was made a condition of the approval of the FEIS must be included in the ROD. RODs can be used to set forth the conditions required for the approval of the action, and to state mitigation measures that will be taken. A monitoring and enforcement program shall be adopted and summarized where applicable for any such mitigation. Proposed changes in or deletions of mitigation measures that were a condition of approval of the FEIS must be reviewed by the same agency offices that reviewed the FEIS and must be approved by the FEIS approving official.

c. Based on comments received on the FEIS, the decisionmaker may choose to take an action that was included within the range of alternatives of an approved FEIS but was neither the environmentally preferred alternative(s) nor the agency's preferred alternative as identified in the FEIS. In these cases, the decisionmaker must circulate the revised draft ROD for coordination and concurrence with the same agency offices that reviewed the FEIS. These offices may concur without comment,

may concur on the condition that specific mitigation measures be incorporated in the ROD, may request that a supplement to the FEIS be prepared and circulated, or may non-concur. The decisionmaker cannot approve the Federal action over a non-concurrence.

d. If the decisionmaker selects an alternative that involves other environmental law, regulations, or executive orders, such as those related to section 4(f) land, Federally listed endangered species, wetlands, historic sites, the agency must first complete any required evaluation and consultation, including supplementing the original FEIS and making the appropriate finding, prior to taking the action. Supplements to FEISs will be reviewed and approved in the same manner as the original document, and a new draft ROD should be prepared, circulated, and approved. A copy of the ROD should be forwarded with the FEIS to AEE–1 for their files.

e. Although the CEQ regulations do not require publication of a notice of availability of the ROD in the **Federal Register** except for actions of national concern, the ROD must be made available to the public pursuant to 40 CFR 1506.6(b) (see CEQ's ''40 Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations (40 CFR 1500–1508),'' 46 FR 18026, March 23, 1981). The responsible FAA official may publish a notice of a ROD in the **Federal Register** for actions not of national concern. Additional information on public involvement may be found in paragraph 208, and by contacting AEE (Environment & Energy Team, AEE–200) and AGC (Environmental Law Branch, AGC–620).

513. Tiering and Programmatic EISs

Program offices shall, to the extent practicable, build upon prior, broad EAs or EISs (see paragraph 500d(4)). For example, long-term developmental EISs and broad system, program, or regional EISs may be incorporated by reference in support of project-specific EISs. The purpose of tiering is to eliminate repetition and facilitate analysis of issues at the appropriate level of detail. Programmatic EISs are tailored to particular program needs and, in practice, only need to be used to assist a program in environmental documentation vis-a-vis site- or action-specific documentation (see 40 CFR 1502.20 and 1508.28 and paragraph 409).

514. Time Limits for EISs

The time limits established for all FAA EISs, including programmatic EISs, are contained in this paragraph.

a. A DEIS may be assumed valid for a period of three years. If the proposed FEIS is not submitted to the approving official within three years from the date of the DEIS circulation, a written reevaluation of the draft will be prepared by the responsible FAA official to determine whether the consideration of alternatives, impacts, existing environment, and mitigation measures set forth in the DEIS remain applicable, accurate, and valid. If there have been changes in these factors that would be significant in the consideration of the proposal, a supplement to the DEIS or a new DEIS will be prepared and circulated.

b. For approved FEISs, three sets of conditions have been established:

(1) If major steps toward implementation of the proposed action (such as the start of construction, substantial acquisition, or relocation activities) have not commenced within three years from the date of approval of the FEIS, a written reevaluation of the adequacy, accuracy, and validity of the FEIS will be prepared by the responsible FAA official (unless EIS tiering is being used). If there have been significant changes in the proposed action, the affected environment, anticipated impacts, or proposed mitigation measures, a new or supplemental FEIS will be prepared and circulated.

(2) If the proposed action is to be implemented in stages or requires successive Federal approvals, a written reevaluation of the continued adequacy, accuracy, and validity of the FEIS will be made at each major approval point that occurs more than three years after approval of the FEIS and a new or supplemental EIS prepared, if necessary.

(3) If the proposed action has been restrained or enjoined by court order or legislative process after approval of the FEIS, the 3-year period may be extended by the time equal to the duration of the injunction, restraining order, or legislative delay.

515. Written Reevaluation

a. The preparation of a new EIS is not necessary when it can be documented that the:

(1) Proposed action conforms to plans or projects for which a prior EIS has been filed;

(2) Data and analyses contained in the previous EIS are still substantially valid; and

(3) Pertinent conditions and requirements (all) of the prior approval have, or will be, met in the current action.

b. This evaluation, signed by the responsible FAA official, will either conclude the contents of previously prepared environmental documents remain valid or that significant changes require the preparation of a supplement or new EIS.

c. The written re-evaluation should be reviewed internally according to the provisions of paragraph 509 for review and concurrence of FEISs.

516. Revised or Supplemental EISs

a. The agency prepares supplements to either DEISs or FEISs if the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Significant information is information that paints a dramatically different picture of impacts compared to the description of impacts in the EIS. The agency also may prepare supplements when the purposes of NEPA will be furthered by doing so.

b. The agency prepares, circulates, and files a supplement to a DEIS or FEIS in the same fashion as the original DEIS or FEIS, unless alternative procedures are approved by the CEQ. If, however, there are compelling reasons to shorten time periods, the agency may consult with CEQ (see paragraph 513). Scoping should be considered, but is not required.

c. The preparation of a new EIS is not necessary when the proposed action conforms to plans or projects for which a prior EIS has been filed, the data and analyses contained in the previous EIS are still substantially valid, and that all pertinent conditions and requirements of the prior approval have or will be met in the current action. This evaluation, signed by the responsible FAA official, will either conclude that the contents of previously prepared environmental documents remain valid or that significant changes require the preparation of a supplement or new environmental document. If a supplement changes a ROD, a new ROD should be issued after the supplement has been reviewed for 30 days.

d. The responsible FAA official may also publish periodic fact sheets to inform the public of the status of the EIS or other supplemental environmental information, such as reports, on long-term or complex EISs to provide information that does not require preparation of a supplemental EIS. The responsible FAA official should notify EPA to ensure that the official log is

accurate, and to include this information as a separate section within the Notice of Availability (see EPA Filing System for Implementing the CEQ Regulations, 54 FR 9593, March 7, 1989).

517. Referrals to Council on Environmental Quality

The CEQ may serve as a mediator in interagency disagreements over proposed Federal actions that might cause unsatisfactory environmental effects. If a commenting agency determines that an action is environmentally unsatisfactory, the matter may be referred to CEQ during the 30-day period after filing the FEIS. When the responsible FAA official receives a notice of intended referral from the commenting agency, the responsible FAA official will provide P–1 (the Office of the Assistant Secretary for Transportation Policy) and AEE with a copy of the notice. (Airports personnel will alert APP–600 if a referral notice is received.) In the event of referral to CEQ by a commenting agency, the responsible FAA official forwards a proposed response to AEE within 10 days of referral. The response must address fully the issues raised in the referral and be supported by evidence. AEE will obtain P–1's concurrence on the proposed response. (APP–600 also will obtain P–1 concurrence for airports' actions). The response then will be sent to CEQ within 20 days of the referral.

518. Review and Adoption of Environmental Impact Statements Prepared by Other Agencies

Other Federal, Tribal, State, or local agencies may consult the FAA for assistance in analyzing environmental impacts that fall within FAA's functional area of responsibility. The FAA should provide its expertise on proposals affecting aviation and other FAA responsibilities as follows:

a. Comments will be specific in nature and organized in a manner consistent with the structure of the draft EIS and must identify alternatives or modifications that may enhance environmental quality or avoid or minimize adverse environmental impacts, and will correct inaccuracies or omissions.

b. Any agency project that is environmentally or functionally related to the proposed action in the EIS should be identified so that inter-relationships can be discussed in the EIS. In such cases, the agency should consider serving as a joint lead agency or cooperating agency.

c. Environmental monitoring for which the agency has special expertise may be suggested and encouraged during construction, startup, or operation phases.

d. Other agencies will generally be requested to forward their DEISs directly to the appropriate FAA regional offices. The following types of matters, however, will be referred to appropriate office or service in the Washington headquarters for comment: actions with national policy implications; proposed actions that involve natural, ecological, cultural, scenic, historic, or park or recreation resources of national significance; legislation; or regulations having national impacts, or national program proposals. DEISs in these categories are to be referred to P–1 for preparation of Department of Transportation (DOT) comments and, where appropriate, to the appropriate office or service in the Washington headquarters. In referring these matters to headquarters, the regional office is encouraged to prepare a proposed DOT response.

e. Regional offices review DEISs that do not have national implications. Comments will be forwarded directly to the office that the originating agency designates for receipt of comments. If the FAA receiving office believes that another DOT office also has an interest or is in a better position to respond, the FAA office should transmit the DEIS to the appropriate DOT office in a timely fashion. If the FAA and other DOT administrations comment at the regional level, the Regional Administrator or designee may coordinate the comments.

f. When appropriate, the FAA will coordinate a response with DOT offices having special expertise in the subject matter.

g. Comments will be submitted within the time limits set forth in the request, unless the office responsible for submitting comments seeks and receives an extension of time. Comments must be concise and specify any changes desired either in the action proposed and/or in the environmental statement.

h. FAA may adopt, in whole or in part, EISs prepared by other agencies. When the FAA adopts an EIS in whole or in part, the responsible FAA official must independently make a written evaluation of the information contained in the EIS, take full responsibility for scope and content that addresses FAA actions, and issue its own ROD. The responsible FAA official may also summarize the adopted portions followed by a direct reference to the EIS. If more than three years have elapsed since the EIS was issued, the responsible FAA official should prepare a written re-evaluation of the EIS (see paragraph 516). Pursuant to 40 CFR 1503.3, if the responsible FAA official does not accept an EIS prepared by another agency, the responsible FAA official shall specify in its comments to that agency whether it (FAA) needs any additional information or describe the mitigation measures the FAA considers necessary to grant or approve an applicable permit, license, or related requirements or concurrences. If the responsible FAA official comments on the action agency's predictive methodology, the responsible FAA official should describe the preferred alternative methodology and explain why the FAA prefers this methodology.

519. Legislative Proposals

Before the FAA submits to the Congress a legislative proposal significantly affecting the environment, the office that originates the legislation will prepare, circulate, and file an EIS with EPA. The Office of the Secretary reviews legislative EISs and submits them to the Office of Management and Budget (OMB) for circulation in the normal legislative clearance process.

520. Regulations

For regulations, the DEIS or FONSI shall be prepared and made available in dockets (AGC–200) for public review at least 30 days prior to publishing the final rule. The Notice of Availability of the DEIS must be published at least 90 days or the Notice of Availability of the FEIS must be published at least 30 days, whichever is later, prior to publishing a final rule. When the DEIS is issued for public comment, copies will be made available for public review in dockets.

521. Environmental Effects of Major FAA Actions Abroad

a. In compliance with Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, (see paragraph 210b(3) of this order, and paragraph 16 of Order DOT 5610.1C, FAA actions significantly affecting the global commons (e.g., the oceans and Antarctica) outside the jurisdiction of any nation, FAA actions outside the U.S., its territories and possessions significantly affecting natural resources of global importance designated for protection by international agreement, FAA actions occurring within the U.S. or its territories that significant impact the environment of another country, or requests for FAA action by a foreign government, manufacturer, operator, may meet the criteria for preparing an EA, FONSI, EIS, or environmental studies. The responsible FAA official must coordinate communications concerning environmental studies or documentation with the State

Department through the Environmental Policies Team (P–130) of the Assistant Secretary for Transportation Policy.

b. With respect to requests for FAA action, after the State Department's notification, all FAA requests to a foreign applicant for information, which the FAA needs to prepare an environmental study or an EIS, should then be forwarded through the civil aviation authority of the applicant's government. Copies of the EIS and notices of any public hearings planned on the proposed action should be furnished to the:

(1) Applicant;

(2) Appropriate foreign civil aviation authority; and the

(3) Washington, DC, embassy for the country where the applicant is located or the country that the proposed action would affect.

b. Other environmental laws, regulations, and executive orders have specific requirements regarding consideration of potential effects of Federal actions overseas (see appendix 1). Important examples include, but are not limited to, the following:

1. Under Executive Order 12088, Federal Compliance with Pollution Control Standards, the FAA must ensure that construction or operation of FAA facilities outside the United States complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

2. Under section 402 of the National Historic Preservation Act (16 U.S.C. 470a–2), ''[p]rior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register [of Historic Places], the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effect.''

c. Any substantial differences arising in the course of the EIS between the originating FAA organization and a foreign applicant or the affected foreign country should be referred to AEE (for proposed Airport actions, APP–600), which will consult with the Assistant Administrator for Policy, Planning, and International Aviation (API) to resolve any problems.

522. Limitation on Actions Subject to NEPA

For actions subject to an EIS the responsible FAA official should not take any action or make any irretrievable and irreversible commitments of resources until appropriate environmental review has been completed under this order (see 40 CFR 1502.2(f) and 1502.4(c)(3)).

a. For informal rulemaking requiring an EIS, the DEIS shall normally accompany the proposed rule.

b. CEQ regulations specifically require that (see 40 CFR 1506.1):

(1) For projects requiring an EIS, no action concerning the proposal shall be taken which would have an adverse environmental impact or limit the choice of reasonable alternatives, unless the action is justified independently of the program, is itself accompanied by an adequate EIS, and will not prejudice the ultimate decision on the program.

(2) Further, if the FAA is considering an application from a non-Federal entity, and FAA is aware that the applicant is about to take an action within the agency's jurisdiction that would have an adverse environmental impact or limit the choice of reasonable alternatives, the responsible FAA official shall promptly notify the applicant that the FAA will take appropriate action to insure that the objectives and procedures of NEPA are achieved. However, this does not preclude development by applicants of plans or designs or performance of other work necessary to support the application.

523.–599. Reserved

Appendix 1. Analysis of Environmental Impact Categories

Section 1. Background and How-To-Use This Appendix

According to resource impact category, this appendix summarizes the requirements and procedures to be used in environmental impact analysis. Executive Orders, FAA and DOT Orders, and Memoranda & Guidance documents described in appendix 12 may also contain requirements that apply.

The potential impact categories, presented in sections, are as follows:

Section
2. Air Quality
3. Coastal Resources
4. Compatible Land Use
5. Construction Impacts
6. Department of Transportation Act Sec. 4(f)
7. Farmlands
8. Fish, Wildlife, and Plants
9. Floodplains and Floodways
10. Hazardous Materials, Pollution Prevention, and Solid Waste
11. Historical, Architectural, Archeological, and Cultural Resources
12. Light Emissions and Visual Impacts
13. Natural Resources, Energy Supply, and Sustainable Design
14. Noise
15. Secondary (Induced) Impacts
16. Socioeconomic Impacts, Environmental Justice, and Children's Environmental Health and Safety Risks
17. Water Quality
18. Wetlands
19. Wild and Scenic Rivers

To effectively use this appendix, first become familiar with the material contained in each impact area. Within each impact area, the overview box highlights major applicable Federal statute(s), regulations, executive orders, and guidance and the oversight agencies. Executive Order (E.O.) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, is addressed in this appendix in section 16 and in appendix 10. Since environmental justice is defined as any adverse and disproportionately high impact on minority populations and low-income populations, this E.O. applies to other impact categories where appropriate. Similarly, Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, is addressed in this appendix in section 16 and applies to other impact categories where appropriate. The other related Federal requirements that may apply were too numerous to list.

The information, however, should guide the responsible Federal Aviation Administration (FAA) official to appropriate resources and applicable requirements to be addressed as part of the National Environmental Policy Act (NEPA) process. To assist in this effort, the majority of the impact categories are divided into the following discussion areas (paragraphs): (1) Requirements; (2) FAA Responsibilities, and (3) Analysis of Significant Impacts. Following the discussion of FAA responsibilities, some impact categories will also have a discussion of significant impact thresholds if quantitative thresholds have been established by the FAA or appropriate oversight agencies.

Should a proposed Federal action have a potential air quality impact, for example, review the Air Quality section of this appendix (section 2) identify the legal references for air quality impacts. These requirements are summarized for ease of use; however, if further information is required, the statute, associated implementing regulations, and FAA policy should be reviewed with the staff of the Office of the Chief Counsel and/or regional counsel

support and through coordination with appropriate Federal and State agency personnel.

Once the standards and relationship of the requirements to the project are understood, the thresholds for adverse effect established by oversight agencies should be reviewed. This section summarizes the impact threshold used by the FAA to determine significance of the effects of the proposed action where such thresholds have been established. For example, the FAA has issued guidance in determining the scope and context of potential noise impacts, and thus, whether noise increases require preparation of an EIS.

The final section, the analysis of impacts, provides guidance on the types and levels of evaluation when the impact is determined to be significant. It includes further information on consultations, studies, and identification of mitigation alternatives and monitoring actions.

Within each applicable impact category, alternative mitigation measures are identified that should be followed except as otherwise provided under the procedures of section 176(c) of the Clean Air Act, section 106 of the National Historic Preservation Act, and other special purpose environmental laws.

Section 2.—Air Quality

Statute	Regulation	Oversight agency
Clean Air Act (CAA), as amended [42 United States Code (U.S.C.) 7401–7671] [Public Law (PL) 91–604, PL 101–549] Revision of Title 49, Transportation, U.S.C. 46106(c)(1)(B), as amended (formerly sections 509(B)(5) and (B)(7) of the Airport and Airway Improvement Act of 1982, as amended, PL 97–248) [49 U.S.C. 47106(c)(1)(B)] [PL 103–272, as amended]	Title 40 Code of Federal Regulations (CFR) parts 9, 50–53, 60, 61, 66, 67, 81, 82, and 93 (which includes General Conformity)	Environmental Protection Agency. Federal Aviation Administration.

2.1 Requirements

Three primary laws apply to air quality: NEPA, the Clean Air Act (CAA), and 49 U.S.C. 47106(c)(1)(B). As a Federal agency, the FAA is required under NEPA to prepare an environmental document (e.g., environmental impact statement (EIS) or environmental assessment (EA)) for major Federal actions that have the potential to affect the quality including air quality of the human environment). An air quality assessment prepared for inclusion in a NEPA environmental document should include an analysis and conclusions of a proposed action's impacts on air quality.

The CAA established National Ambient Air Quality Standards (NAAQS) for six pollutants, termed criteria pollutants. The six pollutants are: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone (O_3), particulate matter (PM–10 and PM–2.5), and sulfur dioxide (SO_2). The CAA requires each State to adopt a plan to achieve the NAAQS for each pollutant within timeframes established under the CAA. These air quality plans, known as State implementation plans (SIP), are subject to Environmental Protection Agency (EPA) approval. In default of an approved SIP, the EPA is required to promulgate a Federal implementation plan (FIP).

Title 49 U.S.C. 47106(c)(1)(B) provides that the DOT/FAA may not approve a grant application for an airport development project involving the location of the airport, runway, or major runway extension, unless the Governor of the State in which the project will be located certifies that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air quality standards. Certification must be obtained from the Governor of the State prior to FAA approval of the project. Alternatively, unless delegation is prohibited under applicable State law, certification may be obtained from a State official to whom the Governor has expressly delegated, in writing, his or her authority in this area.

When a NEPA analysis is needed, the proposed action's impact on air quality is assessed by evaluating the impact of the proposed action on the NAAQS. The proposed action's build and no-build emissions are inventoried for each reasonable alternative. The inventory should include both direct and indirect emissions that are reasonably foreseeable. Normally, further analysis would not be required for pollutants where emissions do not exceed general conformity thresholds. However, based on the nature of the project and consultation with State and local air quality agencies additional analysis may be deemed appropriate. If there are any questions about whether additional analysis is reasonable, contact the appropriate headquarters office and the Office of Environment and Energy. If required, the emissions for the proposed action then are translated into pollutant concentrations using a dispersion model. Depending on the project, this step can be data and computation intensive. Once dispersion modeling has been performed, pollutant concentrations are combined with background pollutant concentrations and compared to the NAAQS. If concentrations do not exceed the NAAQS, then the analysis is complete. If concentrations exceed the NAAQS, emissions must be mitigated or offset, or the action redesigned to reduce emissions.

In addition to NEPA, General Conformity, and grant funding requirements, there may be State and local air quality requirements to consider. These requirements can include, but are not limited to, provisions such as State indirect source regulations and State air quality standards.

Section 176(c) of the CAA, as amended in 1990, requires that Federal actions conform to the appropriate Federal or State air quality plans (FIPs or SIPs) in order to attain the CAA's air quality goals. Section 176(c) states:

''No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity which does not conform to an implementation plan.''

Conformity is defined as conformity to the implementation plan's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of

such standards, and that such Federal activities will not:

a. Cause or contribute to any new violation of any standard in any area.

b. Increase the frequency or severity of any existing violation of any standard in any area.

c. Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The CAA 1990 Amendments required the EPA to issue rules that would ensure Federal actions conform to appropriate FIP or SIP. A final rule for determining conformity of general Federal actions (40 CFR part 93, subpart B) was published in the **Federal Register** (FR) on November 30, 1993, and became effective January 31, 1994. In addition, 40 CFR part 51, subpart W specifies requirements for conformity which States must include in their respective SIP's. Once a SIP conformity provision has been approved by EPA, the State conformity requirements included in the SIP apply. EPA issued separate rules addressing conformity of highway, roadway, and transit plans and projects (40 CFR part 93, subpart A, and 40 CFR part 51, subpart T) on November 15, 1993. The remaining conformity discussion addresses only General Conformity since FAA actions are subject to this rule, although projects involving airport access may also be subject to some provisions of Transportation Conformity.

The General Conformity Rule establishes the procedures and criteria for determining whether certain Federal actions conform to State or EPA (Federal) air quality implementation plans. To determine whether conformity requirements apply to a proposed Federal action, the following must be considered: the non-attainment or maintenance status of the area; type of pollutant or emissions; exemptions from conformity and presumptions to conform; the project's emission levels; and the regional significance of the project's emissions. FAA actions are subject to the General Conformity Rule. Projects involving airport access that fall under 23 U.S.C. or the Federal Transit Act may also be subject to some provisions of Transportation Conformity.

General conformity requirements are distinct from NEPA requirements. For example, NEPA may require FAA to analyze several alternatives in detail. If a general conformity determination is required, only the proposed action must be addressed. General conformity, like other environmental requirements, should be integrated into the NEPA process as much as possible. For example, the draft conformity determination should be issued along with any required draft EIS for public comment. However, there may be valid reasons to address general conformity separately rather than concurrently.

The General Conformity Rule only applies in areas that EPA has designated non-attainment or maintenance. A non-attainment area is any geographic area of the U.S. that experiences a violation of one or more NAAQS. A maintenance area is any geographic area of the U.S. previously designated non-attainment for a criteria pollutant pursuant to the CAA Amendments of 1990 and subsequently re-designated to attainment.

The rule covers direct and indirect emissions of criteria pollutants or their precursors from Federal actions that meet the following criteria:

a. Reasonably foreseeable, and

b. Can practicably be controlled and maintained by the Federal agency through continuing program responsibility.

Certain Federal actions are exempt from the requirement of the General Conformity Rule because they result in no emissions or emissions are clearly below the rule's applicability emission threshold levels. These include, but are not limited to:

a. Continuing and recurring activities such as permit renewals.

b. Routine maintenance and repair activities.

c. Routine installation and operation of aviation and maritime navigation aids.

d. Administrative actions.

e. Planning studies and provision of technical assistance.

f. The routine, recurring transportation of materiel and personnel.

g. Transfers of land, facilities, and real properties.

h. Actions affecting an existing structure where future activities will be similar in scope to activities currently being conducted.

i. Enforcement and inspection activities.

j. Air traffic control activities and adopting approach departure and en route procedures for air operations.

The General Conformity Rule provides a provision that permits agencies to develop a list of actions presumed to conform which would be exempt from the requirements of the rule unless regionally significant (discussed below). To date, FAA does not have a list of actions that are presumed to conform. Notification of such a list and the basis for the presumption of conformity will be published in the **Federal Register**.

A conformity determination is *not* required if the emissions caused by the proposed Federal action are not reasonably foreseeable; if the emissions caused by the proposed Federal action cannot practicably be controlled and maintained by the Federal agency through its continuing program responsibility; if the action is listed as exempt or presumed to conform; or if the action is below the emission threshold (*de minimis*) levels. The emission threshold levels are defined in the General Conformity Rule. If a Federal action is not exempt or presumed to conform, the project's emissions must be analyzed with regard to conformity applicability emission levels. The rule established the threshold emission levels (annual threshold levels) to identify those actions with the potential to have significant air quality impacts. If the project's emissions are *below* annual threshold levels (*de minimis* levels) and are not regionally significant, then the requirements of the general conformity regulation do not apply to the Federal action or project (and therefore, a conformity determination is *not* required).

In determining whether emission threshold levels are exceeded (and a conformity determination required), agencies must consider direct and indirect emissions. Direct emissions are those that are caused by or initiated by the Federal action and occur at the same time and place as the action. Indirect emissions are those caused by the Federal action, but that occur later in time and/or may be removed in distance from the action. Temporary construction emissions must be considered in determining whether emission threshold levels are exceeded. (See EPA General Conformity Questions and Answers, dated November 1994.)

In addition, the General Conformity Rule adopted the exclusive definition of indirect emissions, which excludes emissions that may be attributable to the Federal action, but that the FAA has no authority to control. The FAA is responsible for assessing only direct and indirect emissions of criteria pollutants and precursors that are caused by a Federal action, are reasonably foreseeable, and can practicably be controlled by the FAA through its continuing program responsibility. The FAA may compare emissions with and without the proposed Federal action during the year in which emissions are projected to be greatest in determining whether emission threshold levels are exceeded.

If a Federal action does not exceed the threshold levels or is presumed to

conform, it may still be subject to a general conformity determination if it has regional significance. If the total of direct and indirect emissions of any pollutant from a Federal action represent 10 percent or more of a maintenance or non-attainment area's total emissions of that pollutant, the action is considered to be a regionally significant activity and conformity rules apply. Parts of the overall Federal action that are exempt from conformity requirements (e.g., emission sources covered by New Source Review) should not be included in the analysis. The purpose of the regionally significant requirement is to capture those Federal actions that fall below threshold levels, but have the potential to impact the air quality of a region.

When it has been determined that a proposed Federal action is not exempt, presumed to conform, exceeds emission threshold levels, or is regionally significant, the agency must prepare a conformity determination based on analysis using criteria stated in EPA's General Conformity Rule (40 CFR part 93 (58 FR 63250, November 30, 1993)).

A proposed action cannot be approved or initiated unless conformity does not apply or a positive conformity determination is issued (i.e., the action conforms to the SIP). If initial analysis does not indicate a positive conformity determination, alternative actions (including mitigation measures as part of the action) should be considered and further consultation, analysis, and documentation will be necessary.

2.2 FAA Responsibilities

The FAA has a responsibility under NEPA to include in its EA or EIS sufficient analysis to disclose the potentially significant impact of a proposed action on the attainment and maintenance of air quality standards established by law or administrative determination.

It is also the FAA's affirmative responsibility under section 176(c) of the CAA to assure that its actions conform to applicable SIPs. Before the FAA can fund or support in any way any activity, it must address the conformity of the action with the applicable SIP using the criteria and procedures prescribed in the General Conformity Rule or applicable SIP.

In conducting air quality analysis for purposes of complying with NEPA or conformity, the FAA requires use of the Emissions and Dispersion Modeling System (EDMS) model for aviation sources (aircraft, auxiliary power units, and ground support equipment). The EPA accepted EDMS as a formal EPA preferred guideline model in 1993. An order form for the EDMS software and user's guide can be obtained from the EDMS Internet Site or by writing the EDMS Program, Federal Aviation Administration, Office of Environment and Energy, Rm. 902W, 800 Independence Ave., S.W., Washington, D.C. 20591.

If the proposed action either will not conform with the SIP or there is potential for the proposed action to cause the area to exceed the NAAQS, then further consultation, analysis, and documentation will be required in an EA or EIS and conformity determination document.

2.3 Significant Impact Thresholds

(No specific thresholds have been established.)

2.4 Analysis of Significant Impacts

When the analysis indicates potentially significant air quality impacts, it may be necessary to consult further with State or regional air quality officials and/or with EPA. It also is advisable to include such officials in the EIS scoping process to represent cooperating agencies with air quality expertise. These officials will help identify specific analyses needed, alternatives to be considered, or mitigation measures to be incorporated in the action.

Air Quality Assessment Procedures. NEPA, the CAA Amendments of 1990, and 49 U.S.C. 47106(c)(1)(B) have separate requirements and processes; however, their steps can be integrated and combined for efficiency. Also, an air quality analysis can require the coordination of many different agencies. Such coordination and subsequent analysis takes time; therefore, air quality impacts should be addressed as early as practicable when preparing an EA or EIS. For more detailed guidance on air quality procedures see the FAA's Air Quality Procedures for Civilian Airports and Air Force Bases, April 1997.

Modeling Requirements. The EDMS is FAA's required methodology for performing air quality analysis modeling for aviation sources. EDMS also offers the capability to model other airport emission sources that are not aviation-specific, such as power plants, fuel storage tanks, and ground access vehicles.

Except for air toxics or where advance written approval has been granted to use an equivalent methodology and computer model by the FAA Office of Environment and Energy, the air quality analyses for aviation emission sources from airport and FAA proposed projects conducted to satisfy NEPA, general conformity, and 49 USC 47106(c) requirements under the Clean Air Act must be prepared using the most recent EDMS model available at the start of the environmental analysis process. In the event that EDMS is updated after the environmental analysis process is underway, the updated version of EDMS may be used to provide additional disclosure concerning air quality but use is not required. A complete description of all inputs, particularly the specification of non-default data, should be included in the documentation of the air quality analysis.

Users also must provide one copy of EDMS input files used in the analysis and the corresponding output files to the responsible FAA official on magnetic media specified by the FAA official.

As stated above, EDMS currently is not designed to perform air toxic analyses for aviation sources, and may be supplemented with other air toxic methodology and models in consultation with the appropriate FAA regional program office. Use of supplemental methodology and models for more refined analysis of non-aviation sources also is permitted in consultation with the appropriate FAA regional program office.

All input data should be collected early in the environmental process and should reflect the latest available data. Assistance from the FAA Office of Environment and Energy is available on a case-by-case basis by request through the respective headquarters operating office.

Section 3. Coastal Resources

Statute	Regulation	Oversight agency
Coastal Barrier Resources Act of 1982 as amended by the Coastal Barrier Improvement Act of 1990 [16 U.S.C. 3501–3510] [PL 97–348]	U.S. Department of Interior Coastal Barrier Act Advisory Guidelines, 43 CFR subtitle A (48 FR 45664)	Fish and Wildlife Service. Federal Emergency Management Agency.
Coastal Zone Management Act as amended [16 U.S.C. 1451–1464] [PL 92–583]	15 CFR part 930, subparts C and D 15 CFR part 923	National Oceanic and Atmospheric Administration, Office of Coastal Zone Management. Appropriate State CZM Agency.
Executive Order 13089, Coral Reef Protection (63 FR 32701, June 16, 1998)		National Oceanic and Atmospheric Administration.

3.1 Requirements

Federal activities involving or affecting coastal resources are governed by the Coastal Barriers Resources Act (CBRA), the Coastal Zone Management Act (CZMA), and E.O. 13089, Coral Reef Protection. The CBRA prohibits, with some exceptions, Federal financial assistance for development within the Coastal Barrier Resources System that contains undeveloped coastal barriers along the Atlantic and Gulf coasts and Great Lakes. The CZMA and the National Oceanic and Atmospheric Administration (NOAA) implementing regulations (15 CFR part 930) provide procedures for ensuring that a proposed action is consistent with approved coastal zone management programs. E.O. 13089, Coral Reef Protection, requires Federal agencies to ensure that any actions that they authorize, fund, or carry out will not degrade the conditions of coral reef ecosystems.

Permits/Certificates: Not applicable.

3.2 FAA Responsibilities

CBRA. Maps specifically identifying lands included in the CBRA system are available from the Fish and Wildlife Service (FWS) office administering the CBRA program. If additional guidance on CBRA is needed, refer to the Department of Interior's (DOI) CBRA Advisory Guidelines (43 CFR Subtitle A, 48 FR 45664). If the proposed action would occur on land within the CBRA system and involve funding for development, the action must receive an FWS exemption from the provisions of the CBRA. Results of consultation with FWS must be incorporated in the environmental document. Project-related impacts on coastal resource biotic resources and water quality may be described in the document's CBRA section, or in the sections of the document addressing these biotic and water quality issues.

CZMA. When a proposed action affects (changes the manner of use or quality of land, water, or other coastal resources, or limits the range of their uses) the coastal zone in a State with an approved coastal zone management (CZM) program, the EA or EIS shall include the following:

a. For Federally assisted activities or for other activities FAA itself undertakes, the views of the appropriate State or local agency as to the relationship of such activities with the approved State coastal zone management program, and the determination of the State as to whether the proposal is consistent with the approved State coastal zone management program.

b. For issuance of a Federal license or permit, the applicant's certification that the proposed action complies with the State's approved Coastal Zone Management program and that such activity will be conducted in a manner consistent with the program, and the State's concurrence with the applicant's certification. (Approval of an airport layout plan approval could by definition be a Federal license or permitting action.) The State's concurrence may be presumed if the State does not act within six months after receipt of the applicant's certification, provided the State did not require additional information regarding that certification.

E.O. 13089, Coral Reef Protection. Under this executive order, U.S. coral reef ecosystems are defined to mean those species, habitats, and other natural resources associated with coral reefs in all maritime areas and zones subject to the jurisdiction or control of the United States. When a proposed FAA action may affect U.S. coral reef ecosystems, the FAA shall, subject to the availability of appropriations, provide for implementation of measures needed to research, monitor, manage, and restore affected ecosystems, including, but not limited to measures reducing impacts from pollution, sedimentation, and fishing. To the extent not inconsistent with statutory responsibilities and procedures, these measures shall be developed in cooperation with the U.S. Coral Reef Task Force and fishery management councils and in consultation with affected States, territorial, commonwealth, tribal, and local government agencies, nongovernmental organizations, the scientific community, and commercial interests as part of the U.S. Coral Reef Initiative.

Other statutes, regulations, and executive orders may apply such as the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401, 1402, 1411–1421, 1441–1444, and 16 U.S.C. 1431–1434), the Abandoned Shipwreck Act of 1987 (43 U.S.C. 2101 *et seq.*).

3.3 Significant Impact Thresholds

(No specific thresholds have been established.)

3.4 Analysis of Significant Impacts

When a State having an approved CZM program raises an objection to the proposed action because the action would not be consistent with the applicable CZM plan, the FAA can not approve the action, unless the objection is satisfied, or it is successfully appealed to the Secretary of Commerce. The process will be normally completed prior to a determination by the FAA of whether or not an EIS is needed for the action. Actions of concern include:

a. The State agency objects to a FAA or sponsor consistency certification because the proposed action is inconsistent with the State's CZM Plan; or

b. The FAA or sponsor does not successfully appeal the State agency's objection to the NOAA Assistant Administrator. In either of these cases, the FAA shall not approve such an action unless it includes State agency recommended changes that would make the proposed action consistent with the State's CZM Plan.

If any issues remain that have not been resolved regarding the relationship of the action to an approved CZM program, such issues are identified in

the scoping process and resolved in the EIS. In this situation, the State coastal zone management agency is invited to participate in the scoping process.

For proposed actions determined to be inconsistent with the State's approved program and if the project cannot be modified so that it is consistent with the plan, the final EIS shall include a finding by the Secretary of Commerce that the proposed action is consistent with the purposes or objectives of the Coastal Zone Management Act or is necessary in the interest of national security. If a finding is not obtained from the Secretary of Commerce, the FAA can not approve the proposed action.

CBRA. Information regarding CBRA application and funding exceptions, including consultation with FWS, is sufficient for EIS purposes. Any significant impacts are reported under other appropriate impact categories.

CZMA. CZM consistency applies only to States having an approved CZM plan. If an action would occur in a State not having an approved CZM plan, the FAA should consult (as necessary) with State and Federal agencies having jurisdiction over or expertise on the affected resources to determine if additional information is needed. Discuss impacts on these resources in sections of the environmental document prepared for those resources.

Section 4. Compatible Land Use

Statute	Regulation	Oversight agency
Aviation Safety and Noise Abatement Act of 1979, as amended (49 U.S.C. 47501–47507)	14 CFR part 150	Federal Aviation Administration.

4.1 Requirements

The compatibility of existing and planned land uses in the vicinity of an airport is usually associated with the extent of the airport's noise impacts. Airport development actions to accommodate fleet mix changes or the number of aircraft operations, air traffic changes, or new approaches made possible by new navigational aids are examples of activities that can alter aviation-related noise impacts and land uses subjected to those impacts. In this context, if the noise analysis described in the noise analysis section (section 14) concludes that there is no significant impact, a similar conclusion usually may be drawn with respect to compatible land use. However, if the proposal would result in other impacts exceeding thresholds of significance which have land use ramifications, for example, disruption of communities, relocation, and induced socioeconomic impacts, the effects on land use shall be analyzed in this context and described accordingly under the appropriate impact category with any necessary cross-references to the Compatible Land Use section to avoid duplication.

For airport actions, the Compatible Land Use section of the environmental document shall include documentation to support the required airport sponsor's assurance under 49 USC 47107(a)(10), formerly section 511(a)(5) of the 1982 Airport Act, that appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. The assurance must be related to existing and planned land uses.

The Airport Development Grant Program (49 USC 47101 *et seq.*) requires that a project may not be approved unless the Secretary of Transportation is satisfied that the project is consistent with plans (existing at the time the project is approved) of public agencies for development of the area in which the airport is located (49 USC 47106(a)(1)).

Permits/Certificates: Not applicable.

4.2 FAA Responsibilities

FAA officials will contact the sponsor and representatives of affected communities to encourage the development of appropriate compatible land use measures early in the project planning stage. The environmental document shall address what is being done by the jurisdiction(s) with land use control authority, including an update on any prior assurance.

Table 1 describes compatible land use information for several land uses as a function of DNL values. The ranges of DNL values in Table 1 reflect the statistical variability for the responses of large groups of people to noise. Any particular DNL level might not, therefore, accurately assess an individual's perception of an actual noise environment. Compatible or non-compatible land use is determined by comparing the predicted or measured DNL values at a site to the values listed in Table 1.

TABLE 1.—LAND USE COMPATIBILITY WITH YEARLY DAY-NIGHT AVERAGE SOUND LEVELS

Land use	Yearly day-night average sound level (L_{dn}) in decibels					
	Below 65	65–70	70–75	75–80	80–85	Over 85
Residential						
Residential, other than mobile homes and transient lodgings	Yes	No (1)	No (1)	No	No	No
Mobile home parks	Yes	No	No	No	No	No
Transient lodgings	Yes	No (1)	No (1)	No (1)	No	No
Public Use						
Schools	Yes	No (1)	No (1)	No	No	No
Hospitals	Yes	25	30	No	No	No
Churches, auditoriums, and concert halls	Yes	25	30	No	No	No
Government services	Yes	Yes	25	30	No	No
Transportation	Yes	Yes	Yes (2)	Yes (3)	Yes (4)	Yes (4)

TABLE 1.—LAND USE COMPATIBILITY WITH YEARLY DAY-NIGHT AVERAGE SOUND LEVELS—Continued

Land use	Yearly day-night average sound level (L_{dn}) in decibels					
	Below 65	65–70	70–75	75–80	80–85	Over 85
Parking	Yes	Yes	Yes (2)	Yes (3)	Yes (4)	No
Commercial Use						
Offices, business and professional	Yes	Yes	25	30	No	No
Wholesale and retail-building materials, hardware and farm equipment.	Yes	Yes	Yes (2)	Yes (3)	Yes (4)	No
Retail trade-general	Yes	Yes	25	30	No	No
Utilities	Yes	Yes	Yes (2)	Yes (3)	Yes (4)	No
Communication	Yes	Yes	25	30	No	No
Manufacturing and Production						
Manufacturing, general	Yes	Yes	Yes (2)	Yes (3)	Yes (4)	No
Photographic and optical	Yes	Yes	25	30	No	No
Agriculture (except livestock) and forestry	Yes	Yes (6)	Yes (7)	Yes (8)	Yes (8)	Yes (8)
Livestock farming and breeding	Yes	Yes (6)	Yes (7)	No	No	No
Mining and fishing, resource production and extraction	Yes	Yes	Yes	Yes	Yes	Yes
Recreational						
Outdoor sports arenas and spectator sports	Yes	Yes (5)	Yes (5)	No	No	No
Outdoor music shells, amphitheaters	Yes	No	No	No	No	No
Nature exhibits and zoos	Yes	Yes	No	No	No	No
Amusements, parks, resorts, and camps	Yes	Yes	Yes	No	No	No
Golf courses, riding stables and water recreation	Yes	Yes	25	30	No	No

Note: The designations contained in this table do not constitute a Federal determination that any use of land covered by the program is acceptable or unacceptable under Federal, State, or local law. The responsibility for determining the acceptable and permissible land uses and the relationship between specific properties and specific noise contours rests with the local authorities. FAA determinations under Part 150 are not intended to substitute Federally determined land uses for those determined to be appropriate by local authorities in response to locally determined needs and values in achieving noise compatible land uses.

Yes—Land Use and related structures compatible without restrictions.

No—Land Use and related structures are not compatible and should be prohibited.

NLR—Noise Level Reduction (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.

25, 30, or 35—Land use and related structures generally compatible; measures to achieve NLR of 25, 30 or 35 dB must be incorporated into design and construction of structure.

[1] Where the community determines that residential or school uses must be allowed, measures to achieve outdoor to indoor Noise Level Reduction (NLR) of at least 25 dB and 30 dB should be incorporated into building codes and be considered in individual approvals. Normal residential construction can be expected to provide a NLR of 20 dB, thus, the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation and closed windows year round. However, the use of NLR criteria will not eliminate outdoor noise problems.

[2] Measures to achieve NLR of 25 dB must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.

[3] Measures to achieve NLR of 30 dB must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.

[4] Measures to achieve NLR of 35 dB must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.

[5] Land use compatible provided special sound reinforcement systems are installed.

[6] Residential buildings require an NLR of 25.

[7] Residential buildings require an NLR of 30.

[8] Residential buildings not permitted.

4.3 Analysis of Significant Impacts

When the noise analysis (see Noise, section 14) indicates that a significant noise impact will occur over noise sensitive areas within the DNL 65 dB contour, the analysis should include a discussion of the noise impact on those areas. Any mitigation measures to be taken in addition to those associated with other land use controls shall be discussed. FAA Advisory Circular 150/5020–1, Noise Control and Compatibility Planning for Airports, presents guidance for airport operators and planners to help achieve compatibility between airports and their environs. Special consideration may need to be given to whether Part 150 land use categories are appropriate for evaluating noise impact on properties protected under section 4(f) of the DOT Act (recodified as 49 U.S.C. 303).

Section 5.—Construction Impacts

Statute	Regulation	Oversight Agency
See requirements below.		

5.1 Requirements

Local, State, Tribal, or Federal ordinances and regulations address the impacts of construction activities, including construction noise, dust and noise from heavy equipment traffic, disposal of construction debris, and air and water pollution. Many of the specific types of impacts that could occur and permits or certificates that may be required are covered in the descriptions of other appropriate impact categories. Additionally, see the section on Hazardous Materials, Pollution Prevention, and Solid Waste the requirements under E.O. 12088, as amended, Federal Compliance with Pollution Control Standards, concerning compliance with foreign pollution control standards in the construction and operation of Federal facilities outside the United States.

Permits/Certificates: Clean Water Act section 402 National Pollutant Discharge Elimination System (NPDES) permit (when construction disturbs 1 acre or more).

5.2 FAA Responsibilities

The environmental document must include a general description of the type and nature of the construction and measures to be taken to minimize potential adverse effects. At a minimum, reference is made to the incorporation in project specifications of the provisions of Advisory Circular 150/5370–10A, Standards for Specifying Construction of Airports. Although this AC provides information to reduce airport-related construction impacts, that information may also be applicable to many construction activities FAA undertakes or authorizes.

5.3 Significant Impact Thresholds

Construction impacts are rarely significant. Refer to the air quality, water, fish, plants, and wildlife and other relevant impact categories for further guidance in assessing the significance of the potential impacts.

5.4 Analysis of Significant Impacts

In an unusual circumstance where a construction impact would create significant consequences that cannot be mitigated, a more thorough discussion is needed, including the results of consultations with those agencies that have concerns and the reasons why such impacts cannot be avoided or mitigated to insignificant levels. For example, in areas designated severe nonattainment for ozone, consider whether NO_X emissions caused by construction equipment for major capital improvement projects would result in potentially significant air quality impacts.

Section 6.—Department of Transportation Act, Section 4(f)

Statute	Regulation	Oversight agency
Department of Transportation Act of 1966, section 4(f) [recodified at 49 U.S.C. 303 (c)]		Department of Transportation.

6.1 Requirements

The Federal statute that governs impacts in this category is commonly known as the Department of Transportation (DOT) Act, section 4(f) provisions. Section 4(f) of the DOT Act, which was recodified and renumbered as section 303(c) of 49 U.S.C., provides that the Secretary of Transportation will not approve any program or project that requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance or land from an historic site of national, State, or local significance as determined by the officials having jurisdiction thereof, unless there is no feasible and prudent alternative to the use of such land and such program, or the project includes all possible planning to minimize harm resulting from the use. This order continues to refer to section 4(f) because it would create needless confusion to do otherwise; the policies section section 4(f) engendered are widely referred to as ''section 4(f)'' matters.

Procedural requirements are set forth in Order DOT 5610.1C, Attachment 2, paragraph 4. The FAA also uses as guidance to the extent relevant the Federal Highway Administration and Urban Mass Transportation Administration's guidance defining Constructive Use under 23 CFR 771.135 (56 FR 13269, April 1, 1991).

Designation of airspace for military flight operations is exempt from section 4(f). The Department of Defense reauthorization in 1997 provided that ''[n]o military flight operations (including a military training flight), or designation of airspace for such an operation, may be treated as a transportation program or project for purposes of section 303(c) of title 49, United States Code'' (PL 105–85, Nov. 18, 1997).

Permits/Certificates: Not Applicable.

6.2 FAA Responsibilities

a. Any part of a publicly owned park, recreation area, refuge, or historic site is presumed to be significant unless there is a statement of insignificance relative to the whole park by the Federal, State, or local official having jurisdiction thereof. Any such statement of insignificance is subject to review by the FAA.

b. Where Federal lands are administered for multiple uses, the Federal official having jurisdiction over the lands shall determine whether the subject lands are in fact being used for park, recreation, wildlife, waterfowl, or historic purposes. National wilderness areas may serve similar purposes and shall be considered subject to section 4(f) unless the controlling agency specifically determines that for section 4(f) purposes the lands are not being used.

c. Where property is owned by and currently designated for use by a transportation agency and a park or recreation use of the land is being made only on an interim basis, a section 4(f) determination would not ordinarily be required. The FAA official or sponsor should indicate in any lease or agreement involving such use that this use is temporary.

d. Where the use of a property is changed by a State or local agency from a section 4(f) type use to a transportation use in anticipation of a request for FAA approval, section 4(f) shall be considered to apply, even though the change in use may have taken place prior to the request for approval or prior to any FAA action on the matter. This is especially true where the change in use appears to have been undertaken in an effort to avoid the application of section 4(f).

e. For section 4(f) properties, the initial assessment will determine whether the requirements of section 4(f) are applicable. When there is an actual physical taking of lands being used for park or other purposes in conjunction

with a project, there is generally no latitude for judgement regarding 4(f) applicability. Use within the meaning of section 4(f) includes not only actual physical takings of such lands but also adverse indirect impacts (constructive use) as well. When there is no physical taking, but there is the possibility of constructive use, the FAA must determine if the impacts would substantially impair the 4(f) resource. If there would be no substantial impairment, the action would not constitute a constructive use and would not therefore invoke section 4(f) of the DOT Act.

f. Substantial impairment occurs only when the activities, features, or attributes of the resource that contribute to its significance or enjoyment are substantially diminished. A project which respects a park's territorial integrity may still, by means of noise, air pollution, or otherwise, dissipate its aesthetic value, harm its wildlife, defoliate its vegetation, and take it in every practical sense.

g. The land use compatibility guidelines in 14 CFR Part 150 (Part 150) may be relied upon to determine whether there is a constructive use under section 4(f) where the land uses specified in the Part 150 guidelines are relevant to the value, significance, and enjoyment of the 4(f) lands in question. Part 150 guidelines may be relied upon in evaluating constructive use of lands devoted to traditional recreational activities. FAA may primarily rely upon the average day night sound levels (DNL) in Part 150 rather than single event noise analysis because DNL is the best measure of significant impact on the quality of the human environment, is the only noise metric with a substantial body of scientific data on the reaction of people to noise, and has been systematically related to Federal compatible land use guidelines.

h. Turning to historic sites, FAA may also rely upon Part 150 guidelines to evaluate impacts on historic properties that are in use as residences. If architecture is the relevant characteristics of an historic neighborhood, then project-related noise does not substantially impair the characteristics that led to eligibility for or listing on the National Register of Historic Places. As a result the noise does not constitute a constructive use and section 4(f) would not be triggered. A historic property would not be used for section 4(f) purposes when FAA issues a finding of No Effect or No Adverse Effect under section 106 of the National Historic Preservation Act. Section 4(f) may apply to archeological resources that have value chiefly for data recovery.

i. When assessing use of section 4(f) properties located in a quiet setting and the setting is a generally recognized feature or attribute of the site's significance, carefully evaluate reliance on part 150 guidelines. Special consideration beyond Part 150 guidelines needs to be given to section 4(f) properties of unique significance such as national parks and national wildlife refuges. For example, part 150 guidelines may not be sufficient to address the effects of noise on the expectations and purposes of people visiting rural wildlife refuges to study and enjoy wildlife or rural recreational areas. The responsible FAA official must consult all appropriate Federal, State, and local officials having jurisdiction over the affected section 4(f) resources when determining whether project-related noise impacts would substantially impair the resources.

j. If it is determined that section 4(f) is applicable and there are no feasible or prudent alternatives which would avoid such use, the effect on the section 4(f) land shall be described in detail. The description of the land shall include size, activities, patronage, access, unique or irreplaceable qualities, relationship to similarly used lands in the vicinity, or other factors necessary to determine the effects of the action and measures needed to minimize harm. Such measures may include replacement of land and facilities and design measures such as planting or screening to mitigate any adverse effects. Replacement satisfactory to the Secretary of the Interior (DOI) is specifically required for recreation lands aided by the DOI's Land and Water Conservation Fund and for certain other lands falling under the jurisdiction of the DOI. The environmental document shall include evidence of concurrence or efforts to obtain concurrence of appropriate officials having jurisdiction over such land regarding actions proposed to minimize harm.

k. If Federal grant money was used to acquire the land involved (e.g., open space under the Department of Housing and Urban Development (HUD) and various conservation programs under DOI) the environmental document shall include evidence of or reference to appropriate communication with the grantor agency.

6.3 Significant Impact Thresholds

A significant impact would occur when a proposed action would eliminate or severely degrade the purpose of use for which the section 4(f) land was established and mitigation would not reduce the impact to levels that would allow the purpose or use to continue.

6.4 Analysis of Significant Impacts

The FAA shall consult with the officials having jurisdiction over the section 4(f) property(ies), and other agencies, as necessary. The EIS thoroughly analyzes and documents alternatives that would avoid the use of section 4(f) property and provide detailed measures to minimize harm.

Section 7.—Farmlands

Statute	Regulation	Oversight agency
Farmland Protection Policy Act [7 U.S.C. 4201–4209] [PL 97–98, amended by section 1255 of the Food Security Act of 1985, PL 99–198]	7 CFR part 658 (59 FR 31109, June 17, 1994) 7 CFR part 657 (43 FR 4030) CEQ Memorandum on Analysis of Impacts on Prime and Unique Agricultural Lands in Implementing the National Environmental Policy Act, August 11, 1980 (45 FR 59189, September 8, 1980)	Natural Resource Conservation Service. Council on Environmental Quality.

7.1 Requirements

The Farmland Protection Policy Act (FPPA) regulates Federal actions with the potential to convert farmland to non-agricultural uses.

Permits/Certificates: Not Applicable.

7.2 FAA Responsibilities

Consultation with the U.S. Department of Agriculture (USDA)

Natural Resources Conservation Service (NRCS) should occur to determine if the FPPA applies to the land the proposed action would convert to non-agricultural use, or if an exemption to the FPPA exists. If it is determined that the farmland is protected by the FPPA, formal coordination as provided by 7 CFR part 658 is required.

The responsible FAA official should become aware of and make all reasonable attempts to consult with other Federal, State, and local officials who have responsibility over any adjacent, nearby, or potentially affected lands to assure compatibility of the proposed action and affected farmland.

For FPPA-regulated farmland, scoring of the relative value of the site for preservation is performed by the NRCS and the proponent. If the total score on Form AD–1006 ''Farmland Conversion Impact Rating'' is below 160, no further analysis is necessary. Scores between 160 and 200 may have potential impacts and require further consideration of alternatives that would avoid this loss. Consider measures that reduce the amount of protected farmland that the project would convert or use farmland having relative lower value. If NRCS fails to respond within 45 days and if further delay would interfere with construction activities, the action may proceed as though the site were not farmland protected by the FPPA. The FAA then documents a no response by the NRCS in the environmental document.

If there are unresolved land use issues with State and local officials, then further consultation will be required.

7.3 Significant Impact Thresholds

A significant impact would occur when the total combined score on Form AD 1006 (copies available from NRCS) ranges between 200 and 260 points. Note that impact severity increases as the total combined score approaches 260 points.

7.4 Analysis of Significant Impacts

The analysis evaluates the impacts on agricultural production in the area; compatibility with State, local and private programs and policies to protect farmland; any disruption of the farming community either as a direct result of the construction or by changes in land use associated with the action; and non-viability of farm support services in the area as a result of farmland conversion. Measures to minimize harm will be considered, including adjustments in the action to reduce the amount of farmland taken out of production or retain as much of the land as possible for agricultural use by incorporation into compatible land use plans.

Section 8.—Fish, Wildlife, and Plants

Statute	Regulation	Oversight agency
Endangered Species Act of 1973 [16 U.S.C. 1531–1544] [PL 93–205]	50 CFR parts 17 and 22 50 CFR part 402 50 CFR parts 450–453 MOU on Implementation of the Endangered Species Act, September 28, 1994 MOU on Using an Ecosystem Approach in Agency Decision-making, December 5, 1995 CEQ Guidance on Incorporating Biodiversity Considerations into Environmental Impact Analysis, January 1993	Fish and Wildlife Service. National Marine Fisheries Service. U.S. Department of the Interior. Council on Environmental Quality.
Sikes Act Amendments of 1974 [PL 93–452]		State Natural Heritage Programs.
Fish and Wildlife Coordination Act of 1958 [16 U.S.C. 661–666c] [PL 85–624]		Fish and Wildlife Service.
Fish and Wildlife Conservation Act of 1980 [16 U.S.C. 2901–2912] [PL 96–366]	50 CFR part 83	Fish and Wildlife Service.
Executive Order 13112, Invasive Species (64 FR 6183, February 8, 1999)	DOT Policy on Invasive Species, April 22, 1999	Departments of the Interior, Commerce, Agriculture, and Transportation.
Presidential Memorandum on Environmentally and Economically Beneficial Landscape Practices on Federally Landscaped Grounds (April 26, 1994)	Environmental Protection Agency, Office of the Federal Environmental Executive, Guidance for Presidential Memorandum on Environmentally and Economically Beneficial Landscape Practices on Federal Landscaped Grounds (60 FR 40837, August 10, 1995) Paragraph 3f of attachment 2; Order DOT 5610.1C	Environmental Protection Agency. Office of the Federal Environmental Executive.

8.1 Requirements

Section 7 of the Endangered Species Act (ESA), as amended, applies to Federal agency actions and consultations. Section 7(a)(2) requires each agency, generally the lead agency, in consultation with the services, U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), as appropriate, to ensure that any action the agency authorizes, funds, or carries out is not likely to jeopardize the continued existence of any Federally listed endangered or threatened species or result in the destruction or adverse modification of critical habitat. (The effects on fish, wildlife, and plants include the destruction or alteration of habitat and the disturbance or elimination of fish, wildlife, or plant populations.) Section 10 recovery plans should be reviewed for guidance. If a species has been listed as a candidate species, section 7(a)(4) states that each agency shall confer with the Services. Refer to the FWS and NMFS Endangered Species Consultation Handbook: Procedures for Conducting Consultation and Conference Activities

Under Section 7 of the Endangered Species Act, March 1998.

The Sikes Act and various amendments authorizes States to prepare statewide wildlife conservation plans and the Department of Defense (DOD) to prepare similar plans for resources under its jurisdiction. Actions should be checked for consistency with the State Wildlife Conservation Plans and DOD plans where such plans exist.

The Fish and Wildlife Coordination Act requires that agencies consult with the State wildlife agencies and the Department of the Interior (FWS) concerning the conservation of wildlife resources where the water of any stream or other water body is proposed to be controlled or modified by a Federal agency or any public or private agency operating under a Federal permit.

The Fish and Wildlife Conservation Act provides for financial and technical assistance to States to develop conservation plans, subject to approval by the Department of the Interior, and implement State programs for fish and wildlife resources. The Fish and Wildlife Conservation Act also encourages all Federal departments and agencies to utilize their statutory and administrative authority, to the maximum extent practicable and consistent with each agency's statutory responsibilities, to conserve and to promote conservation of nongame fish and wildlife and their habitats, in furtherance of the provisions of this Act.

E.O. 13112, Invasive Species, and the DOT Policy on Invasive Species require FAA to identify proposed actions that may involve risks of introducing invasive species on native habitat and populations. ''Introduction'' is the intentional or unintentional escape, release, dissemination, or placement of a species into an ecosystem as a result of human activity. ''Invasive species'' are alien species whose introduction does or is likely to cause economic or environmental harm to human health. Section 2 of the Executive Order spells out Federal agency duties. Where such an action has been identified, FAA may not authorize, fund, or carry out actions that the FAA believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, pursuant to guidelines that it has prescribed, the agency has determined that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions. In addition, FAA must to the extent practical and permitted by law, and subject to the availability of appropriations, and within Administration budgetary limits, use relevant programs and authorities to prevent introduction; detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; monitor invasive species populations accurately and reliably; provide for restoration of native species and habitat conditions in ecosystems that have been invaded; conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and promote public education on invasive species and the means to address them. Other related requirements, include the Aquatic Nuisance Plant Control Act, which includes provisions relating to the brown tree snake, and those laws governing import or export of plants and animals across state and national borders, such as the Lacey Act Amendments of 1991, which prohibit the transport across state lines of any wildlife or plants taken in violation of any State law, depending on the circumstances.

The Presidential Memorandum on Economically and Environmentally Beneficial Landscaping encourages the use of native plants at Federal facilities and in federally funded landscaping projects. In addition, FAA Advisory Circular 150/5200–33, Hazardous Wildlife Attractants on or near Public Use Airports, recommends that a wildlife management biologist review landscaping plans for airports to minimize attracting hazardous wildlife (i.e., wildlife commonly associated with wildlife-aircraft strikes) to aircraft movement areas.

Also, it is the policy of the FAA, consistent with NEPA and the CEQ regulations, to encourage the use of a systematic, interdisciplinary approach that integrates ecological, economic, and social factors during the decisionmaking process. The goals of this approach are to restore and maintain the health, sustainability (*i.e.*, doing things today to protect tomorrow's environment), and biological diversity of ecosystems, while supporting sustainable economies and communities (*i.e.*, economies and community activities that consider the environmental needs of succeeding generations). Actions should reflect sensitivity to regional ecological and economic needs. An ecosystem approach emphasizes: (1) ensuring that all relevant and identifiable ecological and economic consequences, both long- and short-term, are considered; and (2) improving coordination among Federal agencies.

In accordance with 40 CFR 1507.2(e), 1508.8(b)(3), and 1508.27, the CEQ guidance on incorporating biodiversity considerations into environmental impact analyses under the National Environmental Policy Act requires Federal agencies to consider the effects of Federal actions on biodiversity to the extent that is possible to both anticipate and evaluate those effects. The guidance outlines the general principles and discusses the importance of context, that is, examining the indirect, direct, and cumulative impacts of a specific project in the regional or ecosystem context.

In addition, the MOU on Using an Ecosystem Approach in Agency Decision-making requires FAA to participate, as appropriate to its mandates, in ecosystem management efforts initiated by other Federal agencies, by state, local or tribal governments, or as a result of local grass-roots efforts. The ecosystem approach, consistent with the requirements in NEPA to use ecological information, emphasizes consideration of all relevant and identifiable ecological and economic consequences both long term and short term; coordination among Federal agencies; partnership; communication with the public; efficient and cost-effective implementation; use of best available science; improved data and information management, and responsiveness to changing circumstances.

Permits/Certificates: Various wildlife statutes, such as the Marine Mammal Protection Act, require permits, or the Endangered Species Act requires issuance of a Biological Opinion, if an action may affect a Federally-protected species.

8.2 FAA Responsibilities

Coordination is to be initiated with the Services pursuant to the ESA for Federally listed endangered, threatened, and candidate species or designated critical habitat, and, pursuant to the Fish and Wildlife Coordination Act where there is a potential impact on water resources with the Services as well as other Federal, State, Tribal, and local agencies having administration over fish, wildlife, and plant resources. For Federally listed, proposed, and candidate species and listed and proposed critical habitat, this initial step is known as informal consultation and triggers the ESA section 7(d) prohibition on irreversible or irretrievable commitment of resources.

Letters will be obtained from these officials on the possible effects of the

proposal on these resources and possible mitigation measures. The letters from the appropriate officials will provide an indication of the potential for substantial damage to water resources and wildlife attributable to the proposal, if applicable.

Informal consultation under ESA section 7: Informal consultation with the Services under section 7 of the ESA will clarify whether and what Federally listed, proposed, or candidate species or Federally designated or proposed critical habitat may be found in the potentially impacted areas, determine what effect the action may have on these species or critical habitats; explore ways to modify the action to reduce or remove adverse effects to the species or critical habitats; determine the need to enter into formal consultation for listed species or designated critical habitat, or conference for proposed species or proposed critical habitat; and explore the design or modification of an action to benefit the species. The Services will prepare or concur with the action agency's species list and identify major gaps in biological information. A biological assessment (BA) is defined as information prepared by, or under the direction of, a Federal agency to determine whether a proposed action is likely to: (1) adversely affect listed species or designated critical habitat; (2) jeopardize the continued existence of species that are proposed for listing; or (3) adversely modify proposed critical habitat. Biological assessments are mandatory for ''major construction activities.'' See 50 CFR 402.02. BA's are not required to analyze alternatives to proposed actions. The recommended contents of a BA are found in 50 CFR 402.12(f). For other types of proposed actions, the Federal agency must provide the Services with the information the Federal agency used in evaluating the likely effects of the action. Informal consultation ends if the proposed action, whether a major construction activity or other action, is not likely to adversely affect species or critical habitat (i.e., effects are expected to be completely beneficial (contemporaneous positive effects without any adverse effects to the species), discountable (extremely unlikely to occur), or insignificant (should never reach the scale where take occurs)), and the Service concurs in writing.

Formal consultation under ESA section 7(a)(2): For Federally listed threatened and endangered species and Federally designated critical habitat, formal consultation with FWS or NMFS under section 7(a)(2) of the ESA is triggered when: (1) The FAA determines that the proposed action ''may affect'' Federally listed species or designated critical habitat, unless the FWS or NMFS concur in writing that the proposed action is not likely to adversely affect any listed species or critical habitat, or (2) the FWS or NMFS does not concur with the agency's determination that the proposed action is not likely to adversely affect Federally listed species or designated critical habitat. Formal consultation is concluded when FWS or NMFS issues a Biological Opinion (No Jeopardy/Adverse Modification Opinion, including an incidental take statement, or Jeopardy/Adverse Modificiation Opinion), as discussed below.

Conference under ESA section 7(a)(4): If the proposed action is likely to adversely affect Federally proposed species or critical habitat, then conference is required for Federally proposed species and Federally proposed critical habitat, unless the Federal agency decides to include the analysis of effects on proposed species and proposed critical habitats in the formal consultation process. Conference can be useful in later expediting the consultation process when a proposed species is listed or proposed critical habitat is designated. For Federally proposed species and critical habitat, at the conclusion of conference, the Services will provide conservation recommendations. Conservation recommendations are discretionary agency activities.

Other statutes: Other statutes, such as the Marine Mammal Protection Act, may also apply depending upon the circumstances.

It may be assumed that there are no significant impacts on fish, wildlife, and plants if—For Federally listed threatened and endangered species and designated critical habitat under the ESA:

a. The reply from the FWS or NMFS following informal consultation indicates that the proposed action is not likely to adversely affect any listed species or critical habitat (i.e., the effects are completely beneficial, insignificant, or discountable); or

b. A Biological Opinion issued by the FWS or NMFS following formal consultation states that the proposed action is not likely to jeopardize the continued existence of Federally listed threatened or endangered species in the affected area or result in the destruction or adverse modification of Federally designated critical habitat in the affected area (No Jeopardy/Adverse Modification Opinion). A No Jeopardy/Adverse Modification Opinion may include one or more reasonable and prudent alternatives to eliminate jeopardy. The incidental take statement, included in the No Jeopardy/Adverse Modification Opinion, provides nondiscretionary reasonable and prudent measures that are necessary and appropriate to minimize the level of incidental take and avoid jeopardy. Different levels of take and different reasonable and prudent measures may be specified for each reasonable and prudent alternative. (Formal consultation may be reinitiated when the amount or extent of incidental take is exceeded; new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; the action is modified in a manner causing effects to listed species or critical habitat not previously considered; or a new species is listed or critical habitat is designated that may be affected by the action.)

For species not Federally listed as threatened or endangered and habitats not Federally designated as critical under the ESA:

a. The FWS, NMFS, or other Federal, State or Tribal agency responsible for protecting wildlife where there is an impact on a water resource indicate that the impacted area is human-dominated, or the impact is transient in nature, or the alteration would not result in a long-term or permanent loss of wildlife or water resources.

b. If, after these efforts, significant impacts are unavoidable, then the responsible FAA official conducts further consultation and analysis with the Services and other Federal, State, Tribal, or local officials in the preparation of the EIS.

8.3 Significant Impact Thresholds

A significant impact would occur when the FWS or NMFS determines that the proposed action would be likely to jeopardize the continued existence of a threatened or endangered species or result in the destruction or adverse modification of Federally designated critical habitat in the affected area.

8.4 Analysis of Significant Impacts

a. General. The FAA will coordinate with the Services, other Federal, State, Tribal, or local wildlife agencies, and others as necessary to assess the potential impacts. If the proposed action affects water resources and thereby triggers the Fish and Wildlife Coordination Act, then the FAA considers the recommendations of the FWS, NMFS, other Federal agencies, and the State or Tribal wildlife agency and assures that further detailed

analysis is performed. This may include:

(1) Use of aerial photographs and field reconnaissance.

(2) Determining the significance of impacted habitats including the importance and range of fauna and flora and the location of nesting and breeding areas.

(3) A more detailed analysis of other impact areas (e.g., noise, air quality, water quality).

b. Federally listed threatened and endangered species and Federally designated criticat habitat. For Federally listed threatened and endangered species and Federally designated critical habitats, the FAA forwards to the Services the BA as required for major construction activities or supporting information as needed for other types of proposed actions with a request to initiate formal consultation under section 7(a)(2) of the ESA. The BA may be included in an EA. If the FAA accepts an alternative proposed by the FWS or the NMFS or proposes another acceptable alternative, the FAA also may conclude that impacts are not significant. If neither of the above apply, the potential impact is considered significant. In the preparation of an EIS, the FAA requests the Services to be cooperating agencies on the basis of their jurisdiction. Further detailed analysis may consider:

(1) Further mitigation measures or action modifications.

(2) Further biological assessment.

(3) If the FWS or NMFS issues a Jeopardy/Adverse Modification Opinion, FAA may not proceed with the action unless the project is modified sufficiently to enable the Services to issue a No Jeopardy/Adverse Modification Opinion, or the action is exempted under 50 CFR part 451.

Section 9.—Floodplains and Floodways

Statute	Regulation	Oversight agency
Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951)	Order DOT 5650.2, Floodplain Management and Protection	Federal Aviation Administration.
Appropriate State and local construction statutes	Federal Emergency Management Agency ''Protecting Floodplain Resources: A Guidebook for Communities,'' 1996	Federal Emergency Management Agency. Appropriate State and local agencies.

9.1 Requirements

Executive Order 11988 directs Federal agencies to take action to reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and restore and preserve the natural and beneficial values served by floodplains. Order DOT 5650.2 contains DOT's policies and procedures for implementing the executive order. Agencies are required to make a finding that there is no practicable alternative before taking action that would encroach on a base floodplain based on a 100-year flood (7 CFR 650.250).

9.2 FAA Responsibilities

The responsible FAA official will consult with State and local officials to determine the boundaries of floodplains near the site of the action. The Federal Emergency Management Agency (FEMA) maps are the primary reference for determining the extent of the base floodplain. If a floodplain designation is in question, FEMA or the Army Corps of Engineers will be contacted for information.

If the proposed action and reasonable alternatives are not within the limits of, or if applicable, the buffers of a base floodplain, a statement to that effect should be made. No further analysis is needed.

If the agency finds that the only practicable alternative requires siting in the base floodplain, a floodplain encroachment would occur and further environmental analysis is needed. The FAA shall, prior to taking the action, design or modify the proposed action to minimize potential harm to or within the base floodplain. The action is to be consistent with regulations issued according to section 2(d) of E.O. 11988. The FAA shall also provide the public with an opportunity to review the encroachment through its public involvement process and any public notices, notices of opportunity for public hearing, public hearing notices, and notices of environmental document availability must state that an encroachment is anticipated.

A floodplain finding is required in cases of significant encroachment. This finding confirms that there is no practicable alternative to placing the project in the floodplain and that all measures to minimize harm will be included in the project. (see sec. 2a of E.O. 11988, Floodplain Management; dated May 24, 1977 [42 FR 26951])

When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the FAA shall (1) reference in the conveyance those uses that are restricted under identified Federal, State, or local floodplain regulations; and (2) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or (3) withhold such properties from conveyance.

FAA's analysis shall also indicate if the encroachment would be a ''significant encroachment,'' that is, whether it would cause one or more of the following impacts:

a. The action would have a high probability of loss of human life.

b. The action would likely have substantial, encroachment-associated costs or damage, including interrupting aircraft service or loss of a vital transportation facility (e.g., flooding of a runway or taxiway; important navigational aid out of service due to flooding, etc.); or

c. The action would cause adverse impacts on natural and beneficial floodplain values.

If one or more of the alternatives under consideration includes significant floodplain encroachments, then any public notices, notices of opportunity for public hearing, public hearing notices, and notices of environmental document availability, shall note that fact.

When flood storage is displaced, the analysis should consider compensatory floodwater storage impacts on upstream property, or how that storage could affect aquatic or other biotic systems. Development project not causing higher flood elevations or altering flood storage could adversely affect beneficial or natural floodplain values.

Actions outside a base floodplain may adversely affect natural and beneficial floodplain resources. Consider impacts on natural and beneficial floodplain values, water pollution, increased runoff from impermeable surfaces, changes in hydrologic patterns, or induced secondary development. Mitigation to minimize such impacts is needed to comply with the applicable regulations. This mitigation may include: commiting

to comply with special flood-related design criteria; elevating facilities above the base flood elevation; or minimizing fill placed in floodplains.

9.3 Significant Impact Thresholds

If a significant encroachment is involved that would result in notable adverse impacts on natural and beneficial floodplain values, preparation of an EIS is required. Mitigation measures for base floodplain encroachments may include commiting to special flood related design criteria, elevating facilities above base flood level, locating nonconforming structures and facilities out of the floodplain, or minimizing fill placed in floodplains.

9.4 Analysis of Significant Impacts

When the FAA prepares an EIS addressing significant impacts in this category, Federal, State, or local agencies with floodplain jurisdiction and expertise may become cooperating agencies. Further analysis includes the following as applicable to the action:

a. Further consideration of the practicability of any alternatives.

b. Inclusion of all practicable measures in the design of the proposal to minimize harm and to restore and preserve the natural and beneficial floodplain values affected. Commitments to later compliance with special flood related design criteria or the imposition, in advance, of protective conditions may be warranted in some situations.

c. Evidence that the action conforms to applicable State and local floodplain protection standards.

Section 10.—Hazardous Materials, Pollution Prevention, and Solid Waste

Statute	Regulation	Oversight agency
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (as amended by the Superfund Amendments and Reauthorization Act of 1986 and the Community Environmental Response Facilitation Act of 1992) [42 U.S.C. 9601–9675]	40 CFR parts 300, 311, 355, and 370	Environmental Protection Agency.
Pollution Prevention Act of 1990 [42 U.S.C. 1310–1319]	CEQ Memorandum on Pollution Prevention and the National Environmental Policy Act, January 12, 1993 (58 FR 6478)	Council on Environmental Quality. Environmental Protection Agency.
Toxic Substances Control Act of 1976, as amended (TSCA) [15 U.S.C. 2601–2692] [PL 94–469]	40 CFR parts 761 and 763	Environmental Protection Agency.
Resource Conservation and Recovery Act of 1976 (RCRA) [PL 94–580, as amended by the Solid Waste Disposal Act of 1980 (SWDA), PL 96–482, the Hazardous and Solid Waste Amendments of 1984, PL 98–616, and the Federal Facility Compliance Act of 1992, (FFCA) PL 103–386] [42 U.S.C. 6901–6992(k)]	40 CFR parts 240–280	Environmental Protection Agency.
Executive Order 12088, Federal Compliance with Pollution Control Standards, October 13, 1978 (43 FR 47707), amended by Executive Order 12580, January 23, 1987 (52 FR 2923) January 29, 1987		Environmental Protection Agency.
Executive Order 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements (58 FR 41981, August 3, 1993)		Environmental Protection Agency.
Executive Order 12580, Superfund Implementation, amended by Executive Order 13016 and 12777		

10.1 Requirements

Four primary laws have been passed governing the handling and disposal of hazardous materials, chemicals, substances, and wastes. The two statutes of most importance to the FAA in proposing actions to construct and operate facilities and navigational aids are the Resource Conservation and Recovery Act (RCRA) (as amended by the Federal Facilities Compliance Act of 1992) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA or Superfund) and the Community Environmental Response Facilitation Act of 1992. RCRA governs the generation, treatment, storage, and disposal of hazardous wastes. CERCLA provides for cleanup of any release of a hazardous substance (excluding petroleum) into the environment.

E.O. 12088, as amended, directs Federal agencies to: comply with ''applicable pollution control standards,'' in the prevention, control, and abatement of environmental pollution; and consult with the EPA, State, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution. For construction or operation of FAA facilities outside the United States, the FAA must ensure that such construction or operation complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

Executive Order 12580, Superfund Implementation amended by Executive Order 13016 and 12777 delegates most response authorities to EPA and USCG for abatement. Agencies must participate in response teams with opportunity for public comment before removal action is taken.

FAA actions to fund, approve, or conduct an activity may require consideration of hazardous material, pollution prevention, and solid waste impacts in NEPA documentation. NEPA documents prepared in support of project development should include an appropriate level of review regarding the hazardous nature of any materials or wastes to be used, generated, or disturbed by the proposed action, as well as the control measures to be taken. The CEQ Memorandum on Pollution Prevention and the National Environmental Policy Act encourages early consideration, for example, during scoping, of opportunities for pollution prevention. FAA should, to the extent practicable, include pollution prevention considerations in the proposed action and its alternatives; address pollution prevention in the environmental consequences section; and disclose in the record of decision the extent to which pollution was considered. A discussion of pollution prevention may also be appropriate in an EA. Consideration of these issues in evaluating the effects of proposed actions should begin with an understanding of the following three terms:

Hazardous Material—any substance or material that has been determined to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce (49 CFR part 172, table 172.101). This includes hazardous substances and hazardous wastes.

Hazardous Waste—under the Resource Conservation and Recovery Act (RCRA) a waste is considered hazardous if it is listed in, or meets the characteristics described in 40 CFR part 261, including ignitability, corrosivity, reactivity, or extraction procedure toxicity.

Hazardous Substance—any element, compound, mixture, solution, or substance defined as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and listed in 40 CFR part 302. If released into the environment, hazardous substances may pose substantial harm to human health or the environment.

10.2 FAA Responsibilities

The FAA must comply with applicable pollution control statutes and requirements that may include, but may not be limited to, those listed in appendix 2 of Order 1050.10B, Prevention, Control, and Abatement of Environmental Pollution at FAA Facilities.

In accordance with Order 1050.19, Environmental Due Diligence Audits in the Conduct of FAA Real Property Transactions, an Environmental Due Diligence Audit (EDDA) shall be conducted to evaluate subject properties for potential hazardous substances contamination that could result in future FAA liabilities.

FAA actions to fund or approve airport layout plans for terminal area development may also require consideration of solid waste impacts in NEPA documentation. A preliminary review should indicate if the projected quantity or type of solid waste generated or method of collection or disposal will be appreciably different than would be the case without the action. Special attention shall be given to the control of hazardous waste.

NEPA documents should include appropriate information as described below.

a. The environmental document should demonstrate that the FAA (or applicant as appropriate) has determined whether hazardous wastes as defined in 40 CFR part 261 (RCRA) will be generated, disturbed, transported or treated, stored or disposed, by the action under consideration. If so, management of these wastes is regulated by 40 CFR parts 260–280 and transportation is governed by 49 CFR parts 171–199. To the extent that the existence of hazardous wastes affects phasing of project construction, analysis of alternatives and consideration of mitigation measures, the means for compliance with applicable regulations must be discussed. It may be helpful to briefly discuss the means for compliance with applicable regulations in the NEPA documentation. For example, operators of activities that would cause hazardous waste must obtain a RCRA hazardous waste generator identification number from EPA or an authorized State. It should also demonstrate that the FAA or applicant has considered pollutant prevention and control in accordance with EO 12088.

b. The document should analyze alternatives considering applicable permitting requirements, and in the case of direct actions or funding, Federal and State guidelines and regulations on procurement of recycled or recyclable productions, the source separation and recycling of recyclable products and solid waste storage, transport, or disposal.

c. The document should analyze the cost and feasibility of alternatives regarding the avoidance or use of hazardous materials, hazardous wastes, recycled materials, recyclable products, and any related need for permits, remediation, storage, transport, or disposal.

d. The document should indicate the presence of any sites within the action area listed or under consideration for listing on the National Priorities List (NPL) established by EPA in accordance with CERCLA. NEPA documentation should include a discussion of the impact of any NPL or NPL candidate sites on the action and/or impacts of the action on any NPL or NPL candidate sites. NEPA documentation should also identify sites in the vicinity that have been designated RCRA Solid Waste Management Units (SWMUs) and that may impact or be impacted by the action.

e. The NEPA documentation should reflect that consultation with the appropriate State agency (or EPA) has been initiated. If a formal agreement has been reached, it should be included in the document itself or incorporated by reference, as appropriate. In many cases, construction may not commence until a formal agreement between the FAA (or action sponsor) and the State agency (or EPA) has been executed.

f. The NEPA documentation, i.e., FONSI, EIS, Record of Decision, and FAA construction contracts should include a provision that in the event previously unknown contaminants are discovered during construction, or a spill occurs during construction, work should stop until the National Response Center (NRC) is notified. The NRC number is (800) 424–8802.

10.3 Analysis of Significant Impacts

Generally, additional information or analysis is needed only if significant problems are anticipated with respect to meeting the applicable local, State, Tribal, or Federal laws and regulations on hazardous or solid waste management. Additional data may include results of any further consultation with affected agencies and measures to be taken to minimize the impacts. Disposal that would adversely affect water quality or other environmental resources may be discussed under those sections of the environmental analysis addressing affected resources, with the hazardous material section cross-referencing those

sections. Actions that involve property listed (or potentially listed on) the NPL are considered significant by definition. In other cases, only a significant unresolved issue may warrant additional analysis in an EIS.

The cost and feasibility of any necessary remediation of hazardous waste contamination should be considered and for guidance on considering existing environmental contamination issues associated with proposed actions to acquire land consult Order 1050.19.

For guidance on design, construction, and operational compliance of FAA facilities with pollution control statutes, the following FAA orders should be consulted:

a. Order 1050.10B, Prevention, Control, and Abatement of Environmental Pollution at FAA Facilities.

b. Order 1050.14A, Polychlorinated Biphenyls (PCB) in the National Airspace System.

c. Order 1050.15A, Underground Storage Tanks at FAA Facilities.

d. Order 1050.18, Chlorofluorocarbons and Halon Use at FAA Facilities.

Section 11.—Historical, Architectural, Archaeological, and Cultural Resources

[This section reflects the major revisions to 36 CFR part 800 issued May 18, 1999]

Statute	Regulation	Oversight agency
Laws Governing National Historic Preservation Programs, National Natural Landmarks, and National Historic Landmarks		
Historic Sites Act of 1935 [16 U.S.C. 461–467] [PL 74–292 (1935)]		National Park Service.
National Historic Preservation Act of 1966, as amended, including Executive Order 11593 (36 FR 8921, May 13, 1971) [16 U.S.C. 470, 470 note] [PL 102–575 (1992)]	36 CFR parts 60 (National Register of Historic Places (NRHP)), 61 (State and Local Preservation Programs), 62.1 (National Natural Landmarks), 63 (NRHP), 65, 65.1 (National Historic Landmarks), 68 (standards), 73 (World Heritage Program), 78 (waiver of Federal agency section 110 responsibilities), 79 (curation) and 800 (consultation), as revised (64 FR 27043, May 18, 1999, effective June 17, 1999)	National Park Service, various offices. Advisory Council on Historic Preservation. State Historic Preservation Officer. Tribal Historic Preservation Officer.
Laws Governing the Federal Archeology Program		
Antiquities Act of 1906 [16 U.S.C. 431, 432, 433] [PL 59–209 (1906)]	43 CFR part 3 25 CFR part 261	Department of Interior, National Park Service.
Archaeological and Historic Preservation Act of 1974, as amended [16 U.S.C. 469–469c] [PL 89–665]	Guidelines for Archeology and Historic Preservation: Standards and Guidelines (DOI) (48 FR 44716, September 29, 1983) 36 CFR part 68	Departmental Consulting Archeologist and Archeological Assistance Program, National Park Service.
Laws Governing the Federal Archeology Program		
Archaeological Resources Protection Act of 1979, as amended [16 U.S.C. 470aa–470mm] [PL 96–95 (1979)]	43 CFR parts 3 and 7 36 CFR part 79 25 CFR parts 261 and 262 Federal Archeological Preservation Strategy	Departmental Consulting Archeologist and Archeological Assistance Program, National Park Service.
Native American Graves Protection and Repatriation Act of 1990 [25 U.S.C. 3001] [PL 101–601 (1990)]	43 CFR part 10 25 CFR 262.8 36 CFR part 79	Departmental Consulting Archeologist and Archeological Assistance Program, National Park Service.
Other Major Federal Historic Preservation Laws		
American Indian Religious Freedom Act of 1978 [42 U.S.C. 1996, 1996 note] [PL 95–341 (1978)]	43 CFR 7.7 and 7.32 25 CFR 262.7	
Public Building Cooperative Use Act of 1976 [40 U.S.C. 601(a), 601(a)(1), 606, 611(c), 612(a)(4)] [PL 94–541]	41 CFR parts 101–17, 101–17.002(l), (m), (n) (rural areas), 101.17.002(i)(2) (urban areas), and 101–19	General Services Administration.
Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (61 FR 26071, May 24, 1996)		Advisory Council on Historic Preservation.
Executive Order 13007, Indian Sacred Sites (61 FR 26771, May 29, 1996)		Assistant to the President for Domestic Policy.
Executive Order 11593, Protection and Enhancement of the Cultural Environment (36 FR 8921, May 13, 1971) (16 U.S.C. 470 note)		Advisory Council on Historic Preservation.

11.1 Requirements

Several laws apply to this category of impact. The major laws include the National Historic Preservation Act (NHPA) of 1966, as amended, which establishes the Advisory Council on Historic Preservation (ACHP) and the National Register of Historic Places (NRHP) within the National Park Service (NPS). Section 110 governs Federal agencies responsibilities to preserve and use historic buildings; designate an agency Federal Preservation Officer (FPO); identify, evaluate, and nominate eligible properties under the control or jurisdiction of the agency to the National Register; give full consideration in planning to potentially affected historic properties; consult on preservation-related activities with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations, and the private sector; and comply with the consultation and public notice requirements of section 106, the professional standards of section 112, and the confidentiality requirements of section 314.

The Archaeological Resources Protection Act (ARPA) is triggered by the presence of archaeological resources on Federal or Indian lands. The Archeological and Historic Preservation Act of 1974 provides for the survey, recovery, and preservation of significant scientific, pre-historical, historical, archaeological, or paleontological data when such data may be destroyed or irreparably lost due to a Federal, Federally licensed, or Federally funded action. The DOI's Standards and Guidelines were published in the **Federal Register** (48 FR 44716, September 29, 1983) to advise Federal agencies on the manner in which this latter law will be implemented. Requirements are specified under subparagraph (c) of the Archeological and Historic Preservation Act of 1974.

The Native American Graves Protection and Repatriation Act (NAGPRA) is triggered by the possession of human remains or cultural items by a Federally funded repository or by the discovery of human remains or cultural items on Federal or tribal lands and provides for the inventory, protection, and return of cultural items to affiliated Native American groups. Most of the historic and archaeological preservation laws require consultation with Native Americans. Permits are required for intentional excavation and removal of Native American cultural items from Federal or tribal lands. The Act includes provisions that, upon inadvertent discovery of remains, the action will cease in the area where the remains were discovered, and the FAA official will protect the materials and notify the appropriate land management agency. For additional information see the Advisory Council's policy statement of June 11, 1993, on Consultation with Native Americans Concerning Properties of Traditional Religious and Cultural Importance.

The Antiquities Act of 1906 was the first general law providing protection for archeological resources. It protects all historic and prehistoric sites on Federal lands and prohibits excavation or destruction of such antiquities without the permission (antiquities permit) of the Secretary of the department having jurisdiction. It also authorizes the President to declare areas of public lands as national monuments and to reserve or accept private lands for that purpose.

The Historic Sites Act of 1935 declares as national policy the preservation for public use of historic sites, buildings, objects, and properties of national significance. It gives the Secretary of the Interior authority to make historic surveys, to secure and preserve data on historic sites, and to acquire and preserve archeological and historic sites. This act also establishes the National Historic Landmarks program for designating properties having exceptional value in commemorating or illustrating the history of the United States. It gives the Secretary of the Interior broad powers to protect nationally significant historic properties, including the Secretary's authority to establish and acquire nationally significant historic sites.

The American Indian Religious Freedom Act of 1978 requires consultation with Native American groups concerning proposed actions on sacred sites on Federal land or affecting access to sacred sites. It establishes Federal policy to protect and preserve for American Indians, Eskimos, Aleuts, and Native Hawaiians their right to free exercise of their religion. It allows these people to access sites, use and possess sacred objects, and freedom to worship through ceremonial and traditional rites. In practical terms, the act requires Federal agencies to consider the impacts of their actions on religious sites and objects that are important to Native Americans, including Alaska Natives, and Native Hawaiians, regardless of the eligibility for the National Register of Historic Places.

The Public Building Cooperative Use Act of 1976, along with NEPA and NHPA, encourages the acquisition and use of space in suitable buildings of historic, architectural, or cultural significance. The associated regulations provide procedures for implementing this goal in urban and rural areas.

Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities, requires Federal agencies, when operationally appropriate and economically prudent, to use and maintain historic properties and districts, especially those located in central business areas and to give first consideration when locating Federal facilities to historic properties within historic districts, then developed or undeveloped sites within historic districts, and lastly to historic properties outside of historic districts. Any rehabilitation or construction that is undertaken must be architecturally compatible with the character of the surrounding historic district or properties.

Executive Order 13007, Indian Sacred Sites, requires Federal agencies that manage Federal lands, defined as any land or interests in land owned or leased by the United States, except Indian trust lands, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, to: (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and (2) avoid adversely affecting the physical integrity of such sacred sites. Agencies shall maintain the confidentiality of sacred sites as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site. The responsible FAA official should consult the provisions in Executive Order 13084, Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 19, 1998), and the Presidential Memorandum of April 29, 1994, Government-to-government Relations with Native American Tribal Governments. Agencies are required, in formulating policies significantly or uniquely affecting Indian tribal governments, to be guided, to the extent permitted by law, by principles of respect for Indian tribal self-government and sovereignty, for tribal treaty and other rights, and for responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments. The EO requires Federal agencies to consult on a government-to-government basis with Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely

affect their communities (see 63 FR 27655, May 19, 1998). Additional information may be obtained from the FAA Federal Preservation Officer.

Executive Order 11593, Protection and Enhancement of the Cultural Environment (36 FR 8921, May 13, 1971; reprinted in 16 U.S.C. 470 note), and Order DOT 5650.1, Protection and Enhancement of the Cultural Environment, November 20, 1972, require that Federal plans and programs contribute to the preservation and enhancement of sites, structures, and objects of historic, architectural, or archaeological significance.

Permits/Certificates: Various statutes, such as the Antiquities Act of 1906 (section 3), NAGPRA (section 3(c)), and ARPA (section 4), require permits.

11.2 FAA Responsibilities

The State or Tribal Historic Preservation Officer (SHPO/THPO) and other appropriate sources, must be consulted for advice early in the environmental process. See 36 CFR part 800 which governs the section 106 consultation process under NHPA and encourages coordination between section 106 and other statutes and with environmental and planning reviews under State or local ordinances. (Undertakings that have the potential to affect historic properties under section 106 constitute an extraordinary circumstance requiring an EA even if the project normally qualifies as a categorical exclusion under NEPA. Findings of no historic properties present or affected or no historic properties adversely affected under NHPA section 106 support determinations of no use (either constructive or physical) under DOT section 4(f)). See also specific requirements in 36 CFR part 800 and ACHP guidance for public involvement during the consultation process.

The responsible FAA official determines whether the proposed action is an ''undertaking,'' as defined in 36 CFR 800.16(y) and whether it is a type of activity that has the potential to cause effects on historic properties. If the agency determines, and the SHPO/THPO concurs, that the action is not an undertaking or is an undertaking but does not have the potential to have an effect on historic properties, a historical or cultural resource survey is not necessary and the FAA may issue a determination that the action is not an undertaking or has no effect. If the action is an undertaking and may have an effect, then the first step is to identify the area of potential effect (APE) and the historical or cultural resources within it (see Secretary's Standards and Guidelines for Identification).

Determination of Area of Potential Effect (APE): It is the FAA's responsibility to determine the APE. This determination is made generally in consultation with the appropriate SHPO(s)/THPO(s). APE means the geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties are subsequently identified within the APE. The ACHP and the SHPO/THPO may provide technical advice.

Identification and Evaluation Process: The FAA or designee must survey the APE to identify properties potentially eligible or listed on the National Register of Historic Places. If any eligible or listed property is identified within the area of the proposed action's APE, the ACHP's regulations, Protection of Historic Properties (36 CFR part 800) will be consulted and followed. Additional information may be obtained from the FAA's Federal (Historic) Preservation Officer in the Office of Environment and Energy and through cultural resources surveys in the APE.

Traditional cultural places (TCPs) may be eligible for listing on the National Register of Historic Places and thus may become the subject of section 106 consultation following the procedures in 36 CFR part 800 and National Park Service Bulletin 38 on ''Identifying Traditional Cultural Places.'' The National Park Service Bulletin 38 identifies the National Register criteria for determining whether a place qualifies as a TCP under the National Historic Preservation Act. (Other NPS Bulletins are available to assist in identifying other types of historic properties. Many of these are on file with the FAA Federal Preservation Officer in the Office of Environment and Energy.) The FAA may obtain necessary information to apply the criteria by informally consulting. If informal consultation does not resolve issues relating to identification of properties as National Register eligible or the determination of effect, then the FAA must follow the procedures for identification and analysis outlined in the Secretary of the Interior's Standards and Guidelines.

If the site is a sacred site for a tribe, regardless of whether it is the subject of section 106 consultation or eligible for the National Register of Historic Places, the FAA must consult the tribe under the American Indian Religious Freedom Act of 1978, and the E.O. 13007, Indian Sacred Sites.

If human remains occur at the Federal or tribal lands site, NAGPRA applies. Various archeological statutes, including ARPA and State, local and Tribal laws and ordinances may also apply. Criminal laws and the need to preserve evidence may also be involved when human remains are found. If criminal activity such as looting or vandalism is suspected, and consistent with FAA security directives, contact the FAA Federal Historic Preservation Officer in the Office of Environment and Energy, SHPO, or THPO to initiate coordination with the designated counterpart Federal, State, or Tribal law enforcement officials who are specially trained to investigate in such circumstances.

If the SHPO/THPO concurs with the FAA's determination regarding eligibility of a resource for inclusion in the National Register, then the consultation moves to the next step. If the SHPO/THPO does not concur, the FAA must seek a determination of eligibility from the Keeper of the National Register (DOI). The Keeper of the National Register is responsible for issuing formal determination of National Register eligibility when FAA and the SHPO/THPO can't agree on a resource's eligibility for the National Register. (See also 36 CFR part 63.) Any person can request ACHP review of an agency's findings related to identification of historic properties; evaluation of historic significance; and finding that no historic properties are present. As a result of such a request, the ACHP may request the FAA to seek a formal determination from the Keeper. This is called a ''Determination of Eligibility'' (DOE).

If no properties have been identified within the APE (i.e., the area or areas in where the undertaking has the potential to alter the characteristics that qualify or may qualify a property for inclusion in the National Register of Historic Places), and no resources have been identified that are subject to ARPA, NAGPRA, American Indian Religious Freedom Act (AIRFA), Antiquites Act, section 303 of the amended Department of Transportation Act (known as Section 4(f)), the Archeological and Historic Preservation Act, E.O. 13007, Indian Sacred Sites, or other laws covering specific types of cultural resources, then no further analysis is needed.

Effects Finding: It is the FAA's responsibility to make a finding of ''no historic properties present or affected'' or ''no historic properties adversely affected'' after applying the criteria of effect to historic properties in the APE and considering the views of the consulting parties and the public.

To assess effects of the undertaking on identified historic properties located in

the area of potential effect, the FAA applies the Criteria of Effect listed in 36 CFR part 800 in consultation with the SHPO/THPO. If the criteria in 36 CFR part 800 indicate and the SHPO/THPO agrees that the action would not affect any listed or eligible property, then a finding of no historic properties present or affected shall be made available to the SHPO's/THPO's, the consulting parties and the public prior to approving the undertaking. If there are no objections within 30 days of receipt of the finding, then FAA has fulfilled its responsibility. The findings shall be included in the environmental document.

No agreement on findings of no effect or no adverse effect: If the SHPO(s)/THPO(s) disagree with the FAA's finding of no historic properties present or affected or no historic properties adversely affected (No Adverse Effect), then the process moves to the next stage in which an adverse effect is presumed and negotiations are begun to identify mitigation measures.

If the SHPO/THPO disagrees with the FAA's finding of no historic properties present or affected or no historic properties adversely affected (No Adverse Effect), then the dispute may be referred to the ACHP. Supporting documentation for a finding of No Adverse Effect together with the written views of the SHPO/THPO will be forwarded to the ACHP for review by the Executive Director. Under 36 CFR part 800, any person can request ACHP review of an agency finding of No Adverse Effect. If ACHP does not agree with a No Adverse Effect finding and the FAA does not accept ACHP recommended changes, an Adverse Effect finding occurs.

If an adverse effect on properties is indicated, a finding of Adverse Effect and the Memorandum of Agreement (MOA) will be included in the Categorical Exclusion, EA or EIS with supporting documentation. If the consulting parties agree on an alternative to avoid or satisfactorily mitigate adverse effects, FAA must send information specified in 36 CFR 800.11(e) to ACHP to alert the ACHP of the adverse effect and provide the ACHP an opportunity to participate in consultation. The FAA and SHPO/THPO will then prepare and execute an MOA specifying how the proposed action will proceed to avoid or mitigate the adverse effects. For more information concerning drafting MOA's, consult the ACHP's Preparing Agreement Documents (PAD). A finding of Adverse Effect triggers further consultation among Federal agency, SHPO/THPO, and other interested parties to consider means to avoid or minimize effects on historic properties. Mitigation can include data collection according to the Secretary's Guidelines prior to destruction or modification of the resource. The ACHP must be notified of the potential for adverse effect and may participate in consultation. The results of consultation concerning the action's adverse effects on an eligible or listed property are included in the MOA. If a finding of Adverse Effect cannot be avoided through mitigation or action modification, further consultation and analysis will be necessary.

Planning for Unanticipated Discovery: In projects especially involving excavation or ground-disturbing activities which may result in unanticipated discovery of potentially eligible historic or archeological resources, the FAA should develop a plan for addressing impacts on these properties and include this plan in the MOA, or the EA or EIS prepared for the action. The MOA may include provision for unanticipated discovery and include provisions to halt construction. When the FAA has developed such a plan and then discovers historic properties after completing section 106 requirements, the FAA follows the plan that was approved during the section 106 consultation and thereby meets its section 106 requirements regarding the newly discovered properties. The FAA should include a commitment in the EA/FONSI or EIS/ROD to halt construction in the immediate vicinity of the discovered properties and implement the plan if new or additional historic properties are discovered after work has begun on a project. If the FAA has not prepared a plan to address discovery of unanticipated historic properties, then the FAA must afford the SHPO/THPO, the ACHP, and interested parties an opportunity to comment on effects to these newly discovered properties in one of several ways. See 36 CFR part 800 for additional information.

Programmatic agreements: When an undertaking is going to be repeated many times, e.g., the decommissioning of a particular type of building, the FAA may negotiate a programmatic agreement (PA) with the ACHP. A PA may also be negotiated with the ACHP and the National Conference of State Historic Preservation Officers (NCSHPO) if the undertaking will be repeated in several different States (see 36 CFR part 800). The FAA may work through the National Association of Tribal Historic Preservation Officers (NATHPO) to facilitate coordination with tribes. A PA may also be negotiated with the ACHP and the NCSHPO and counterpart tribal organization, if an undertaking is complex, wide in scope, and the effects are not known precisely. Typically, the FAA must be able to describe the undertaking, including the timeframe and whether the undertaking will be staged. For example, as studies are completed, the APE and the types of expected effects as well as the potential for mitigation must be identified before the ACHP will agree to the PA. For more information see 36 CFR 800.13 and the ACHP's Preparing Agreement Documents.

The FAA may proceed without agreement on mitigation, i.e., without a MOA or PA, but first the FAA must seek ACHP comment. The ACHP can send the request back to the FAA with the comment that it is premature to request ACHP comments until the FAA can provide more documentation. If the FAA has made a good faith attempt to identify eligible properties, determine effects, and negotiate an agreement on mitigation but has determined that agreement is unlikely, the ACHP may convene a panel of ACHP members and hold public hearings before preparing its comments. Typically, the ACHP will ask the FAA to pay for the cost of the panel's travel and other expenses related to the hearings. ACHP comments are directed to the Administrator. The Administrator must then respond to the ACHP comments before proceeding. This responsibility cannot be delegated.

11.3 Significant Impact Thresholds

The section 106 consultation process includes consideration of feasible and prudent alternatives to avoid adverse effects on National Register listed or eligible properties; of mitigation measures; and of accepting adverse effects. The FAA has the final judgment on whether the appropriate action choice is an EIS or a FONSI. Advice from the ACHP and the SHPO/THPO may assist the FAA in making this judgment.

11.4 Analysis of Significant Impacts

If the consulting parties agree that the alternative would not avoid or mitigate the adverse impacts but that it is in the public interest to proceed with the proposed action, a MOA shall be executed. This MOA may specify recording, salvage, or other measures that shall be taken to minimize adverse impacts before the proposed action proceeds. It is likely that, in this circumstance, the impact on National Register or eligible properties will be considered significant and require the preparation of an EIS.

The FAA makes the final decision on whether to prepare an EIS. If the FAA is already preparing a draft EIS because of other significant impacts, this draft EIS should discuss impacts on historic resources and can be submitted as the preliminary case report, if appropriately identified as such and if the FAA so requests in the cover letter transmitting the draft EIS and requesting comments. Unless accompanied by such a request, circulation of the draft EIS does not constitute a request for ACHP comments pursuant to section 106 of NHPA and 36 CFR part 800.

The ACHP may be a cooperating agency when the preparation of an EIS is needed to address significant impacts on historic, archeological, and cultural resources. Information developed for and during the consultation process will be sufficient for purposes of EIS documentation. The final EIS shall include comments of the ACHP and a copy of any MOA. (If a MOA has been executed prior to circulation of a draft EIS, the MOA shall be included in the draft). Within 90 days after carrying out the terms of a MOA, the FAA is required to report to all signatories on the actions taken to comply with the MOA.

Section 12.—Light Emissions and Visual Impacts

Statute	Regulation	Oversight agency
See requirements below.		

12.1 Requirements

A description of potential impacts due to light emissions or visual impacts associated with a Federal action may be necessary. Consideration should be given to impacts on people and properties covered by section 303 (formerly, 4(f)) of the DOT Act.

Permits/Certificates: Not Applicable.

12.2 FAA Responsibilities

a. Light Emissions. The responsible FAA official considers the extent to which any lighting associated with an action will create an annoyance among people in the vicinity or interfere with their normal activities. Because of the relatively low levels of light intensity compared to background levels associated with most air navigation facilities (NAVAIDS) and other airport development actions, light emissions impacts are unlikely to have an adverse impact on human activity or the use or characteristics of the protected properties. Information will be included in the environmental document whenever the potential for annoyance exists, such as site location of lights or light systems, pertinent characteristics of the particular system and its use, and measures to lessen any annoyance, such as shielding or angular adjustments.

b. Visual Impacts. Visual, or aesthetic, impacts are inherently more difficult to define because of the subjectivity involved. Aesthetic impacts deal more broadly with the extent that the development contrasts with the existing environment and whether the community jurisdictional agency considers this contrast objectionable. Public involvement and consultation with appropriate Federal, State, local, and tribal agencies may help determine the extent of these impacts. The art and science of analyzing visual impacts is continuously improving and the responsible FAA official should consider, based on scoping or other public involvement, the degree to which available tools should be used to more objectively analyze subjective responses to proposed visual changes.

12.3 Analysis of Significant Impacts

When an action is determined to have significant light or visual-related impacts, use the following applicable instructions:

a. Light Emissions. The EIS description of potential annoyance from airport lighting and measures to minimize the effects should be documented in a similar fashion in an EIS to that in an EA. Further consideration may concentrate on previously unconsidered mitigation measures and alternatives. It is possible that the responsible FAA official will judge that a special lighting study is warranted.

b. Visual Impacts. The impact discussion will normally include appropriate presentation of the application of design, art, architecture and landscape architecture in mitigating adverse visual and other impacts and encouraging enhancement of the environment.

Section 13.—Natural Resources, Energy Supply, and Sustainable Design

Statute	Regulation	Oversight agency
See requirements below.		

13.1 Requirements

Executive Order 13123, Greening the Government Through Efficient Energy Management (64 FR 30851, June 8, 1999), encourages each Federal agency to expand the use of renewable energy within its facilities and in its activities. E.O. 13123 also requires each Federal agency to reduce petroleum use, total energy use and associated air emissions, and water consumption in its facilities.

It is also the policy of the FAA, consistent with NEPA and the CEQ regulations, to encourage the development of facilities that exemplify the highest standards of design including principles of sustainability. All elements of the transportation system should be designed with a view to their aesthetic impact, conservation of resources such as energy, pollution prevention, harmonization with the community environment, and sensitivity to the concerns of the traveling public. This is in keeping with section 102(2)(A) of NEPA, which requires all agencies to ‘‘* * * utilize a systematic interdisciplinary approach, which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking. * * *’’

Permits/Certificates: Not Applicable.

13.2 FAA Responsibilities

Principles of environmental design and sustainability, including pollution prevention, waste minimization, and resource conservation should be followed generally in project or program planning. For purposes of the EA or EIS, the proposed action will be examined to

identify any proposed major changes in stationary facilities or the movement of aircraft and ground vehicles that would have a measurable effect on local supplies of energy or natural resources. If there are major changes, power companies or other suppliers of energy will be contacted to determine if projected demands can be met by existing or planned source facilities. The use of natural resources other than for fuel need be examined only if the action involves a need for unusual materials or those in short supply. For example, if a large volume of water will be required, the availability of a supply of water from existing or planned water facilities or from surface or groundwater sources should be considered. Therefore, evaluation of significant energy, water, and other resource use for major construction actions is important.

For most actions, changes in energy demands or other natural resource consumption will not result in significant impacts. If an EA identifies problems such as demands exceeding supplies, additional analysis may be required in an EIS. Otherwise, it may be assumed that impacts are not significant.

13.3 Analysis of Significant Impacts

Analysis in an EIS includes detail needed to fully explain the degree of the problem and measures to be taken to minimize the impact. Measures such as more efficient airfield design, ground access improvements, or energy and resource efficient building design will be considered and described where applicable and incorporated in the action to the extent possible. The Department of Energy (DOE) may be a cooperating agency and be of assistance in determining additional specific analysis needed for energy use and in judging the seriousness of impacts.

Section 14.—Noise

Statute	Regulation	Oversight agency
49 U.S.C. 47501–47507 (Aviation Safety and Noise Abatement Act of 1979, as amended) 49 U.S.C. 40101 et seq., as amended by PL 103–305 (Aug. 23, 1994) (The Federal Aviation Act of 1958) The Control and Abatement of Aircraft Noise and Sonic Boom Act of 1968 49 U.S.C. 47101 et seq., as amended by PL 103–305 (Aug. 23, 1994) (The Airport and Airway Improvement Act)	14 CFR part 150 Noise Control and Compatibility Planning for Airports Advisory Circular, 150/5020 14 CFR part 161 Notice and Approval of Airport Noise and Access Restrictions	Federal Aviation Administration.
49 U.S.C. 2101 et seq. (Airport Noise and Capacity Act of 1990) 49 U.S.C. 44715 (The Noise Control Act of 1972)		Environmental Protection Agency.

14.1 Requirements

For aviation noise analysis, the FAA has determined that the cumulative noise energy exposure of individuals to noise resulting from the operation of an airport must be established in terms of yearly day/night average sound level (DNL). The FAA recognizes CNEL (community noise equivalent level) as an alternative metric for California. An initial noise analysis during the environmental assessment process should be accomplished to determine whether further, more detailed analysis is necessary.

The Interagency Memorandum of Agreement between the FAA and the Department of the Interior's National Park Service, Fish and Wildlife Service, and the Bureau of Land Management (January 1993) requires the FAA to coordinate efforts to minimize aviation impacts over lands controlled by these agencies within the Department of the Interior.

Permits/Certificates. Not applicable.

14.2 FAA Responsibilities

If significant noise impacts are expected, the FAA official must prepare a detailed noise analysis as part of an EIS in accordance with the following requirements. An EIS need not be prepared if the proposed action incorporates mitigation that reduces the noise impact below significant noise impact threshold levels.

All detailed noise analyses must be performed using the most current version of the FAA's Integrated Noise Model (INM) or Heliport Noise Model (HNM) to develop noise exposure contours at and around airports and heliports, respectively. Use of an equivalent methodology and computer model must receive prior written approval from the FAA's Office of Environment and Energy (AEE). Preceedence evaluation with FAA screening methodologies, e.g., Area Equivalent Method (AEM) and Air Traffic Noise Screening (ATNS), may be appropriate. Use of equivalent screening methodologies must receive prior written approval from AEE.

All computer model input data should be collected early in the environmental process and should reasonably reflect current and forecasted conditions relative to the proposed action and alternatives. Unless it can be justified, all noise analyses must be performed using the FAA's INM and/or HNM standard and default data. Modification to standard or default data requires written approval from AEE.

EA and EIS preparers will provide input documentation with one copy of the INM/HNM input files used in the noise analyses and the corresponding case echo reports to the FAA official on electronic media specified by that official. If equivalent methodologies or the use of non-standard or non-default data are approved, a description of the methodology or additional, non-standard, or non-default data must be submitted along with a copy of AEE's approval.

14.3 Significant Impact Thresholds

A significant noise impact would occur if analysis shows that the proposed project will cause noise sensitive areas to experience an increase in noise of DNL 1.5 dB or more at or above DNL 65 dB noise exposure. For example, an increase from 63.5 dB to 65 dB is considered a significant impact.

14.4 Analysis of Significant Impacts

For proposed actions which result in a general overall increase in daily aircraft operations or the use of larger/noisier aircraft, as long as there are no changes in ground tracks or flight

profiles, the initial analysis may be performed using the FAA's Area Equivalent Method (AEM) computer model. The time of day is also part of the equation used in the AEM method. If the AEM calculations indicate that the proposed action would result in less than a 17 percent (approximately a DNL 1 dB) increase in the DNL 65 dB contour area, it may be concluded that there would be no significant impact over noise sensitive areas and that no further noise analysis is required. If the AEM calculations indicate an increase of 17 percent or more, or if the proposed action is such that use of the AEM is not appropriate, then the proposed action must be analyzed using the INM or HNM to determine if significant noise impacts will result.

The determination of significance must be obtained through the use of INM or HNM noise contours and/or grid point analysis along with local land use information and general guidance contained in Appendix A of 14 CFR part 150. Special consideration may need to be given to whether Part 150 land use compatibility categories need adjustment when evaluating the noise impact on properties of unique significance such as national parks, national wildlife refuges, and Tribal sacred sites. Part 150 land use guidelines are not applicable to determining impacts on wildlife. In general, studies to date indicate that aircraft noise has a minimal impact on animals. When instances arise in which aircraft noise is a concern with respect to wildlife impacts, available studies dealing with specific species should be reviewed and used in the analysis.

In accordance with the 1992 FICON (Federal Interagency Committee on Noise) recommendations, examination of noise levels between DNL 65 and 60 dB should be done if determined to be appropriate after application of the FICON screening procedure (FICON p. 3–5). If screening shows that noise sensitive areas at or above DNL 65 dB will have an increase of DNL 1.5 dB or more, further analysis should be conducted to identify noise-sensitive areas between DNL 60–65 dB having an increase of DNL 3 dB or more due to the proposed action. The FAA then uses this information during its consideration of potential mitigation for those areas (FICON p. 3–7).

The INM or HNM will be used to produce the following information:

a. Noise exposure contours at the DNL 75 dB, DNL 70 dB, and DNL 65 dB levels. Additional contours are optional and considered on a case-by-case basis.

b. Analysis within the proposed alternative DNL 65 dB contour to identify noise sensitive areas where noise will increase by DNL 1.5 dB. Increases of 1.5 dB that introduce new noise sensitive areas to exposure levels of 65 dB or more are included in this analysis.

c. Analysis within the DNL 60–65 dB contours to identify noise sensitive areas where noise will increase by DNL 3 dB, only when DNL 1.5 dB increases are documented within the DNL 65 dB contour.

The noise analysis will be conducted to reflect current conditions and forecast conditions for all reasonable alternatives, including the preferred and no action alternatives. This analysis should include maps and other means to depict land uses within the noise impact area. The addition of flight tracks is helpful in illustrating where the aircraft normally fly. Illustrations shall be large enough and clear enough to be readily understood.

Noise monitoring data may be included in an EA or EIS at the discretion of the responsible FAA official. Noise monitoring is not required and should not be used to calibrate the noise model.

DNL contours and/or grid point analysis will be prepared for the following:

a. Current conditions; and

b. No Action conditions compared with the proposed action and reasonable alternatives. Comparisons should be done for appropriate timeframes. Timeframes usually selected are the year of anticipated project implementation and at least one year farther into the future by 5 to 10 years. Additional timeframes may be desirable for particular projects.

If the above comparisons show a DNL 1.5 dB or greater increase over a noise sensitive area within the DNL 65 dB contour, a level of significant noise impact has been reached.

The following information will be disclosed in the EIS for each modeling scenario that is analyzed:

a. The number of people living within each noise contour at or above DNL 65 dB, including the net increase or decrease in the number of people exposed to that level of noise. (Use of maps that depict locations within a community of noise sensitive areas is recommended.)

b. The location and number of noise sensitive uses (e.g., schools, churches, hospitals, parks, recreation areas) within the DNL 65 dB contour.

c. Mitigation measures in effect or proposed and their relationship to the proposal.

When a proposed FAA action would result in a significant noise increase and is highly controversial on this basis, the EIS should include information on the human response to noise that is appropriate for the proposal under analysis. Inclusion of data on background or ambient noise may be helpful.

14.5 Supplemental Noise Analysis

The Federal Interagency Committee on Noise (FICON) report, ''Federal Agency Review of Selected Airport Noise Analysis Issues,'' dated August 1992, concluded that the Day-Night Average Sound Level (DNL) is the recommended metric and should continue to be used as the primary metric for aircraft noise exposure. However, DNL analysis may optionally be supplemented on a case-by-case basis to characterize specific noise effects. Because of the diversity of situations, the variety of supplemental metrics available, and the limitations of individual supplemental metrics, the FICON report concluded that the use of supplemental metrics to analyze noise should remain at the discretion of individual agencies.

Supplemental noise analyses are most often used to describe aircraft noise impacts for specific noise-sensitive locations or situations and to assist in the public's understanding of the noise impact. Accordingly, the description should be tailored to enhance understanding of the pertinent facts surrounding the changes. The FAA's selection of supplemental analyses will depend upon the circumstances of each particular case. In some cases, this may be accomplished with a more complete narrative description of the noise events contributing to the DNL contours with additional tables, charts, maps, or metrics. In other cases, supplemental analyses may include the use of metrics other than DNL. Use of supplemental metrics selected should fit the circumstances. There is no single supplemental methodology that is preferable for all situations and these metrics often do not reflect the magnitude, duration, or frequency of the noise events under study.

Supplemental analyses may be accomplished using the various capabilities of INM for specific grid point analysis. Noise analyses can be used in combination with geographic information system (GIS) design programs such as AutoCAD and the U.S. Census TIGER databases to determine various population impacts within specified areas.

The following metrics have been used in developing supplemental noise analyses for a variety of reasons such as sleep disturbance, speech interference,

soundproofing, and analysis for special areas such as national parks:

a. SEL (sound exposure level)—A single event metric that takes into account both the noise level and duration of the event and referenced to a standard duration of one second.

b. L_{max} (maximum sound level)—A single event metric that is the highest A-weighted sound level measured during an event.

c. L_{eq} (equivalent sound level)—A cumulative level of a steady tone that provides an equivalent amount of sound energy for any specific period.

d. TA (time above)—A single event metric that gives the duration, in minutes, for which aircraft-related noise exceeded a specified A-weighted sound level during a given period.

e. SPL (sound pressure level)—One-third octave band sound pressure levels that form the starting point for all other noise metrics. SPL provides a detailed description of the frequency components of a single complex sound and are used in assessing the effectiveness of soundproofing.

The type and nature of community activity potentially impacted should be considered. The FICON report identified sleep disturbance and speech interference as two areas where it is appropriate to consider supplemental metrics. In the case of sleep disturbance, the report referred the reader to a dose-response relationship developed by the US Air Force Armstrong Laboratories. This relationship relates SEL to a percent-awakened number. No provision is made for combining the effects of multiple events. To examine speech interference, FICON recommends using a cumulative A-weighted metric that is limited to the affected time period hours or a Time-above analysis. Additionally, FICON provides a table that relates DNL to speech interference. The guidelines for both sleep interference and communication interference relate the degree of interference to *single event indoor noise levels*. For modeling purposes, FICON cites 15–25 dB reductions between indoor and outdoor levels. Single events above 85 dB can be assumed to have some effect on communication in a classroom.

14.6 Projects Not Requiring a Noise Analysis

a. No noise analysis is needed for proposals involving Design Group I and II airplanes on utility or transport type airports whose forecast operations in the period covered by the EA do not exceed 90,000 annual propeller operations (247 average daily operations) or 700 jet operations (2 average daily operations). These numbers of general aviation (GA) propeller and jet operations result in DNL 60 dB contours of less than 1.1 square miles that extend no more than 12,500 feet from start of takeoff roll. The DNL 65 dB contour areas would be 0.5 (one-half) square mile or less and extend no more than 10,000 feet from start of takeoff roll. Note that the Cessna Citation 500 and any other jet aircraft producing levels less than the propeller aircraft under study may be counted as propeller aircraft rather than jet aircraft.

b. No noise analysis is needed for proposals involving existing heliports or airports whose forecast helicopter operations in the period covered by the EA do not exceed 10 annual daily average operations with hover times not exceeding 2 minutes. These numbers of helicopter operations result in DNL 60 dB contours of less than 0.10 (one-tenth) square mile that extend no more than 1,000 feet from the pad. Note that this rule applies to the Sikorsky S–70 with a maximum gross takeoff weight of 20,224 pounds and any other helicopter weighing less or producing equal or less levels.

14.7 Part 150 Noise Proposals

If the proposal requiring an EA or EIS is the result of a recommended noise mitigation measure included in an FAA-approved 14 CFR part 150 noise compatibility program, the noise analysis developed in the program will normally be incorporated in the EA or EIS. The FAA responsible official must determine whether this is sufficient for EA or EIS noise analysis purposes.

14.8 Facilities (Non-aircraft) and Equipment

The provisions of the Noise Control Act of 1972 (NCA) (P.L. 92–574), as amended, apply. FAA may use State and local standards as a guide for particular activities if these standards are at least as stringent as Federal standards. The NCA provisions apply to all land uses. FAA should give special attention to noise sensitive sites in developing mitigation (e.g., scheduling machinery operations near hospitals).

14.9 Flight Standards

Flight Standards actions that are subject to environmental procedures and assessments include the issuance of an air carrier operating certificate, an operating certificate, the approval of operations specifications or amendments thereto that may significantly change the character of the operational environment of an airport. The person responsible for issuing the certificate or approving the operations specifications is also responsible for assuring the assessment is prepared. Thorough coordination among Flight Standards District Office personnel, the Regional Flight Standards Division and the Regional Noise Abatement Officer is essential. Coordination among regions is expected if action cross regional boundaries.

In preparing a noise analysis for an assessment, the Flight Standards District Office personnel normally will collect information from the operator that includes airports, types of aircraft and engines, number of scheduled operations per day, and the number of day/night operations. The information should also include the operator's long range plans and operation assumptions that are sufficiently conservative to encompass reasonably foreseeable changes in operations.

If the carrier declines to furnish the information, or if the furnished information on operations at the airport does not address night operations, or if the information otherwise patently understates the potential operations (when compared with carrier's operations at other airports or with other carrier's operations at that airport), the responsible Federal official will develop an operational assumption which includes night operations and which is otherwise consistent with the typical operations of similar carriers at similar airports. This operational assumption will be used in the environmental assessment after coordination with the affected air carrier. If the air carrier objects to the use of this operational assumption in the assessment, the carrier may specify that a lesser level of operations be used in the assessment, provided that the carrier agrees that this lesser level will serve as a limit on the operations specifications. If the carrier refuses such a limitation, the FAA will include all reasonably foreseeable operations in the assessment. In this situation the assessment shall state the operational assumption was developed solely for the purpose of environmental analyses and that it is not to be viewed as a service commitment by the carrier.

If an EIS is required, the affected operator should be advised as soon as possible and should be requested for any additional required information. District Office personnel will coordinate, as necessary, any activity with the operator. The certificate will not be issued or the operations specifications approved until all issues and questions associated with the EIS are fully resolved and the Regional Director has concurred with the issuance or approval.

Section 15.—Secondary (Induced) Impacts

Statute	Regulation	Oversight agency
See requirements below.		

Major development proposals often involve the potential for induced or secondary impacts on surrounding communities. When such potential exists, the EA shall describe in general terms such factors. Examples include: shifts in patterns of population movement and growth; public service demands; and changes in business and economic activity to the extent influenced by the airport development. Induced impacts will normally not be significant except where there are also significant impacts in other categories, especially noise, land use, or direct social impacts. In such circumstances, an EIS may be needed.

Section 16.—Socioeconomic Impacts, Environmental Justice, and Children's Environmental Health and Safety Risks

Statute	Regulation	Oversight Agency
Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601] [PL 91–528 amended by the Surface Transportation and Uniform Relocation Act Amendments of 1987, PL 100–117] Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994)	FAA Advisory Circular 150/5100–17 49 CFR part 24 FAA Order 5100.37A, Land Acquisition and Relocation Assistance for Airport Projects	Federation Aviation Administration.
	Order DOT 5610.2, April 15, 1997 CEQ Environmental Justice: Guidance Under the National Environmental Policy Act, December 10, 1997	Department of Transportation. Council on Environmental Quality. Environmental Protection Agency.

16.1 Requirements

If acquisition of real property or displacement of persons is involved, 49 CFR part 24 implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended must be met. Otherwise, the FAA, to the fullest extent possible, observes all local and State laws, regulations, and ordinances concerning zoning, transportation, economic development, housing, etc. when planning, assessing, or implementing the proposed action. (This requirement does not cover local zoning laws, setback ordinances, and building codes because the Federal government is exempt from them.)

Additional requirements and responsibilities are established by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and the accompanying Presidential Memorandum, Order DOT 5610.2, Environmental Justice, and Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks in accordance with 40 CFR 1508.27. These may apply to other impact categories, such as noise, air quality, water, hazardous materials, and cultural resources. During the initial review described in paragraph 201 of this order, the responsible FAA official should consider demographic information for the purposes of anticipating potential public concerns, such as environmental justice and children's environmental health risks.

Executive Order 12898 and the accompanying Presidential Memorandum, and Order DOT 5610.2 require FAA to provide for meaningful public involvement by minority and low-income populations and analysis, including demographic analysis, that identifies and addresses potential impacts on these populations that may be disproportionately high and adverse. Included in this process is the disclosure of the effects on subsistence patterns of consumption of fish, vegetation, or wildlife, and to ensure effective public participation and access to this information. The Presidential Memorandum that accompanied E.O. 12898 and the CEQ and EPA Guidance encourage the consideration of environmental justice impacts in EAs, especially to determine whether a disproportionately high and adverse impact may occur.

Executive Order 13045 requires FAA to ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks and safety risks. The E.O. established a coordinating mechanism overseen by EPA to develop a coordinating mechanism until such time as [NEPA] guidance is available. FAA will rely on currently available information consistent with 40 CFR 1502.22 concerning incomplete and unavailable information and 1502.24 concerning methodology and scientific accuracy.

The responsible FAA official should consult the provisions in Executive Order 13084, ''Consultation and Coordination with Indian Tribal Governments'' (63 FR 27655, May 19, 1998), and the Presidential Memorandum of April 29, 1994, Government-to-government Relations with Native American Tribal Governments. Agencies are required, in formulating policies significantly or uniquely affecting Indian tribal governments, to be guided, to the extent permitted by law, by principles of respect for Indian tribal self-government and sovereignty, for tribal treaty and other rights, and for responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments. The EO requires Federal agencies to consult on a government-to-government basis with Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely

affect their communities (see 63 FR 27655, May 19, 1998).

The FAA follows ANSI/IEEE (American National Standards Institute/ Institute of Electrical and Electronic Engineers) guidelines for evaluating impacts of electromagnetic fields associated with communication, navigation, and surveillance facilities in accordance with 40 CFR 1508.27(b)(2). For additional information, the responsible FAA official should refer to Chapter 14, Radiation Safety Program, of FAA Order 3900.19B, FAA Occupational Safety and Health Program (April 29, 1999).

Permits/Certificates: Not Applicable.

16.2 FAA Responsibilities

The responsible FAA official consults with local transportation, housing, and economic development, relocation and social agency officials, and community groups regarding the social impacts of the proposed action. The principal social impacts to be considered are those associated with relocation or other community disruption, transportation, planned development, and employment. The environmental document provides estimates of the numbers and characteristics of individuals and families to be displaced, the impact on the neighborhood and housing to which relocation is likely to take place, and an indication of the ability of that neighborhood to provide adequate relocation housing for the families to be displaced. The environmental document includes a description of special relocation advisory services to be provided, if any, for the elderly, handicapped, or illiterate regarding interpretation of benefits or other assistance available.

The Presidential Memorandum that accompanied E.O. 12898 encourages the consideration of environmental justice impacts in EAs, especially to determine whether a disproportionately high and adverse impact may occur. Although such an analysis is not required in an environmental assessment, it may be helpful in determining whether there is a potentially significant impact. To implement Executive Order 12898, the accompanying Presidential Memorandum, and Order DOT 5610.2, where there is a potentially significant impact as part of its EIS process, FAA must provide for meaningful public involvement by minority and low-income populations and for analysis, including appropriate demographic analysis of the potential effects, to identify and address potential impacts on these populations that may be disproportionately high and adverse, and then disclose this information to potentially affected populations for proposed actions that are likely to have a substantial effect and for CERCLA sites. The responsible FAA official should follow the procedures outlined in appendix 10 for analyzing the potential impacts, offsetting benefits, potential alternatives, and substantial need. Additional guidance may be obtained from CEQ Environmental Justice: ''Guidance Under the National Environmental Policy Act.''

FAA must identify and assess potential environmental health risks to children, which are defined to mean risks to health that are attributable to products or substances that the child is likely to come in contact with or ingest, such as air, food, water, soil, and products. In addition, an analysis of the environmental health effects of a planned regulation and an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency are required when the proposed action is a substantive regulatory action, that is, a rulemaking that may be economically significant under Executive Order 12866, Regulatory Planning and Review, or concern an environmental health risk that an agency has reason to believe may disproportionately affect children.

16.3 Significant Impact Thresholds

Factors to be considered in determining impact in this category include, but are not limited to, the following:

a. Extensive relocation of residents is required, but sufficient replacement housing is unavailable.

b. Extensive relocation of community businesses, and that relocation would create severe economic hardship for the affected communities.

c. Disruptions of local traffic patterns that substantially reduce the levels of service of the roads serving the airport and its surrounding communities.

d. A substantial loss in community tax base.

16.4 Analysis of Significant Impacts

This category is triggered when the potential for significant impact exists, because of extensive relocation impacts, fragmentation of neighborhoods and communities, adverse and disproportionately high impact on minority or low income communities, or other community disruption, is identified. In these cases, additional analysis is needed to describe the degree of impact and to identify mitigation or alternative that could minimize such adverse effects. Such actions do not necessarily trigger preparation of an EIS (e.g., the impacts of a rulemaking that only affects children's safety risks (such as child safety seat rules) and does not raise environmental health risk issues could be addressed in the regulatory evaluation rather than in an EA or EIS).

If an insufficient supply of general available relocation housing is indicated, a thorough analysis of efforts made to remedy the problem will be reflected in the EIS including, if necessary, provision for housing of last resort as authorized by section 206(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act. If business relocation would cause appreciable economic hardship on the community, if significant changes in employment would result directly from the action, or if community disruption is considered substantial, the EIS will include a detailed explanation of the effects and the reasons why significant impacts cannot be avoided.

When the EA indicates substantial induced or secondary effects directly attributable to the proposal, a detailed analysis of such effects will be included in the EIS. As pertinent and to the extent known or reasonably foreseeable, such factors as effects on regional growth and development patterns, and spin-off jobs created will be described.

Section 17.—Water Quality

Statute	Regulation	Oversight agency
Federal Water Pollution Control Act, as amended, known as the Clean Water Act [33 U.S.C. 1251–1387] [PL 92–500, as amended by the Clean Water Floodplains and Floodways Act of 1977, 33 U.S.C. 1252, PL 95–217, and PL 100–4]; as amended by the Oil Pollution Act of 1990 (section 311 of the Clean Water Act) Safe Drinking Water Act, as amended (SDWA, also known as the Public Health Service Act) [42 U.S.C. 300f to 300j–26] [PL 104–182] Fish and Wildlife Coordination Act of 1980 [16 U.S.C. 661–666c] [PL 85–624] 49 USC 47106(c)(1)(B) (former Airport and Airways Improvement Act of 1982, section 509(7)(A))	40 CFR parts 110–112, 116, 117, 122, 129, 136, and 403	Environmental Protection Agency. State and Tribal Water Quality Agencies.

17.1 Requirements

The Federal Water Pollution Control Act, as amended (commonly referred to as the Clean Water Act), provides the authority to establish water quality standards, control discharges, develop waste treatment management plans and practices, prevent or minimize the loss of wetlands, location with regard to an aquifer or sensitive ecological area such as a wetlands area, and regulate other issues concerning water quality.

If the proposed Federal action would impound, divert, drain, control, or otherwise modify the waters of any stream or other body of water, the Fish and Wildlife Coordination Act applies, unless the project is for the impoundment of water covering an area of less than ten acres. The Fish and Wildlife Coordination Act requires the responsible FAA official to consult with the Fish and Wildlife Service (FWS) and the applicable State agency to identify means to prevent loss or damage to wildlife resources resulting from the proposal.

If there is the potential for contamination of an aquifer designated by the Environmental Protection Agency (EPA) as a sole or principal drinking water resource for the area, the responsible FAA official needs to consult with the EPA regional office as required by section 1424(e) of the Safe Drinking Water Act, as amended.

Permits/Certificates: a. To comply with 49 USC 47106(c)(1)(b), formerly section 509(b)(7)(A) of the 1982 Airport Improvement Act, an airport sponsor proposing construction of a new airport, a new runway, or a major runway extension must obtain a water quality certificate from the State in which such airport projects would be located. The FAA can not approve these projects, unless the sponsor has obtained that certificate. Environmental documents prepared for these projects must contain evidence from the governor or the agency responsible for protecting water quality that the project would be located, designed, constructed, and operated in compliance with applicable water quality standards.

Also, regardless of the type of airport project proposed, project proponents applying for a NPDES permit or a section 404 permit must obtain a water quality certificate (WQC) to comply with section 401 of the Clean Water Act. Section 401 requires issuance of a WQC as part of the permit issuance process.

b. A National Pollutant Discharge Elimination System (NPDES) permit under section 402 of the Clean Water Act is required for point-source discharges into navigable waters. A section 404 permit is required to place dredged or fill material in navigable waters including jurisdictional wetlands (see 33 CFR 330.4 for information on water quality certificates requirements for Nationwide permits). A section 10 permit under the Rivers and Harbors Act of 1899 is required for obstruction or alteration of navigable waters.

c. Other State and local permits pertaining to water quality also may be required.

17.2 FAA Responsibilities

The EA includes sufficient description of a proposed action's design, mitigation measures, including best management practices developed for non-point sources under section 319 of the CWA, and construction controls to demonstrate that State or Tribal water quality standards and any Federal, Tribal, State, and local permit requirements will be met. Consultation with the Federal, Tribal, State, or local officials will be undertaken if there is the potential for contamination of an aquifer designated by the EPA as a sole or principal drinking water resource for the area pursuant to section 1424(e) of the Safe Drinking Water Act, as amended. Consultation with appropriate officials is necessary to determine which permits apply. The EA reflects the results of consultation with regulating and permitting agencies and with agencies that must review permit applications, such as the FWS, the Army Corps of Engineers, and Tribal, State and local officials, which may have specific concerns. Such consultation should be started at an early stage of the EA. The responsible FAA Official must ensure that the applicable water quality certificate is issued before FAA approves the proposed action. For projects involving a new airport, a new runway, or a major runway extension, the responsible FAA Official must ensure the environmental document contains the reasonable assurance letter mentioned in paragraph 7.1 of this section.

17.3 Significant Impact Thresholds

Water quality regulations and issuance of permits will normally identify any deficiencies in the proposal with regard to water quality or any additional information necessary to make judgments on the significance of impacts. If the EA and early consultation show that there is a potential for exceeding water quality standards, identify water quality problems that cannot be avoided or satisfactorily mitigated, or indicate difficulties in obtaining required permits, an EIS may be required.

17.4 Analysis of Significant Impacts

When the thresholds indicate that the potential exists for significant water quality impacts, additional analysis in consultation with State or Federal agencies responsible for protecting water quality will be necessary. These agencies may require specific information or studies.

In the MOA between the DOT and the Department of the Army on section 404 Permit Processing, there is a provision for elevating permit applications with the Department of the Army. When an Army District Engineer proposes to deny permit or condition one that would cause substantial, unacceptable conditions to the DOT agency, the responsible FAA official shall advise the appropriate FAA program office in Washington, D.C. That office will provide whatever follow-up action may be necessary at the Washington, D.C., level to resolve the differences.

Section 18.—Wetlands

Statute	Regulation	Oversight agency
Clean Water Act, section 404 [33 U.S.C. 1344] [PL 92–500, as amended by PL 95–217 and PL 100–4] Rivers and Harbors Act of 1899, section 10 Executive Order 11990, Protection of Wetlands (May 24, 1977) (42 FR 26961)	33 CFR parts 320–330 Order DOT 5660.1A, Preservation of the Nation's Wetlands	Army Corps of Engineers. Coast Guard. Environmental Protection Agency.

18.1 Requirements

Executive Order (E.O.) 11990, Order DOT 5660.1A, the Rivers and Harbors Act of 1899, and the Clean Water Act address activities in wetlands. E.O. 11990 requires Federal agencies to ensure their actions minimize the destruction, loss, or degradation of wetlands. It also assure the protection, preservation, and enhancement of the Nation's wetlands to the fullest extent practicable during the planning, construction, funding, and operation of transportation facilities and projects (7 CFR part 650.26, August 6, 1982). Order DOT 5660.1A sets forth DOT policy that transportation facilities should be planned, constructed, and operated to assure protection and enhancement of wetlands.

Typically, the FAA or an airport sponsor applies for a section 404 permit for projects requiring dredge or fill activities in jurisdictional waters after the NEPA document has been approved. There are benefits, however, to developing the permit application earlier in the process. Time savings and reduced controversy may outweigh the extra effort required to address section 404 considerations as an integral part of the NEPA process. When the two processes are integrated effectively, the Corps' approval of the permit can be concurrent with or closely follow FAA's approval. The Army Corps of Engineers may adopt the FAA's final NEPA document when making a 404 permit decision, thereby avoiding the need to prepare additional NEPA documents. For further information see 33 CFR part 320, *General Regulatory Policies* (COE), 33 CFR part 325, Appendix B, NEPA Implementation Procedures for the Regulatory Program, chapter 11 of the Federal Highway Administration guidance cites 40 CFR 80 and 230, Regulatory Program: Applicant Information, pamphlet EP 1145–2–1, May 1985, U.S. Army Corps of Engineers; 40 CFR 1500.2, and E.O. 12291.

On December 13, 1996, the Army Corps of Engineers published a final rule reissuing and substantially revising, the nationwide permit program (NWP) under the Clean Water Act.

The FAA promotes wetland banking as a mitigation tool for aviation-related projects that must occur in wetlands due to aeronautical requirements (e.g., unavoidable construction of a runway in a wetland due to prevailing wind). The FAA has developed a policy supporting the use of a wetland banking mitigation strategy (internal Letter of Agreement, dated July 1996). Wetland mitigation banking provides a way to mitigate wetland impacts *before* those impacts occur. Purchasing credits from a bank does not give the purchaser title to wetlands tracts that comprise a bank, however, it does fulfill the requirements of law and is cost effective. Rather, the purchase is simply a payment to the wetland banker for wetland mitigation services that the bank provides. The purchase of credits from an approved bank signifies that the section 404 permittee has satisfied its permit-required mitigation obligations. Copies of this policy are available from FAA's Office of Airport Planning and Programming, Community and Environmental Needs Division, APP–600, or the Office of Environment and Energy, Environment, Energy, and Employee Safety Division, AEE–200, 800 Independence Ave., S.W., Washington, D.C. 20591.

Permits/Certificates: a. A section 404 permit is required to place dredged or fill material in navigable waters, including wetlands, and a section 10 permit under the Rivers and Harbors Act of 1899 is required for obstruction or alteration of navigable waters. If a section 404 permit and a section 10 permit are required, then the section 10 permitting process is typically combined with the section 404 permitting process of the Corps of Engineers. However, if only a section 10 permit is needed, then the FAA should follow the Coast Guard's section 10 procedures.

b. Other State and local permits pertaining to wetlands may also be required.

18.2 FAA Responsibilities

Early review of proposed actions will be conducted with agencies with special interest in wetlands. Such agencies include State and local natural resource and wildlife agencies, the FWS, the NMFS, the Coast Guard, the Corps of Engineers, and EPA. This review may be combined as much as possible with the State and local officials. Specific consultation is required under the Fish and Wildlife Coordination Act with the FWS and the State agency having administration over the wildlife resources.

If the action requires an EA, but it would not affect wetlands, the EA should contain a statement to that effect. In that case, no wetland impact analysis is needed.

If there is uncertainty about whether an area is a wetland, the local district office of the Army Corps of Engineers or a certified wetland delineation specialist must be contacted for a delineation determination (or the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service

(NRCS), formerly the Soil Conservation Service (SCS) to delineate wetlands on agricultural lands). The EA includes information on the location, types, and extent of wetland areas that might be affected by the proposed action. This information can be obtained from the FWS or State or local natural resource agencies.

If the action would affect wetlands and there is a practicable alternative that avoids the wetland, this alternative becomes the environmentally preferred alternative. The EA should state that the original project would have affected wetlands, but selection of the practicable alternative enabled the project proponent to avoid the wetlands.

If the action would affect wetlands and there is no practicable alternative, all practical means should be employed to minimize the wetland impacts due to runoff, construction, sedimentation, land use, or other reason. The EA or EIS must contain a description of proposed mitigations, with the understanding that a detailed mitigation plan must be developed to the satisfaction of the 404 permitting agency and those agencies having an interest in the affected wetland.

Impacts of wetlands can be assessed by using the function and values of the wetlands area as a basis to determine significance. If wetlands functions are large in number and the value of these functions is high, it would be appropriate to conduct further study as part of an EIS. For example, the action would substantially alter the hydrology, vegetation, or soils needed to sustain the functions and values of the affected wetlands or the wetlands it supports. Conversely, if wetlands functions are few in number and the value of these functions is low, an EA concluding in a FONSI would be appropriate. For example, the action would not cause substantial increases in sedimentation or siltation in wetlands or waters connected to the affected wetland.

18.3 Significant Impact Thresholds

A significant impact would occur when the proposed action causes *any* of the following:

a. The action would adversely affect the function of a wetland to protect the quality or quantity of municipal water supplies, including sole source, potable water aquifers.

b. The action would substantially alter the hydrology needed to sustain the functions and values of the affected wetlands.

c. The action would substantially reduce the affected wetland's ability to retain flood waters or storm-associated runoff, thereby threatening public health, safety or welfare (this includes cultural, recreational, and scientific resources important to the public, or property).

d. The action would adversely affect the maintenance of natural systems that support wildlife and fish habitat or economically-important timber, food, or fiber resources in the affected or surrounding wetlands.

e. The action would promote development of secondary activities or services that would affect the resources mentioned in items (1) through (4) in this section.

f. The action would be inconsistent with applicable State wetland strategies.

18.4 Analysis of Significant Impacts

An agency having expertise in wetland impacts or resources may indicate that the action has potential significant wetland impacts. The responsible FAA official shall consult with that agency and, as necessary, the FWS, the Corps of Engineers, EPA, or NRCS (if wetlands are on agricultural lands), and State and local natural resource or wildlife agencies to make a determination on severity of wetland impacts. If the action is on tribal lands, then the responsible FAA official must consult with tribal natural resource and wildlife representatives. Any of these agencies may become a cooperating agency due to their expertise or jurisdiction. Permitting agencies may also become cooperating agencies. To the extent practical, the responsible FAA official will ensure that the environmental document meets the needs of the consulted agencies as well as those of the FAA. Scoping is encouraged to meet the needs of the permitting and cooperating agencies. Detailed analysis should include the following, as applicable:

a. Considerations specified in E.O. 11990, Protection of Wetlands.

b. An opinion should be issued, based on the above considerations, on the action's overall effect on the survival and quality of the wetlands.

c. Aeronautical safety, transportation objectives, economics, and other factors bearing on the problem.

d. Further consideration of the practicability of any alternatives.

e. Inclusion of all practicable measures to minimize harm.

f. Pursuant to the Fish and Wildlife Coordination Act, the FAA applies the instructions contained above.

For any action which entails new construction located in wetlands, a specific finding should be made including: (1) there is no practicable alternative to construction in the wetland, and that (2) all practicable measures to minimize harm have been included. The proposed finding should be included in the final EIS or FONSI.

When Federally-owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way or disposal to non-Federal public or private parties, the FAA shall (a) reference in the conveyance those uses that are restricted under identified Federal, State or local wetlands regulations; and (b) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor, except where prohibited by law; or (c) withhold such properties from disposal.

Section 19.—Wild and Scenic Rivers

Statute	Regulation	Oversight agency
Wild and Scenic Rivers Act of 1968 [16 U.S.C. 1271–1287] [PL 90–542 as amended by PL 96–487]	36 CFR part 297, subpart A (USDA Forest Service) [DOI NPS, BLM, and FWS regulations to be inserted] Department of the Interior and Department of Agriculture, Wild and Scenic River Guidelines for Eligibility, Classification and Management of River Areas (47 FR 39454, September 7, 1982)	Department of the Interior, National Park Service, Fish and Wildlife Service, and Bureau of Land Management. Department of Agriculture, Forest Service. Council on Environmental Quality.

Statute	Regulation	Oversight Agency
	CEQ Memorandum on Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory, August 11, 1980 (45 FR 59190, September 8, 1980) CEQ Memorandum on Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory, August, 11, 1980 (45 FR 59191, September 8, 1980)	

19.1 Requirements

The Wild and Scenic Rivers Act, as amended, describes those river segments designated or eligible to be included in the Wild and Scenic Rivers System. Under section 5(d)(1), the Department of the Interior (DOI) National Park Service (NPS) River and Trail Conservation Assistance Program (RTCA) within NPS's National Center for Recreation and Conservation (NCRC) maintains a Nationwide Rivers Inventory (NRI) of river segments that appear to qualify for inclusion in the National Wild and Scenic River System but which have not been designated as a Wild and Scenic River or studied under a Congressional authorized study. Some section 5(d) rivers (i.e., those eligible for designation as Wild and Scenic Rivers) may not be included in the NRI maintained by the NPS.

The President's 1979 Environmental Message Directive on Wild and Scenic Rivers (August 2, 1979) directs Federal agencies to avoid or mitigate adverse effects on rivers identified in the Nationwide Rivers Inventory as having potential for designation under the Wild and Scenic Rivers Act. The August 11, 1980 CEQ Memorandum on Procedures for Interagency Consultation requires Federal agencies to consult with the NPS when proposals may affect a river segment included in the Nationwide Rivers Inventory. The Nationwide Rivers Inventory is included on the Rivers and Trails Conservation Assistance Program's webpage at www.ncrc.nps.gov/rtca/nri. For those rivers or river segments which are not study rivers or designated rivers, and are not included in the NRI, the responsible FAA official should contact the Federal agencies and State or States having jurisdiction over the river to determine what the status of the river or river segment is.

Under section 7, the responsible FAA official must obtain a section 7 determination from the Federal agencies that administer designated or study rivers. The Federal agencies include the USDA Forest Service (USFS), DOI Bureau of Land Management (BLM), DOI NPS, and DOI Fish and Wildlife Service (FWS). States also administer Wild and Scenic Rivers or segments of such rivers and should also be consulted. Note that for study rivers, Congress will, in the act authorizing the study, have designated a specific agency as the lead and the responsible FAA official should initiate consultation with that agency. Designated Wild and Scenic Rivers and study rivers are listed in the NPS's Wild and Scenic Rivers Program website at www.nps.gov/rivers along the specific Federal and State agencies that have jurisdiction over each.

Section 12 of the Act requires a Federal agency with jurisdiction over any lands which include, border upon, or are adjacent to any river included, or under study for inclusion in the Wild and Scenic Rivers System to take action necessary to protect such river in accordance with the purposes of the Act. In addition, Federal agencies are required to cooperate with the Secretary of the Interior and appropriate State agencies for the purpose of eliminating or minimizing pollution in protected Inventory rivers. All agencies shall, as part of their normal environmental review processes, consult with the DOI (National Park Service (NPS)) and other Federal and State agencies having jurisdiction prior to taking any actions which could effectively foreclose or downgrade wild, scenic, or recreational river status of rivers in the Wild and Scenic Rivers System, study rivers, river segments in the Nationwide Rivers Inventory, or rivers or river segments otherwise eligible under section 5(d) for inclusion in the Wild and Scenic Rivers System but not on the NRI or under study.

Permits/Certificates: Not Applicable.

19.2 FAA Responsibilities

As soon as it appears that the proposed action could affect: (1) a Wild and Scenic River, (2) a river or river segment under study for inclusion in the Wild and Scenic River System, (3) a Nationwide Rivers Inventory river segment, or (4) an otherwise eligible river, the responsible FAA official should identify the Federal agency having jurisdiction over the river if on Federal land or the State and contact them for verification of the status of the river or river segment and jurisdiction for further consultation. If the NPS or other Federal and State agency having jurisdiction indicates that the proposed action could affect a Wild and Scenic River, a study river, a river segment in the Nationwide Rivers Inventory , or an otherwise eligible river or river segment, the responsible FAA official should consult with the appropriate agency for guidance as to avoiding or minimizing impacts.

For designated Wild and Scenic Rivers, rivers on the NRI, and otherwise eligible rivers, the responsible FAA official must consult with the specific Federal agency having jurisdiction over Wild and Scenic Rivers (e.g., the state district office of the BLM and the regional offices of the USFS, NPS, and FWS).

For study rivers, the responsible FAA official should initiate consultation with the agency designated by Congress as the lead for the study.

For rivers on the NRI, see the CEQ Memorandum on Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory and the CEQ Memorandum on Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory. If no river in the NRI is adversely affected or the impact is not considered severe enough to preclude inclusion of the affected river segment in the Wild and Scenic River System or downgrade its classification (e.g., from wild to recreational), no further analysis is necessary. Consultation with NPS will determine whether or not the impact on any NRI river is significant.

For rivers or river segments that are eligible under section 5(d) but not on the NRI, the responsible FAA official should consult with the agency or agencies having jurisdiction over the river or river segment.

19.3 Significant Impact Threshold

(No specific thresholds have been developed.)

19.4 Analysis of Significant Impacts

Under the CEQ Memorandum on Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory, when consultation with DOI leads to a determination that the effects on a NRI river segment are significant, or would preclude inclusion in the Wild and Scenic River System or downgrade its classification, the FAA should invite the NPS and any affected land management agencies to be cooperating agencies. If the NPS does not respond to such request for assistance within 30 days, then the FAA may proceed as otherwise planned, taking care to avoid or minimize adverse effects on the National Inventory river. For projects requiring EISs, the record of decision must adopt appropriate avoidance and mitigation measures and a monitoring and enforcement program.

The process is significantly impacted when an agency with the jurisdiction over a designated or eligible river segment does not issue a consent determination for the proposed action as required by section 7 of the Wild and Scenic Rivers Act and the impact cannot be mitigated to acceptable levels. If the circumstances exist, the FAA cannot proceed with the proposed action.

For eligible wild, scenic, and recreational river areas not included in the NRI, the responsible FAA official should consider the potential effects on the river area.

For Wild and Scenic Rivers, study rivers, NRI rivers under section 5(d)(1), and otherwise eligible rivers or river segments under section 5(d), the responsible FAA official must obtain a section 7 determination that the proposed action will not have a direct and adverse effect on the values for which the river was or might be established or otherwise invade the river area, or for designated rivers, unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on October 2, 1968.

Appendix 2—[Reserved]

Appendix 3. Airports Environmental Handbook 5050.4A

1. Explanation

FAA Airports Program personnel, airport sponsors, and others involved in airport actions are directed to FAA Order 5050.4A (or subsequent revisions to it), Airport Environmental Handbook. FAA Order 5050.4A is a self-contained document that includes the policies and procedures of FAA Order 1050.1E as they relate to airport actions. Order 5050.4A contains descriptions of the types of airport actions which require an EA, or an EIS and those which are categorically excluded, and detailed information on the form and content of environmental documents prepared for airport actions. Compliance with FAA Order 5050.4A, or subsequent revisions to it, constitutes compliance with FAA Order 1050.1E for airport actions.

2. Reserved

Appendix 4. FAA Guidance on Third Party Contracting for EIS Preparation

1. Introduction

a. The Council on Environmental Quality (CEQ) regulation 40 CFR section 1506.5(c) states that any environmental impact statement (EIS) prepared pursuant to the requirements of the National Environmental Policy Act (NEPA) shall be prepared directly by a lead agency, upon request of the lead agency a cooperating agency, or a contractor selected by the lead agency.

b. The intent of CEQ section 1506.5(c) is to avoid conflicts of interest by those preparing impact statements. Contractors must be able to sign a disclosure statement (see 1506.5(c); appendix 8 to this order)

c. The following guidance is provided to ensure FAA's continued compliance with the CEQ regulations and NEPA.

2. General Guidance

a. The FAA must either prepare an EIS in-house (utilizing agency personnel and resources) or select a contractor to prepare the EIS. One method of selecting a contractor that may be used is known as ''third party contracting.''

b. ''Third party contracting'' refers to the preparation of an EIS by a contractor selected by the FAA and under contract to and paid by an applicant (e.g., airport sponsor, applicant, air carrier). Through the statement of work, the contractor is made responsible to the FAA for preparing an EIS that meets the requirements of the NEPA regulations, the FAA's NEPA procedures, and all other appropriate Federal, State, and local laws. Since this process is purely voluntary, it is recommended that an agreement to use this process, establish a scope of work, and delineate the FAA and applicant responsibilities be formalized by a Memorandum of Understanding (MOU) between the FAA and the airport sponsor. The CEQ recognizes the third party contracting arrangement as a legitimate method of EIS preparation in which the non-Federal applicant actually executes the contract and pays for the cost of preparing the EIS (see CEQ ''Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations'' (46 FR 18026); appendix 9 to this order).

c. The FAA's selection of a contractor under this process may be pursued by the FAA's evaluation of a preselection list (''short list'') of contractors submitted to the FAA by an airport applicant based on the sponsor's request for proposal (RFP) and evaluation. The applicant may submit the list of candidates to the FAA ranked according to the sponsor's evaluation of the contractors qualifications. The FAA, however, is under no obligation to make a selection based on this ranking. The applicant also may submit the list of candidates to the FAA in an unranked form.

d. Costs for preparing the EIS are paid by the applicant. For airport development projects and related activities, EIS may be funded by either Airport Improvement Plan (AIP) funds or local funds including Passenger Facility Charge (PFC) revenues. While AIP funds may be used to pay for costs associated with EIS preparation by a contractor selected by the FAA, Federal procurement requirements do not apply. Federal agencies are permitted under 40 CFR Part 18 to substitute their judgment for that of the grantee (i.e., airport) if the matter is primarily a ''Federal concern'' (i.e., consultant selection by FAA to comply the requirement of CEQ section 1506.5(c) is a ''Federal concern''). Furthermore, a CEQ memorandum on this subject specifically states that Federal procurement requirements do not apply[[we need a citation here]].

e. Guidance provided in the most current version of FAA Advisory Circular 150/5100–14, Architectural, Engineering and Planning Consultant Services for Airport Grants Projects, shall be followed in selecting a contractor for EIS preparation.

f. When an EIS is prepared by a contractor, the FAA is still responsible for:

(1) Obtaining a ''disclosure statement'' from the contractor,

(2) Exercising oversight of the contractor to ensure that a conflict of interest does not exist,

(3) Taking the lead in the scoping process,

(4) Furnishing guidance and participating in the preparation of the EIS,

(5) Independently evaluating the EIS and verifying environmental information provided by the applicant, or others, adding its expertise through review and revision, as necessary,

(6) Approving the EIS, and

(7) Taking responsibility for the scope and content of the EIS.

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October 13, 1999

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 36

Noise Certification Standards for Propeller-Driven Small Airplanes; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 36

[Docket No. FAA–1998–4731; Amendment No. 36–22]

RIN 2120–AG65

Noise Certification Standards for Propeller-Driven Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is amending the noise certification standards for propeller-driven small airplanes. These changes are based on the joint effort of the Federal Aviation Administration (FAA), the European Joint Aviation Authorities (JAA), and Aviation Rulemaking Advisory Committee (ARAC), to harmonize the U.S. noise certification regulations and the European Joint Aviation Requirements (JAR) for propeller-driven small airplanes. These changes will provide uniform noise certification standards for airplanes certificated in the United States and in the JAA countries. The harmonization of the noise certification standards will simplify airworthiness approvals for import and export purposes.

EFFECTIVE DATE: December 13, 1999.

FOR FURTHER INFORMATION CONTACT: Mehmet Marsan, Office of Environment and Energy (AEE), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7703.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

An electronic copy of this document can be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: (703) 321–3339) or, the Government Printing Office's (GPO) electronic bulletin board service (telephone: (202) 512–1661).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document 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) 267–9680. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official. Internet users can find additional information on SBREFA in the ''Quick Jump'' section of the FAA's web page at *http://www.faa.gov* and may send electronic inquiries to the following Internet address: *9–AWA–SBREFA@faa.gov*.

Background

Current Regulations

Under 49 U.S.C. 44715, the Administrator of the Federal Aviation Administration is directed to prescribe ''standards to measure aircraft noise and sonic boom; * * * and regulations to control and abate aircraft noise and sonic boom.'' Part 36 of Title 14 of the Code of Federal Regulations contains the FAA's noise standards and regulations that apply to the issuance of type certificates for all types of aircraft. The standards and requirements that apply to propeller-driven small airplanes and propeller-driven commuter category airplanes are found in § 36.501 and Appendix G to Part 36. Appendix G addresses Takeoff Noise Requirements for Propeller-Driven Small Airplane and Propeller-Driven Commuter Category Airplane Certification Tests on or after December 22, 1988. This appendix was added to part 36 in 1988 to require an actual takeoff noise test instead of the level flyover test that is required under Appendix F, and applies only to airplanes for which certification tests were completed before December 22, 1988.

Appendix G specifies the test conditions, procedures, and noise levels necessary to demonstrate compliance with certification requirements for propeller driven small airplanes and propeller-driven commuter category airplanes.

Government and Industry Cooperation

In June 1990 at a meeting of the Joint Aviation Authorities (JAA) Council, which consists of JAA members from European countries and the FAA, the FAA Administrator committed the FAA to support the harmonization of the U.S. regulations with the Joint Aviation Regulations (JAR). The Joint Aviation Regulations are being developed for use by the European authorities that are member countries of the JAA.

In January 1991, the FAA established the Aviation Rulemaking Advisory Committee to serve as a forum for the FAA to obtain input from outside the government on major regulatory issues facing the agency. The FAA has tasked ARAC with noise certification issues. These issues involve the harmonization of 14 CFR part 36 (part 36) with JAR part 36, the associated guidance material including equivalent procedures, and the interpretation of the regulations. On May 3, 1994, the ARAC established the Harmonization Working Group for Propeller-Driven Small Airplanes (59 FR 22885). The working group was tasked with reviewing the applicable provisions of subparts A and F, and appendices F and G of part 36, and harmonizing them with the corresponding applicable provisions of JAR 36. The working group was tasked to consider the current international standards and recommended practices, as issued under International Civil Aviation Organization (ICAO), Annex 16, Volume 1, and its associated Technical Manual, as the basis for development of the harmonization proposals. The working group was also asked to recommend a process whereby subsequent ICAO Annex 16 changes could be easily incorporated into JAR 36 and part 36.

The working group reviewed 16 items related to noise limits and measurement procedures for propeller driven small airplanes in the regulations. For six of these items, the working group recommended that Appendix G of part 36 be amended to harmonize the regulations with JAR 36. For four of these items, the working group recommended that Chapter 10 of JAR 36 be amended to harmonize those regulations with part 36. For the six remaining items, the working group found that no harmonization is necessary. The working group also recommended changes to harmonize FAA and JAA interpretive and advisory material relating to noise limits for propeller-driven small airplanes. The ARAC agreed with the working group's recommendations and they were forwarded to the FAA for consideration.

On November 18, 1998, the FAA published Notice No. 98–16 entitled ''Noise Certification Standards for Propeller-Driven Small Airplanes.'' (63

FR 64146). The notice reflected the six recommendations that address changes to part 36. The FAA solicited comments on the proposals, which are discussed in the following section. This final rule is based on Notice No. 98–16.

Discussion of Comments

The changes to appendix G of part 36 will affect the provisions that establish noise measurement procedures (§ G36.107), corrections to test results (§ G36.201) and specific aircraft noise limits that are tied to aircraft weight (§ G36.301).

There were a total of four comments in response to the proposed rule. Two commenters were in agreement with the proposed rule—the General Aviation Manufacturers Association (GAMA) and Transport Canada. The other two commenters were the French DGAC (Direction Generale de l'Aviation Civile) and Aeromod Services, Inc. The two latter comments are discussed below.

Section G36.107 Noise Measurement Procedures

Currently, § G36.107 prescribes specific procedures for the placement of microphones, system calibration and consideration of ambient noise. The FAA proposed changes to affect the microphone requirements of paragraph (a) of that section. Currently, microphones are required to be oriented in a known direction so that the maximum sound received arrives as nearly as possible in the direction for which the microphones are calibrated, and the microphone sensing elements must be placed four feet (1.2 m) above ground level.

The FAA proposed changing § G36.107(a) to require the microphone to be a pressure-type microphone with a protective grid that is 12.7 mm in diameter. The microphone would have to be mounted in an inverted position so that the diaphragm is 7 mm above and parallel to a white-painted metal circular plate. The plate would have to be 40 cm in diameter and at least 2.5 mm thick. The plate would have to be placed horizontally and flush with the surrounding ground surface with no cavities below the plate. The microphone would have to be located three-quarters of the distance from the center to the edge of the plate along a radius normal to the line of flight of the test airplane. To maintain the present level of noise stringency, a corresponding change to § G36.301(b) would also be necessary, as discussed below.

Comments

The French DGAC comments that in paragraph (a), the figure ''0.7 mm'' should be replaced with ''7 mm'' to harmonize with ICAO Annex 16 and JAR 36. The commenter says that ''7 mm'' is the figure used in Paragraph 4.4 of Appendix 6 of Annex 16, vol. 1, as well as in Paragraph 4.4 of Appendix B of JAR 36.

Aeromod Services, Inc. has no objection to the proposed change. The commenter says that using a ground plane microphone provides data that are applicable to both FAA and ICAO certification activities, eliminating duplication of equipment or testing. The commenter says that the additional equipment requirement adds negligible cost to the test.

FAA Response

The FAA agrees with the DGAC's comment. An error occurred in the NPRM. The value 0.7 mm should be changed to 7 mm wherever that value applies.

Section G36.201 Corrections to Test Results

Current § G36.201 prescribes corrections to be made to test results to account for the effects of differences between the conditions referenced in the prescribed procedures and existing conditions during an actual test.

Current § G36.201(b) requires atmospheric absorption correction for noise data obtained when the test conditions are outside those specified in appendix G, figure G1. Noise data collected outside the prescribed range of figure G1 are required to be corrected to 77 degrees Fahrenheit and 70 percent relative humidity by an FAA approved method. The FAA proposed changing the 77 degrees Fahrenheit reference temperature to 59 degrees Fahrenheit, to be consistent with the ambient temperature requirement in current § G36.111(b)(2), that is used for performance calculations.

Current § G36.201(c) requires that helical tip Mach number and power corrections must be made if the propeller is a variable pitch type or if the propeller is a fixed pitch type and the test power is not within five percent of the reference power. The FAA proposed changing this paragraph to provide an additional exception to the tip Mach number correction by stating that a correction is not necessary if the helical tip Mach number meets one of the following:

1. The number is at or below 0.70 and the test helical tip Mach number is within 0.014 of the reference helical tip Mach number.

2. The number is above 0.70 and at or below 0.80 and the test helical tip Mach number is within 0.007 of the reference helical tip Mach number.

3. The number is above 0.80 and the test helical tip Mach number is within 0.005 of the reference helical tip Mach number. For mechanical tachometers, if the helical tip Mach number is above 0.8 and the test helical tip Mach number is within 0.008 of the reference helical tip Mach number.

Current § G36.201(d)(1) requires that the measured sound levels must be corrected from the test day meteorological conditions by adding an increment equal to the result gained from the following equation:

$$\text{Delta (M)} = (\alpha - 0.7)\, H_T/1000.$$

In this equation, H_T is the height in feet of the test aircraft when directly over the noise measurement point, and α is the rate of absorption for the test day conditions at 500 Hertz as referenced in Society of Automotive Engineers (SAE) Publication Aerospace Recommended Practice (ARP) 866A, which has been incorporated by reference in part 36.

The equation in § G36.201(d)(1) is an approximation. The accuracy of the calculations can be improved by adopting the exact form of the equation. Therefore, the FAA proposed changing the equation to the exact form which reads as follows:

$$\text{Delta (M)} = (H_T\, \alpha - 0.7\, H_R)/1000.$$

In this equation, H_T is the height in feet under test conditions, H_R is the height in feet under reference conditions when the aircraft is directly over the noise measurement point, and α is the rate of absorption for the test day conditions at 500 Hertz as specified in SAE ARP 866A, the same as the current rule.

The proposed equation would make Appendix G absorption calculations the same as the rest of part 36 and Annex 16 absorption calculations.

Current § G36.201(d)(4) requires that the measured sound levels in decibels must be corrected for engine power by algebraically adding an increment equal to:

$$\text{Delta (3)} = 17 \log (P_R/P_T)$$

where P_T and P_R are the test and reference engine powers respectively.

The FAA proposed that the algebraic correction for engine power be changed to:

$$\text{Delta (3)} = K_3 \log (P_R/P_T)$$

where P_R and P_T are the test and reference engine powers respectively obtained from the manifold pressure/torque gauges and engine rpm. Under this proposal, the value of K_3 would be

determined from approved data from the test airplane. In the absence of flight test data and at the discretion of the Administrator, a value of K_3 = 17 could still be used as under the current rule.

Comments on Section G36.201(b)

Aeromod Services, Inc. objects to changing the 77 degree Fahrenheit reference temperature to 59 degree Fahrenheit in paragraph (b) because it ''harmonizes in the wrong direction.'' The commenter says that the section should be ''placed on the list for JAR 36 harmonization with FAR 36.'' Aeromod's comment goes on to state:

> If we examine the existing FAA and ICAO noise rules, we find that the only rule which does not have a primary or absolute acoustical reference day defined by 77°F/70%RH is Annex 16, Chapter 10. All of the other noise rules, to include FAR 36 Appendix A, Current Appendix G, Appendix H, ICAO Annex 16 Chapter 3, Chapter 4, and Chapter 8, use 77°F/70%RH as the primary or absolute acoustical reference day.

Aeromod adds that there appears to be ''no instance of confusion and delay caused by the difference in performance and acoustic reference conditions, as is mentioned in the Notice.''

FAA Response

Aeromod comments that the only section of part 36 which does not have both the performance and acoustic reference day conditions as 77 degree Fahrenheit and 70 percent relative humidity is Appendix G. The reason for this apparent inconsistency is based on the different noise characteristics of other airplane classes, namely large transports and helicopters. Propeller-driven small airplane noise levels are dominated by the low frequency tone noise under 500 Hz. Other classes of airplanes have noise characteristics that can be concentrated at higher frequencies. This difference in noise characteristics is reflected in the regulations by the different atmospheric absorption correction requirements for each class of airplanes.

The regulation requires that an atmospheric absorption correction at 500 Hz ⅓-octave-band frequency must be applied to the measured noise levels of propeller-driven small airplanes. For large transports and helicopters, the measured levels have to be corrected to reference conditions of 77 degree Fahrenheit by applying atmospheric absorption correction for each ⅓-octave-band frequency. The atmospheric absorption is minimal at 500 Hz and increases with the increase in frequency. The correction is always small for propeller-driven small airplanes and can be very large for other classes of airplanes. The choice of the 77 degree Fahrenheit reference temperature assures that the measured levels are corrected upwards for most large transport and helicopter tests since a typical test temperature is lower than 77 degree Fahrenheit. If a low reference temperature was chosen, the cumulative effect of the corrections could become positive or negative depending on the frequency content of the noise from the large transport and helicopters being tested. This effort would benefit some aircraft and unfairly penalize other aircraft depending on the test day temperature and frequency content. The high reference temperature of 77 degree Fahrenheit removes this uncertainty for large transport and helicopter noise certification testing.

However, the small atmospheric absorption correction values at low frequencies for propeller-driven airplanes do not warrant the use of a reference atmospheric temperature of 77 degree Fahrenheit which is different than standard reference conditions used in most aircraft testing. In the field of aeronautics, the International Standard Atmosphere (ISA) is usually used as the standard ambient conditions, and uses a temperature as 59 degrees Fahrenheit. All the performance information in the flight manuals (carried aboard each airplane) are given for ISA conditions. The proposed changes to Appendix G simplifies the data reduction by uniting the performance and acoustic reference conditions for propeller-driven small airplanes at 59 degrees Fahrenheit and 70 percent relative humidity. This section was adopted as proposed.

Comments on Section G36.201(c)

The only comment regarding this section did not object to the proposed change; the revision to paragraph (c) is adopted as proposed.

Comments on Section G36.201(d)

Aeromod's comment on proposed paragraph (d)(1) is as follows:

> The proposed change to the equation for atmospheric absorption is indeed more accurate. However, if the comments provided for section 36.201(b) above are adopted, the 0.7 constant in the equation would need to be changed to 0.9, which is the proper constant for a 77°F/70%RH reference day. The equation currently published in FAR 36, Appendix G is incorrect for the current acoustic reference day, and has been for more than 10 years. The current published equation, using a 0.7 constant, actually corrects to a 59°F/70%RH, resulting in a 0.2 dB error which is detrimental to the applicant.

Aeromod also states that it has no objection to the proposed change in paragraph (d)(4), but notes that ''the option to determine the value of K_3 experimentally, as is allowed for tip Mach corrections, is a welcome addition to the rule.''

FAA Response

Aeromod's comment was based on the FAA incorporating Aeromod's suggested change to § G36.201(b). The FAA is not incorporating Aeromod's change to G36.201(b); accordingly, the change to paragraph (d) is not accepted, and the equation in § 36.201(d)(1) is adopted as proposed.

Comment on Section G36.201(d)

The French DGAC comments that in the equation in paragraph (d)(1), the figure ''0.7'' should be replaced with ''0.6'' to harmonize with ICAO Annex 16, Chapter 10 and JAR 36 so that the equation reads ''Delta (m)=(Ht alpha-0.6 Hr)/1000.

FAA Response

The FAA disagrees with the DGAC. The FAA uses English Units version of the SAE ARP 866A, which has the absorption value for 59 degrees Fahrenheit, 77 percent relative humidity as 0.7. The DGAC first derived the equation for absorption in metric units then converted the results into English Units. The DGAC derivation and conversion processes introduce an error of 0.1 in the absorption correction equation. The equation in paragraph (d) is adopted as proposed.

Section G36.301 Aircraft Noise Limits

Current § G36.301(b) states that for aircraft weights up to 1,320 pounds (600 kg) the noise level must not exceed 73 dB(A); for weights greater than 1,320 pounds, the noise limit increases at the rate of 1 dB /165 pounds up to 85 dB(A) at 3,300 pounds, after which the noise level remains constant at 85 dB(A) up to and including aircraft weight of 19,000 pounds.

As previously discussed, considerations of microphone location, configuration, and resulting noise limits are interrelated. Since the proposed changes to the noise measurement procedures of § G36.107(a) would result in increases in the measured noise levels of about 3 dB(A), the FAA proposed to increase the limits in § 36.301(b) from 73 dB(A) to 76 dB(A) and from 85 dB(A) to 88 dB(A) to account for these different measurement procedures, but without changing the stringency of the current rule.

In addition to the dB(A) increases discussed, the FAA proposed a change to the interpolation requirement of § G36.301(b). For airplane weights greater than 1,320 pounds, the allowable

dB(A) would increase ''with the logarithm of airplane weight at the rate of 9.83 dB(A) per doubling of weight until the limit of 88 dB(A) is reached * * *,'' rather than at the rate of 1 dB/165 pounds up to 85 dB(A) at 3,300 pounds, as under the current rule. The new logarithmic interpolation between the low and high takeoff weights was adopted from the Annex 16, Volume I Chapter 10. The working group analyzed the available data obtained by use of a ground microphone, and decided to adopt the logarithmic interpolation that is between low and high takeoff weights.

Comments

The only comment regarding this section did not object to the proposed change; § G36.301(b) is adopted as proposed.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)), the FAA has determined that there are no requirements for information collection associated with this final rule.

Compatibility with ICAO Standards

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA's policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. For this final rule, the FAA has reviewed part 36 Appendix G and ICAO Annex 16 Volume 1, Chapter 10. The review showed that the following two items were left unharmonized: (1) For fixed pitch type propellers, § G36.201 specifies a simplified data correction procedure if the engine test power is within 5% of the reference power. Annex 16 does not have a corresponding simplification. (2) The use of maximum continuous installed power during the second segment of the flight path is allowed under § G36.111. The power definition in Annex 16 for the second segment is defined as maximum power in Chapter 10 section 10.5.2 of Annex 16. The maximum installed power is typically lower than the maximum power and applicable only to old technology engines. The above two unharmonized items only affect airplanes with old technology engines, which are diminishing in number every year. The old airplanes equipped with old technology engines are not required to undergo noise certification or already are noise certificated. On very rare occasions, these airplanes may be required to perform a new noise test, but are not significant enough to be considered as harmonization issues.

Regulatory Evaluation Summary

Economic Summary

Four principal requirements pertain to the economic impacts of changes to the Federal Regulations. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify an existing regulations after consideration of the expected benefits to society and the expected costs. The order also requires Federal agencies to assess whether a final rule is considered a ''significant regulatory action.'' Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. Finally, Public Law 104–4, Department of Transportation Appropriations Act (November 15, 1995), requires Federal agencies to assess the impact of any Federal mandates on State, Local, Tribal governments, and the private sector.

Executive Order 12866 and DOT's Policies and Procedures

Under Executive Order 12866, each Federal agency shall assess both the costs and the benefits of final regulations while recognizing that some costs and benefits are difficult to quantify. A final rule is promulgated only upon a reasoned determination that the benefits of the final rule justify its costs.

The benefit of the final rule is that it will harmonize the U.S. noise certification regulations with the European Joint Aviation Requirements for propeller-driven small airplanes. The changes will provide nearly uniform noise certification standards for airplanes certificated in the United States and by the European Joint Aviation Authorities (JAA). This is expected to reduce the number of noise tests that need to be conducted. The costs to implement this rulemaking are negligible, if any. There are no additional costs imposed by this final rule.

The final rule will also not be considered a significant regulatory action because (1) it does not have an annual effect of $100 million or more or adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, Local or Tribal governments or communities; (2) it does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) it does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; and (4) it does not raise novel legal or policy issues arising out of legal mandates, the President's priorities or principles set forth in the Executive Order. Because the final rule is not considered significant under these criteria, it was not reviewed by the Office of Management and Budget (OMB) for consistency with applicable law, the President's priorities, and the principles set forth in this Executive Order nor was OMB involved in deconflicting this final rule with ones from other agencies.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (the Act) establishes ''as principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statues, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that and to explain the rationale for their actions, the Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a Regulatory Flexibility Analysis (RFA) as described in the Act.

However, if an agency determines that a final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this final rule and determined that the cost imposed by this rule will be negligible and that it will not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605 (b), the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities

because the costs imposed by this rule will be negligible.

Final International Trade Impact Assessment

The FAA has determined that the final rule will promote the sale of foreign products and services in the United States and the sale of U.S. products and services in foreign countries. This determination is based on the FAA's determination that the rule harmonizes U.S. standards with the JAR's standards for noise certification for propeller-driven small airplanes.

Federalism Implications

The regulations herein do not have a substantial direct effect on the States, on the relationship between national Government and the States, or on the distribution of power and responsibilities among various levels of government. Thus, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Final Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Reform Act) enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a final agency rule that may result in the expenditure by State, Local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

Section 204(a) of the Reform Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, Local, and Tribal governments on a final ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Reform Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, Local, and Tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year.

Section 203 of the Reform Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year, therefore the requirements of the Reform Act do not apply.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment (EA) or environmental impact statement (EIS). In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (43 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 36

Agriculture, Aircraft, Noise Control.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 36 of Title 14, Code of Federal Regulations as follows:

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

1. The authority citation for part 36 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 106(g), 40113, 44701–44702, 44704, 44715; sec. 305, Pub. L. 96–193, 94 Stat. 50, 57; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902.

2. Appendix G of part 36 is amended by revising sections G36.107(a), G36.201(b), including Figure G1, G36.201(c), G36.201(d)(1), G36.201(d)(4), and G36.301(b), including Figure G2, to read as follows:

Appendix G to Part 36—Takeoff Noise Requirements for Propeller-Driven Small Airplane and Propeller-Driven Commuter Category Airplane Certification Tests on or After December 22, 1988

* * * * *

Sec. G36.107 Noise Measurement Procedures

(a) The microphone must be a pressure type, 12.7 mm in diameter, with a protective grid, mounted in an inverted position such that the microphone diaphragm is 7 mm above and parallel to a white-painted metal circular plate. This white-painted metal plate shall be 40 cm in diameter and at least 2.5 mm thick. The plate shall be placed horizontally and flush with the surrounding ground surface with no cavities below the plate. The microphone must be located three-quarters of the distance from the center to the back edge of the plate along a radius normal to the line of flight of the test airplane.

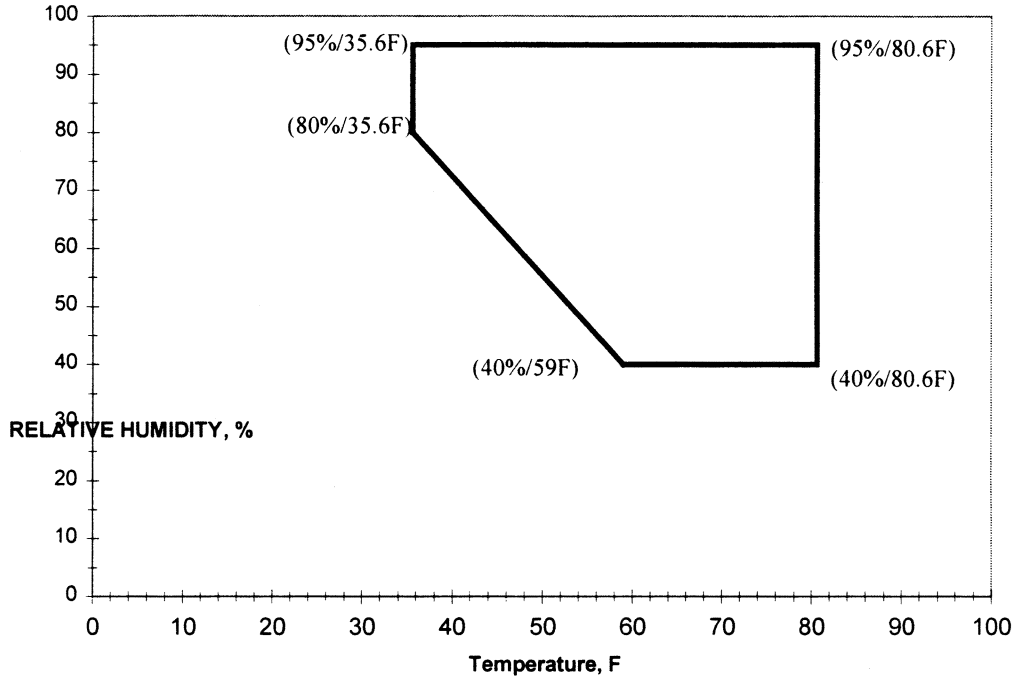
* * * * *

Sec. G36.201 Corrections to Test Results

* * * * *

(b) Atmospheric absorption correction is required for noise data obtained when the test conditions are outside those specified in Figure G1. Noise data outside the applicable range must be corrected to 59 F and 70 percent relative humidity by an FAA approved method.

MEASUREMENT WINDOW FOR NO ABSORPTION CORRECTION Figure G1



(c) Helical tip Mach number and power corrections must be made as follows:

(1) Corrections for helical tip Mach number and power corrections must be made if—

(i) The propeller is a variable pitch type; or

(ii) The propeller is a fixed pitch type and the test power is not within 5 percent of the reference power.

(2) No corrections for helical tip Mach number variation need to be made if the propeller helical tip Mach number is:

(i) At or below 0.70 and the test helical tip Mach number is within 0.014 of the reference helical tip Mach number.

(ii) Above 0.70 and at or below 0.80 and the test helical tip Mach number is within 0.007 of the reference helical tip Mach number.

(iii) Above 0.80 and the test helical tip Mach number is within 0.005 of the reference helical tip Mach number. For mechanical tachometers, if the helical tip Mach number is above 0.8 and the test helical tip Mach number is within 0.008 of the reference helical tip Mach number.

(d) * * *

(1) Measured sound levels must be corrected from test day meteorological conditions to reference conditions by adding an increment equal to

$$\text{Delta (M)} = (H_T\ \alpha - 0.7\ H_R)\ /1000$$

where H_T is the height in feet under test conditions, H_R is the height in feet under reference conditions when the aircraft is directly over the noise measurement point and α is the rate of absorption for the test day conditions at 500 Hz as specified in SAE ARP 866A, entitled ''Standard Values of Atmospheric Absorption as a function of Temperature and Humidity for use in Evaluating Aircraft Flyover Noise'' as incorporated by reference under § 36.6.

* * * * *

(4) Measured sound levels in decibels must be corrected for engine power by algebraically adding an increment equal to

$$\text{Delta(3)} = K_3 \log (P_R/P_T)$$

where P_R and P_T are the test and reference engine powers respectively obtained from the manifold pressure/torque gauges and engine rpm. The value of K_3 shall be determined from approved data from the test airplane. In the absence of flight test data and at the discretion of the Administrator, a value of K_3 = 17 may be used.

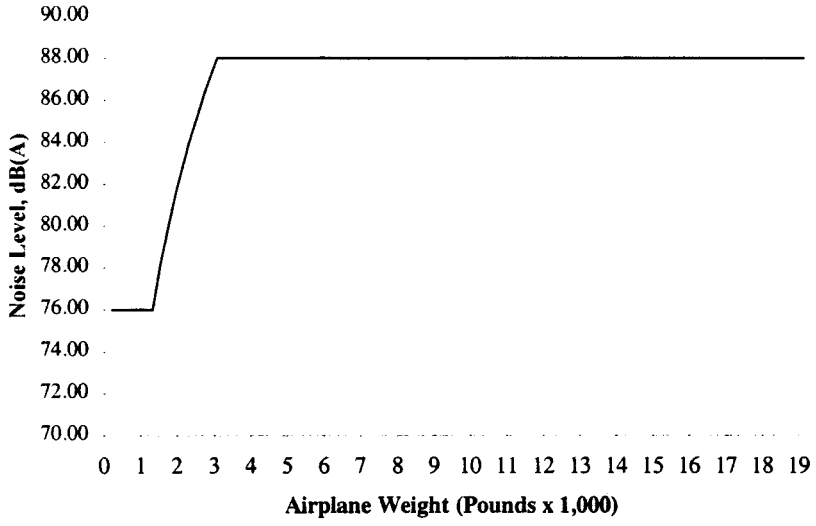
* * * * *

Sec. G36.301 Aircraft Noise Limits

* * * * *

(b) The noise level must not exceed 76 dB (A) up to and including aircraft weights of 1,320 pounds (600 kg). For aircraft weights greater than 1,320 pounds, the limit increases from that point with the logarithm of airplane weight at the rate of 9.83 dB (A) per doubling of weight, until the limit of 88 dB (A) is reached, after which the limit is constant up to and including 19,000 pounds (8,618 kg). Figure G2 shows noise level limits vs airplane weight.

NOISE LEVELS vs AIRPLANE WEIGHT
FIGURE G2



Issued in Washington, DC, on October 7, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–26704 Filed 10–12–99; 8:45 am]

BILLING CODE 4910–13–P

federal register

Wednesday
October 13, 1999

Part IV

Department of Education

Visiting Scholars Fellowship Program, Office of Educational Research and Improvement (OERI); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.309V]

Visiting Scholars Fellowship Program, Office of Educational Research and Improvement (OERI); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000

Purpose of Program: The OERI Visiting Scholars Fellowship Program allows individuals to conduct educational research at the OERI national research institutes in Washington, DC for up to 12 months. For FY 2000 we encourage applicants to design projects that address the invitational priorities in the Priorities section of this application notice.

Aside from carrying out their research, fellows are expected to interact in a collegial manner with OERI staff and be available to share their insights and expertise when needed. At the onset of their fellowship, fellows will work with their institute directors to establish a schedule for their research projects and regular office hours, and will discuss the manner in which their stay may be mutually beneficial to the fellow and OERI.

Administration of Program: This fellowship competition will be administered by the National Research Council (the Council). The Council was organized by the National Academy of Sciences in 1916 to associate the broad community of science and technology with the Academy's purposes of furthering knowledge and advising the Federal Government. Functioning in accordance with general policies determined by the Academy, the Council has become the principal operating agency of both the National Academy of Sciences and the National Academy of Engineering in providing services to the government, the public, and the scientific and engineering communities. The Council is administered jointly by both Academies and the Institute of Medicine.

Eligible Applicants: Scholars, researchers, policymakers, educational practitioners, librarians, or statisticians who are engaged in the use, collection, and dissemination of information about education and educational research.

Applications Available: October 29, 1999.

Deadline for Transmittal of Applications: January 24, 2000.

Note: Decisions on awards will be announced by the Council by April 2000, and fellows will be able to commence their appointments anytime between June 2000 and September 2000.

Available Funds: $500,000 (FY 1998 funds).

Estimated Range of Awards: $50,000–$100,000 per fellow.

Estimated Average Size of Awards: $75,000.

Estimated Number of Awards: 5 to 8.

Project Period: Up to 12 months.

Note: Neither the U.S. Department of Education, nor the Council, is bound by any estimates in this notice.

Applicable Regulations: See explanation under Supplementary Information.

SUPPLEMENTARY INFORMATION: OERI is authorized to make fellowship awards to visiting scholars under section 931(c)(1)(E) of the Educational Research, Development, Dissemination, and Improvement Act of 1994, 20 U.S.C. 6001 *et seq.* This statute states, in relevant part, that the fellowships ''shall be awarded competitively following the publication of a notice in the **Federal Register** inviting the submission of applications.'' OERI made a grant to the National Research Council to carry out this activity pursuant to the regulations in 34 CFR part 700 and the Education Department General Administrative Regulations (EDGAR) in 34 CFR part 75. OERI is publishing this application notice on behalf of the Council.

The Council will fund applications for fellowships for the OERI national research institutes. General procedures governing the application process and the evaluation and selection of fellows can be found in the 1999 Program Announcement, prepared by the Council. The announcement is available on the web site *http://fellowships.nas.edu* and is also available from the address and telephone number listed at the end of this notice. More specific procedures governing the panel review process will be available from the Council after all applications have been received.

The regulations in 34 CFR part 700 and in the Education Department General Administrative Regulations (EDGAR) govern the grant relationship between OERI and the Council and apply to the Council's administration of Federal funds under the grant.

Priorities

Invitational Priorities

The Council is particularly interested in applications that meet one or both of the following priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets one or both of these invitational priorities a competitive or absolute preference over other applications.

Invitational Priority 1—Issues Related to How People Learn: Brain, Mind, Experience

OERI's research priorities include work that relates to two recent reports published by the National Academy of Sciences. The first study is entitled: How People Learn: Brain, Mind Experience, and School, which is available online at *http://www.nap.edu*.

The Academy study recommends important future research related to human learning. The report calls for more detailed research regarding matters such as the role of learners' prior knowledge in acquiring new information, the importance of social and cultural contexts to learning, understanding how learning is transferred, how learning is related to a discipline and how time, familiarity, and exploration impact fluency in learning. The report calls for new approaches to the learning sciences such as neuroscience and cognitive science, helping basic researchers and educational researchers to work together, including teachers in the process, melding qualitative and quantitative methods, and designing and implementing new statistical techniques and qualitative measures as needed to more effectively study the complex area of human learning.

After How People Learn: (Brain, Mind, Experience and School) was released, OERI posed the next questions, ''What research and development could help incorporate the insights from the report into classroom practice?'' In response to this question, the Academy published, How People Learn: Bridging Research and Practice. This study is also available online at *http://www.nap.edu*.

Applicants are invited to discuss in their applications how their work relates to these reports. Projects may focus on any aged learners, including preschoolers, those in the K–12 years, those in postsecondary institutions, and other adult learners. The projects proposed by the applicants must include specific research to be conducted while at OERI, and the application must discuss ways in which the fellows' stay will be mutually beneficial.

Invitational Priority 2—Traditionally Underrepresented Groups and Institutions

Based on section 931(c)(5) of OERI's authorizing statute, the Council also invites applications from groups of researchers or institutions that have been historically underutilized in Federal educational research activities. The groups and institutions include:

Women, African-Americans, Hispanics, Native American Indians, and Alaskan Natives or other ethnic minorities; promising young or new researchers in the field, such as postdoctoral students and recently appointed assistant or associate professors, Historically Black Colleges and Universities, Tribally Controlled Colleges, Hispanic serving institutions, community colleges, and other institutions of higher education with large numbers of minority students; institutions of higher education located in rural areas; and institutions and researchers located in States and regions of the United States which have historically received the least Federal support for educational research and development.

Applicants are invited to propose projects that are designed to increase the participation in the activities of the institutes of the groups and institutions described in the previous paragraph.

Evaluation and Selection of Fellows: According to the Council's 1999 Program Announcement for the OERI Visiting Scholars Fellowship Program, qualifications of applications will be evaluated by panels of distinguished scholars selected by the Council. The evaluation of applications will be based on achievement, experience, and training as evidenced by the application materials submitted, and by the importance of the proposed work to the field of education and the goals of the OERI. Promising new talent is especially welcomed. Panelists will carefully consider the application, proposed project plan, letters of recommendation, and other supporting documentation. The quality of the proposed project and the appropriateness of the proposed study at the OERI will also be carefully reviewed. The final selection of fellows, based on the panelists' recommendations, will be made by the National Research Council. The Council will establish the specific procedures governing the panel review process in a 1999 ''Guide for Panelists'' after the number and composition of the applications have been determined.

For Further Information or Applications Contact: Craig Gidney, The Fellowship Program, National Research Council, 2101 Constitution Avenue, Washington, DC 20418. Telephone: (202) 334–2872. The e-mail address for Mr. Gidney is: c__gidney@ nas.edu. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format, (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.** However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 6001 *et seq.* (OERI) and 36 U.S.C. 253 (National Academy of Sciences, National Research Council).

Dated: October 7, 1999.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 99–26686 Filed 10–12–99; 8:45 am]

BILLING CODE 4000–01–P

federal register

Wednesday
October 13, 1999

Part V

The President

Proclamation 7235—To Delegate Authority for the Administration of the Tariff-Rate Quotas on Sugar-Containing Products and Other Agricultural Products to the United States Trade Representative and the Secretary of Agriculture

Proclamation 7236—Leif Erikson Day, 1999

Federal Register
Vol. 64, No. 197
Wednesday, October 13, 1999

Presidential Documents

Title 3—

The President

Proclamation 7235 of October 7, 1999

To Delegate Authority for the Administration of the Tariff-Rate Quotas on Sugar-Containing Products and Other Agricultural Products to the United States Trade Representative and the Secretary of Agriculture

By the President of the United States of America

A Proclamation

1. On April 15, 1994, the President entered into trade agreements resulting from the Uruguay Round of multilateral trade negotiations (''Uruguay Round Agreements''). As part of those agreements, the United States converted quotas on imports of beef, cotton, dairy products, peanuts, peanut butter and peanut paste, sugar, and sugar-containing products (as defined in additional U.S. notes 2 and 3 of the Harmonized Tariff Schedule of the United States) into tariff-rate quotas. In section 101(a) of the Uruguay Round Agreements Act (the ''URAA'') (Public Law 103–65; 108 Stat. 4809), Congress approved the Uruguay Round Agreements listed in section 101(d) of that Act, including the General Agreement on Tariffs and Trade 1994.

2. On December 23, 1994, the President issued Presidential Proclamation 6763, implementing the Uruguay Round Agreements consistent with the URAA. Presidential Proclamation 6763 included a delegation of the President's authority under the statutes cited in the proclamation, including section 404(a) of the URAA, 19 U.S.C. 3601(a), to the Secretary of Agriculture, the Secretary of the Treasury, and the United States Trade Representative, as necessary to perform functions assigned to them to implement the proclamation. Section 404(a) directs the President to take such action as may be necessary in implementing the tariff-rate quotas set out in Schedule XX - United States of America, annexed to the Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994, to ensure that imports of agricultural products do not disrupt the orderly marketing of commodities in the United States.

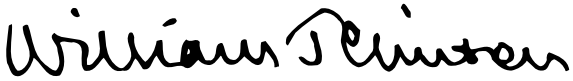
3. I have determined that it is necessary to delegate my authority under section 404(a) to administer the tariff-rate quotas relating to cotton, dairy products, peanuts, peanut butter and peanut paste, sugar, and sugar-containing products to the United States Trade Representative and to delegate to the Secretary of Agriculture authority to issue licenses governing the importation of such products under the applicable tariff-rate quotas. The Secretary of Agriculture shall exercise such licensing authority in consultation with the United States Trade Representative.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 301 of title 3, United States Code, and section 404(a) of the URAA, do hereby proclaim:

(1) The United States Trade Representative is authorized to exercise my authority pursuant to section 404(a) of the URAA to take all action necessary, including the promulgation of regulations, to administer the tariff-rate quotas relating respectively, to cotton, dairy products, peanuts, peanut butter and peanut paste, sugar, and sugar-containing products, as the latter products are defined in additional U.S. notes 2 and 3 of the Harmonized Tariff Schedule of the United States. The Secretary of Agriculture, in consultation with the United States Trade Representative, is authorized to exercise my authority pursuant to section 404(a) to issue import licenses governing the importation of such products within the applicable tariff-rate quotas.

(2) All provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of October, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.



[FR Doc. 99–26930
Filed 10–12–99; 11:56 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7236 of October 8, 1999

Leif Erikson Day, 1999

By the President of the United States of America

A Proclamation

In preparing for the new millennium, Americans have become increasingly aware of the richness of our Nation's history and heritage and of the generations of men and women whose contributions have brought us safely to this moment in our American journey.

One of those remarkable individuals was Leif Erikson, who led a small, intrepid band on a voyage of discovery across the North Atlantic from Greenland, arriving on the coast of North America almost a thousand years ago. The courage, resourcefulness, and fortitude of Leif Erikson and the other Viking seafarers foreshadowed the strength and character of the many Nordic pioneers who would make their own voyage to America centuries later. Building new lives through hard work, they also helped build our Nation and sustain our fundamental values of freedom, justice, and democracy.

The millions of Nordic Americans who have contributed so much to our peace and prosperity through the decades have also strengthened the bonds of friendship between the United States and the people of Denmark, Finland, Iceland, Sweden, and Norway. With a shared past and common ideals, we have worked in partnership to promote democracy and opportunity around the world. Through our Northern European Initiative, the Nordic countries and the United States continue to promote our common values in the region and to facilitate Baltic and Russian integration into Western institutions.

The next millennium will hold great challenge and great promise for our Nation and for the people of the Nordic countries. We have only to look back on the achievements of Leif Erikson to rekindle our spirit of adventure and to inspire us as we embark on our own exploration of the uncharted territory of the future.

In honor of Leif Erikson, son of Iceland, grandson of Norway, the Congress, by joint resolution approved on September 2, 1964 (Public Law 88–566), has authorized and requested the President to proclaim October 9 of each year as ''Leif Erikson Day.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 9, 1999, as Leif Erikson Day. I encourage the people of the United States to observe this occasion with appropriate ceremonies and activities commemorating our rich Nordic American heritage.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

William J. Clinton

[FR Doc. 99–26931
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AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (sweet) grown in—
- Washington; published 9-13-99

Potatoes (Irish) grown in—
- California and Oregon; published 9-13-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:
- Sea turtle conservation; shrimp trawling requirements—
  - Turtle excluder devices; published 10-13-99

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; published 9-13-99

FARM CREDIT ADMINISTRATION

Farm credit system:
- Miscellaneous amendments; published 10-14-99

FEDERAL COMMUNICATIONS COMMISSION

Industrial, scientific, and medical equipment:
- Radio frequency (RF) lighting devices; published 7-12-99

Radio stations; table of assignments:
- New York; published 10-13-99

Reporting and recordkeeping requirements:
- OMB approved information collections requirements; list; published 10-13-99

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

Classified national security information:
- Multi-agency declassification issues; uniform referral standard; published 9-13-99

STATE DEPARTMENT

Visas; nonimmigrant documentation:
- Issuance of visas; technical corrections; published 10-13-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- McDonnell Douglas; published 9-28-99

Airworthiness standards:
- Special conditions—
  - Soloy Corp. Model Pathfinder 21 airplane; published 9-13-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Tomatoes grown in—
- Florida; comments due by 10-19-99; published 8-20-99

DEFENSE DEPARTMENT

Civilian health and medical program of uniformed services (CHAMPUS):
- Prosthetic devices; comments due by 10-19-99; published 8-20-99

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- Arizona; comments due by 10-20-99; published 9-20-99
- Nevada; comments due by 10-20-99; published 9-20-99

Air quality implementation plans; approval and promulgation; various States:
- Arizona; comments due by 10-20-99; published 9-20-99
- California; comments due by 10-22-99; published 9-22-99
- Nevada; comments due by 10-21-99; published 10-1-99
- Oregon; comments due by 10-21-99; published 9-21-99
- South Dakota; comments due by 10-21-99; published 9-21-99

Hazardous waste:
- Identification and listing—
  - Dye and pigment industries; comments due by 10-21-99; published 9-8-99

Water programs:
- Clean Water Act—
  - Water quality planning and management; comments due by 10-22-99; published 8-23-99
  - Water quality planning and management; National Pollutant Discharge Elimination System program and Federal antidegradation policy; comments due by 10-22-99; published 8-23-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:
- Topical antifungal products (OTC); tentative final monograph; comments due by 10-20-99; published 7-22-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Group and individual health insurance markets; Federal enforcement; comments due by 10-19-99; published 8-20-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Acquisition regulations:
- Miscellaneous amendments; comments due by 10-22-99; published 8-23-99

LABOR DEPARTMENT

Occupational Safety and Health Administration

Construction safety and health standards:
- Fall protection; comments due by 10-22-99; published 7-14-99

MANAGEMENT AND BUDGET OFFICE

Federal Procurement Policy Office

Acquisition regulations:
- Cost Accounting Standards Board—
  - Cost accounting practices; changes; comments due by 10-19-99; published 8-20-99

NUCLEAR REGULATORY COMMISSION

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- Criticality guidance for low-level waste; proposed compatibility designation ange; comments due by 10-20-99; published 9-20-99

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
- Approved spent fuel storage casks; list additions; comments due by 10-22-99; published 9-22-99

POSTAL RATE COMMISSION

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- Library reference rule; comments due by 10-20-99; published 9-30-99

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Federal Aviation Administration

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- Airbus; comments due by 10-20-99; published 9-20-99
- Eurocopter France; comments due by 10-22-99; published 8-23-99

Class E airspace; comments due by 10-19-99; published 9-2-99

Schools and other certificated agencies:
- Repair stations; Part 145 review; comments due by 10-19-99; published 6-21-99

TREASURY DEPARTMENT

Internal Revenue Service

Procedure and administration:
- Compromises of internal revenue taxes; cross reference; comments due by 10-19-99; published 7-21-99

LIST OF PUBLIC LAWS

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GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 2981/P.L. 106–64

To extend energy conservation programs under the Energy Policy and Conservation Act through March 31, 2000. (Oct. 5, 1999; 113 Stat. 511)

S. 1059/P.L. 106–65

National Defense Authorization Act for Fiscal Year 2000 (Oct. 5, 1999; 113 Stat. 512)

S. 293/P.L. 106–66

To direct the Secretaries of Agriculture and Interior to convey certain lands in San Juan County, New Mexico, to San Juan College. (Oct. 6, 1999; 113 Stat. 977)

S. 944/P.L. 106–67

To amend Public Law 105-188 to provide for the mineral leasing of certain Indian lands in Oklahoma. (Oct. 6, 1999; 113 Stat. 979)

S. 1072/P.L. 106–68

To make certain technical and other corrections relating to the Centennial of Flight Commemoration Act (36 U.S.C. 143 note; 112 Stat. 3486 et seq.). (Oct. 6, 1999; 113 Stat. 981)

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