4–24–96
Vol. 61 No. 80
Pages 18047–18228

Federal Register

Wednesday
April 24, 1996

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the Federal Register as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the Federal Register shall be judicially noticed.

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online database is updated by 6 a.m. each day the Federal Register is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to help@eids05.eids gpo.gov; by faxing to (202) 512–1262; or by calling (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the Federal Register paper edition is $494, or $544 for a combined Federal Register, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the Federal Register including the Federal Register Index and LSA is $433. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the Federal Register.

How To Cite This Publication: Use the volume number and the page number. Example: 61 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530

Single copies/back copies:

Paper or fiche	512–1800
Assistance with public single copies	512–1803

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

[Two Sessions]

WHEN: May 14, 1996 at 9:00 am
May 21, 1996 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 61, No. 80

Wednesday, April 24, 1996

Separate Parts In This Issue

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

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

9 CFR
318.....18047
381.....18047

10 CFR
Proposed Rules:
52.....18099

11 CFR
100.....18049
110.....18049
114.....18049

14 CFR
11.....18052
31.....18220
39.....18052
71 (7 documents) 18058, 18059, 18060, 18061, 18062
73.....18062
95 (2 documents) 18064, 18065
97 (3 documents) 18066, 18068, 18069
221.....18070
Proposed Rules:
121.....18099

20 CFR
404.....18075
422.....18075
498.....18078

21 CFR
558.....18081

25 CFR
151.....18082
Proposed Rules:
Ch. I.....18100

30 CFR
Proposed Rules:
934.....18100

31 CFR
103.....18204

32 CFR
375.....18083
379.....18083

40 CFR
70.....18083
261.....18088

47 CFR
21.....18092
80.....18226
87.....18226
Proposed Rules:
80.....18227
87.....18227

50 CFR
Proposed Rules:
217.....18102
227.....18102
672.....18116
676.....18116

Rules and Regulations

Federal Register
Vol. 61, No. 80
Wednesday, April 24, 1996

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318 and 381

[Docket No. 95–001DF]

RIN 0583–AB97

Use of Sodium Citrate Buffered With Citric Acid in Certain Cured and Uncured Processed Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to permit the use of a solution of sodium citrate buffered with citric acid in cured and uncured processed whole-muscle meat and poultry products. This action is being taken in response to a petition requesting use of the solution to inhibit the growth of microorganisms, *Clostridium botulinum* in particular, and retain product flavor during storage.

DATES: This rule will be effective on June 24, 1996, unless adverse or critical comments are received on or before May 24, 1996. If adverse or critical comments are received, FSIS will publish a timely withdrawal of the final rule and a new proposed rule.

ADDRESSES: Send an original and two copies of written comments or notice of intent to submit adverse comments to: FSIS Docket Clerk, DOCKET #95–001DF, Room 4352, South Agriculture Building, 14th and Independence Avenue, SW., Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700. Make oral comments, as provided for under the Poultry Products Inspection Act (PPIA), to Mr. Charles R. Edwards, (202) 254–2565, after prior arrangements have been made with his office. Data submitted by the petitioner and all comments received, including FSIS-prepared copies of oral comments, will be available for public inspection from 8:30 a.m. to 1:00 p.m., and from 2:00 p.m. to 4:30 p.m., Monday through Friday, Room 4352, in Room 4352, South Agriculture Building.

FOR FURTHER INFORMATION CONTACT: Charles R. Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700, (202) 254–2565.

SUPPLEMENTARY INFORMATION: The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the PPIA (21 U.S.C. 451 *et seq.*) prohibit addition of any substance to meat or poultry food products that may render the products adulterated. Federal meat and poultry inspection regulations prohibit the use of any substance in the preparation of any product unless it is approved in the tables of approved substances in 9 CFR 318.7(c)(4) and 381.147(f)(4).

FSIS was petitioned to approve the use of sodium citrate buffered with citric acid in cured and uncured whole-muscle processed meat and poultry products to inhibit the growth of microorganisms, *Clostridium botulinum* in particular, and to retain product flavor during storage. The petitioner requested that FSIS amend the regulations to permit sodium citrate buffered with citric acid to a pH of 5.6 and used at a level of 1.3 percent of the product formulation weight. Data submitted by the petitioner showed that after whole-muscle product is immersed in a marinade or injected with the solution, microbial growth is inhibited and the product's flavor is retained during storage.

The petitioner provided results of limited microbiological assays (total plate count, coliforms) and organoleptic (taste) tests conducted on products at least 6 weeks old. The results show that to effectively inhibit microbial growth, the sodium citrate must be buffered with citric acid to a pH of 5.6. The data, also, showed that proteins are destroyed and the product's appearance and texture becomes unacceptable to consumers when the buffered sodium citrate solution exceeds 1.3 percent of the product formulation weight.

After reviewing the petitioner's technical data, FSIS determined that the tables of approved substances in the meat and poultry regulations should be amended to allow the use of sodium citrate buffered with citric acid for the purposes and in the amounts requested by the petitioner. The technical data demonstrate the efficacy of buffered sodium citrate for these uses. Because sodium citrate and citric acid are generally recognized as safe (21 CFR 184.1033 and 21 CFR 184.1751) when used in accordance with good manufacturing practices, the wholesomeness of the product will not be affected. Therefore, FSIS is amending the tables of approved substances in 9 CFR 318.7(c)(4) and 381.147(f)(4) to allow the use of sodium citrate buffered with citric acid to a ph of 5.6 in cured and uncured processed whole-muscle meat and poultry products at a level not to exceed 1.3 percent of the formulation weight of the product.

FSIS expects no adverse public reaction resulting from this change in regulatory language. Therefore, unless the Agency receives adverse or critical comments, or a notice of intent to submit adverse comments within 30 days, the action will become final 60 days after publication in the Federal Register. If critical comments are received, the final rulemaking notice will be withdrawn and a proposed rulemaking notice will be published. The proposed rulemaking notice will establish a comment period.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant and, therefore, has not been reviewed by the Office of Management and Budget.

The Administrator has made an initial determination that this direct final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The direct final rule will permit the use of an additional, alternative means of inhibiting the growth of microorganisms. Use of the buffered sodium citrate solution is voluntary. Small manufacturers opting to use the solution will be required to revise their product labels. Decisions by individual manufacturers on whether to use sodium citrate buffered with citric acid

in this manner would be based on their conclusions that the benefits outweigh the implementation costs.

Executive Order 12778

This direct final rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted by the FMIA and PPIA from imposing any marking or packaging requirements on federally inspected meat and poultry products that are in addition to, or different than, those imposed under the FMIA or PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat and poultry products that are misbranded or adulterated under the FMIA or PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States.

This direct final rule is not intended to have retroactive effect.

There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this direct final rule. However, the administrative procedures specified in 9 CFR §§ 306.5 and 9 CFR 381.35, and 7 CFR § 59.310 must be exhausted prior to any judicial challenge of the application of the provisions of this direct final rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA, or PPIA.

Paperwork Requirements

Abstract: FSIS has reviewed the paperwork and recordkeeping requirements in this direct final rule. This rule requires manufacturers that opt to use sodium citrate buffered with citric acid to revise their product labels and submit such labeling to FSIS for approval.

Estimate of Burden: FSIS estimates that it takes 60 minutes to design and modify labels in accordance with these regulations. For label submissions, FSIS estimates a 15 minute response time to prepare the label application form, submit it, along with the label, to FSIS or to a label expediter who will deliver the form and label to FSIS.

Respondents: Meat and poultry product establishments.

Estimated Number of Respondents: 200.

Estimated Number of Responses per Respondent: 25.

Estimated Total Annual Burden on Respondents: 6,250 hours.

Copies of this information collection assessment can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, South Agriculture Building, Room 3812, Washington, DC 20250–3700.

Comments regarding the need for and usefulness of the requirements, the accuracy of FSIS's burden hour estimate, ways to minimize the estimated burden, including through the use of automated collection techniques or other forms of information collection technology, or any other aspect of this collection of information discussion, to Lee Puricelli, Paperwork Specialist, see address above, and Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Comments are requested by June 24, 1996. To be most effective, comments should be sent to OMB within 30 days of the publication date of this direct final rule.

List of Subjects

9 CFR Part 318

Food additives, Meat inspection.

9 CFR Part 381

Food additives, Poultry inspection.

Final Rule

For the reasons discussed in the preamble, FSIS is amending 9 CFR parts 318 and 381 as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 138F; 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. In the chart in § 318.7(c)(4), under the Class of substance ''Miscellaneous,'' a new entry for the substance ''Sodium citrate buffered with citric acid to a pH of 5.6'' is added at the end to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Miscellaneous				
*	*	*	*	*
	Sodium citrate buffered with citric acid to a pH of 5.6.	To inhibit the growth of micro-organisms and retain product flavor during storage.	Cured and uncured, processed food products, e.g., ham.	Not to exceed 1.3 percent of the formulation weight of the product in accordance with 21 CFR 184.1751.
*	*	*	*	*

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138F; 7 U.S.C. 450; 21 U.S.C. 451–470, 7 CFR 2.18, 2.53.

4. In the table in § 381.147(f)(4), under the Class of substance ''Miscellaneous,'' a new entry for the Substance ''Sodium Citrate buffered with citric acid to a pH of 5.6'' is added at the end to read as follows:

§ 381.147 Restrictions on the use of substances in poultry products.

* * * * *

(f) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Miscellaneous				
*	*	*	*	*
	Sodium citrate buffered with citric acid to a pH of 5.6.	To inhibit the growth of micro-organisms and retain product flavor during storage.	Cured and uncured, processed whole-muscle poultry food products, e.g., chicken breasts.	Not to exceed 1.3 percent of the formulation weight of the product in accordance with 21 CFR 184.1751.
*	*	*	*	*

Done at Washington, DC, on April 17, 1996.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 96–9980 Filed 4–23–96; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 110 and 114

[Notice 1996–11]

Candidate Debates and News Stories

AGENCY: Federal Election Commission.

ACTION: Final rule and transmittal of regulations to Congress.

SUMMARY: The Federal Election Commission is issuing revised regulations governing candidate debates and new stories produced by cable television organizations. These regulations implement the provisions of the Federal Election Campaign Act (FECA) which exempt news stories from the definition of expenditure under certain conditions. The revisions indicate that cable television programmers, producers and operators may cover or stage candidate debates in the same manner as broadcast and print news media. The rules also restate Commission policy that news organizations may not stage candidate debates if they are owned or controlled by any political party, political committee or candidate.

DATES: Further action, including the publication of a document in the Federal Register announcing an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rosemary C. Smith, Senior Attorney, 999 E Street NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of revisions to its regulations at 11 CFR 100.7(b)(2), 100.8(b)(2), 110.13 and 114.4(f) regarding news stories and candidate debates produced by cable television operators, programmers and producers. The revised rules also address candidate debates sponsored by news organizations owned or controlled by candidates, political parties and political committees. These provisions implement 2 U.S.C. 431(9) and 441b, provisions of the Federal Election Campaign Act of 1971, as amended (the Act or FECA), 2 U.S.C. 431 *et seq.*

On February 1, 1996, the Commission issued a Notice of Proposed Rulemaking (NPRM) in which it sought comments on proposed revisions to these regulations. 61 FR 3621 (Feb. 1, 1996). Four written comments were received from the Internal Revenue Service (IRS), the Federal Communications Commission (FCC), Turner Broadcasting System, Inc. (Turner), and the National Cable Television Association, Inc. (NCTA). A public hearing on these changes was scheduled for March 20, 1996. The hearing was subsequently canceled when the Commission received no requests to testify.

Section 438(d) of Title 2, United States Code, requires that any rules or regulations prescribed by the Commission to carry out the provisions of Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on April 18, 1996.

Explanation and Justification for 11 CFR 100.7(b)(2), § 100.8(b)(2), § 110.13, and § 114.4(f)

The FECA generally prohibits corporations from making contributions or expenditures in connection with any election. 2 U.S.C. 441b. However, the definition of ''expenditure'' in section 431(9) indicates that news stories, commentaries, and editorials distributed through the facilities of any broadcast station, newspaper, magazine, or other periodical publication are not considered to be expenditures unless the facilities are owned or controlled by a political party, political committee, or candidate. 2 U.S.C. 431(9)(B)(i). This statutory exemption forms the basis for the Commission's long-standing regulations at 11 CFR 100.7(b)(2) and 100.8(b)(2) exempting such communications from the definitions of contribution and expenditure. Section 431(9) is also the basis underlying sections 110.13 and 114.4(f), which permit broadcasters and *bona fide* print media to stage candidate debates under certain conditions.

The Commission has decided to expand the types of media entities that may stage candidate debates under sections 110.13 and 114.4 to include cable television operators, programmers and producers. Hence, revised sections 110.13(a)(2) and 114.4(f) allows these types of cable organizations to stage debates under the same terms and conditions as other media organizations such as broadcasters, and *bona fide* print media organizations. New language in sections 110.13, 100.7(b)(2) and 100.8(b)(2) also permits cable organizations, acting in their capacity as news media, to cover or carry candidate debates staged by other groups. Examples of the types of programming that the Federal Communications Commission considers to be *bona fide* newscasts and news interview programs are provided in The Law of Political Broadcasting and Cablecasting: A Political Primer, 1984 ed., Federal Communications Commission, at p. 1994–99.

The revised rules are consistent with the intent of Congress not ''to limit or burden in any way the first amendment freedoms of the press * * *.'' H.R. Rep. No. 93–1239, 93d Cong., 2d Sess. at 4 (1974). In *Turner Broadcasting System, Inc.* v. *Federal Communications Commission,* _____ U.S. _____, 114 S.

Ct. 2445, 2456 (1994), the Supreme Court recognized that cable operators and cable programmers ''engage in and transmit speech, and they are entitled to the protection of the speech and press provisions of the First Amendment.''

The 1974 legislative history of the FECA also indicates that in exempting news stories from the definition of ''expenditure,'' Congress intended to assure ''the unfettered right of the newspapers, TV networks, and other media to cover and comment on political campaigns.'' H.R. Rep. No. 93–1239, 93d Cong., 2d Sess. at 4 (1974). Although the cable television industry was much less developed when Congress express this intent, it is reasonable to conclude that cable operators, programmers and producers, when operating in their capacity as news producers and distributors, would be precisely the type of ''other media'' appropriately included within this exemption. For these reasons, the Commission has decided to allow cable operators, programmers and producers to act as debate sponsors.

The Internal Revenue Service found no conflict with the Internal Revenue Code or regulations thereunder. The Federal Communications Commission stated that the proposed amendments regarding candidate debates and news stories are not inconsistent with the FCC's policies in implementing the Communications Act of 1934, and appear to complement and further the FCC's regulatory scheme and goals. Two other commenters supported the Commission's efforts to confirm that the FECA's exemption applies to candidate debates, news, commentary and editorial programming produced and distributed by cable news organizations. These commenters stated they felt any other course of action would present serious Constitutional problems under the First Amendment. They also argued that the Commission's interpretation is consistent with the statutory framework established by Congress when it enacted the 1974 Amendments to the FECA, and would serve the public interest.

The NPRM sought comments on whether there are distinctions between cable operators, programmers and producers that should be considered in determining which of these types of organizations may stage candidate debates, and in determining which of these organizations are *bona fide* news organizations entitled to the press exemption. It also asked if there other types of cable new organizations that should be included as debate sponsors. One commenter stated that the Commission should confirm that the FECA's exemption applies to cable operators and cable networks as well as to independent producers of news, commentary and editorials they carry. Under the new regulations, the exemption applies to each of these entities. The commenter also urged the Commission to expand the list of permissible debate sponsors and *bona fide* news media to include regional, state and national trade associations whose members are cable operators and programmers. The role of trade associations was not addressed in the NPRM and is beyond the scope of this rulemaking.

The revised rules are also consistent with Advisory Opinion 1982–44, in which the Commission concluded that the press exemption permitted Turner Broadcasting System, Inc. to donate free cable cast time to the Republican and Democratic National Committees without making a prohibited corporate contribution. The cablecast programming on ''super satellite'' television station, WTBS in Atlanta, Georgia, was to be provided to a network of cable system operators. The Commission stated *inter alia* that ''the distribution of free time to both political parties is within the broadcaster's legitimate broadcast function and, therefore, within the purview of the press exemption.'' AO 1982–44.

The courts have examined the application of the press exemption in section 431(9)(B)(i) on several occasions. See e.g., *Readers Digest Ass'n* v. *FEC*, 509 F. Supp. 1210 (S.D.N.Y. 1981); *FEC* v. *Phillips Publishing Company, Inc.*, 517 F. Supp. 1308 (D.D.C. 1981); and *Federal Election Commission* v. *Multimedia Cablevision, Inc.*, Civ. Action No. 94–1520–MLB, slip op. (D. Kan. Aug. 15, 1995). In *Readers Digest*, the court articulated a two part test ''on which the exemption turns: whether the press entity is owned by the political party or candidate and whether the press entity was acting as a press entity in making the distribution complained of. ''*Readers Digest*, at p. 1215. The first prong is discussed more fully below. With regard to the second prong, the court stated that ''the statute would seem to exempt only those kinds of distribution that fall broadly within the press entity's legitimate press function.'' *Id.* at 1214. The Commission believes a cable operator, producer or programmer can satisfy this standard if it follows the same guidelines as other news media follow when they stage candidate debates. For example, it must invite at least two candidates and refrain from promoting or advancing one over the other(s).

The Commission is also adding language to sections 100.7(b)(2) and 100.8(b)(2) indicating that the news story exception in 2 U.S.C. 431(9) allows cable operators, producers and programmers to exercise legitimate press functions by covering or carrying news stories, commentaries and editorials in accordance with the same guidelines that apply to the print or broadcast media. For example, they are subject to the same provisions regarding ownership by candidates and political parties as are broadcasters or print media. The public comments regarding these changes are summarized above.

The approach taken in the new rules regarding cable television entities avoids conflict with the FCC's application of the equal opportunity requirements under the Communications Act of 1934. Section 315(a) of the Communications Act requires that broadcast station licensees, including cable television operators, who permit any legally qualified candidate to use a broadcasting station, must afford equal opportunities to all other such candidates for that office in the use of that broadcasting station. 47 U.S.C. 315(a). However, the equal opportunity requirement is not triggered if the broadcasting station airs a *bona fide* newscast, *bona fide* news interview, *bona fide* news documentary or on-the-spot coverage of *bona fide* news events (including political conventions). 47 U.S.C. 315(a)(1)–(4). In 1975, the FCC decided that broadcasts of debates between political candidates would be exempt from the equal opportunities requirement as on-the-spot coverage of *bona fide* news events where, *inter ailia*, the broadcaster exercised a reasonable, good faith judgment that it was newsworthy, and not for the purpose of giving political advantage to any candidate. See The Law of Political Broadcasting and Cablecasting: A Political Primer, 1984 ed., Federal Communications Commission, at p. 1502. This ruling was expanded in 1983 to permit broadcaster-sponsorship of candidate debates. *Id.* Similarly, in 1992, the FCC ruled that independently produced *bona fide* news interview programs qualify for exemption from the equal opportunities requirement of the Communications Act. In Matter of Request for Declaratory Ruling That Independently Produced Bona Fide News Interview Programs Qualify for the Equal Opportunities Exemption Provided in Section 315(a)(2) of the Communications Act, FCC 92–288 (July 15, 1992).

The third change in the revised rules is the addition of language in paragraph (a)(2) of section 110.13 regarding ownership of organizations staging candidate debates. Broadcast, cable and

print media organizations may not stage candidate debates if they are owned or controlled by a political party, political committee or candidate. This policy was not stated in the previous candidate debate rules, although it was included in the 1979 Explanation and Justification for those rules. *See* 44 F.R. 76735 (December 27, 1979). It is based on 2 U.S.C. 431(9)(B)(i), which specifies that the news story exemption does not apply to media entities that are owned or controlled by a political party, political committee or candidate. Please note that this new language applies only to media corporations, and thus does not change the rules in 11 CFR 110.13 regarding candidate debates staged by nonprofit corporations described in section 501(c)(3) or (c)(4) of the Internal Revenue Code. None of the commenters specifically addressed this change in the regulations.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that any small entities affected are already required to comply with the requirements of the Act in these areas.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 110

Campaign funds, Political candidates, Political committees and parties.

11 CFR Part 114

Business and industry, Elections, Labor.

For the reasons set out in the preamble, Subchapter A, Chapter I of Title 11 of the *Code of Federal Regulations* is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for Part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8)

2. Part 100 is amended by revising paragraph (b)(2) of section 100.7 to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

* * * * *

(b) * * *

(2) Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), newspaper, magazine, or other periodical publication is not a contribution unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the costs for a news story (i) which represents a *bona fide* news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not a contribution.

* * * * *

3. Part 100 is amended by revising paragraph (b)(2) of section 100.8 to read as follows:

§ 100.8 Expenditure (2 U.S.C. 431(9)).

* * * * *

(b) * * *

(2) Any cost incurred in covering or carrying a new story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), newspaper, magazine, or other periodical publication is not an expenditure unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the costs for a news story (i) which represents a *bona fide* news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news account which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not an expenditure.

* * * * *

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

4. The authority citation for Part 110 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

5. Part 110 is amended by revising section 110.13 to read as follows:

§ 110.13 Candidate debates.

(a) *Staging organizations.* (1) Nonprofit organizations described in 26 U.S.C. 501 (c)(3) or (c)(4) and which do not endorse, support, or oppose political candidates or political parties may stage candidate debates in accordance with this section and 11 CFR 114.4(f).

(2) Broadcasters (including a cable television operator, programmer or producer), *bona fide* newspapers, magazines and other periodical publications may stage candidate debates in accordance with this section and 11 CFR 114.4(f), provided that they are owned or controlled by a political party, political committee or candidate. In addition, broadcasters (including a cable television operator, programmer or producer), *bona fide* newspapers, magazines and other periodical publications, acting as press entities, may also cover or carry candidate debates in accordance with 11 CFR 100.7 and 100.8.

(b) *Debate structure.* The structure of debates staged in accordance with this section and 11 CFR 114.4(f) is left to the discretion of the staging organizations(s), provided that:

(1) Such debates include at least two candidates; and

(2) The staging organization(s) does not structure the debates to promote or advance one candidate over another.

(c) *Criteria for candidate selection.* For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organizations(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate. For debates held prior to a primary election, caucus or convention, staging organizations may restrict candidate participation to candidates seeking the nomination of one party, and need not stage a debate for candidates seeking the nomination of any other political party or independent candidates.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

6. The authority citation for Part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8), 438(a)(8), and 441b.

7. Part 114 is amended by revising paragraph (f) of section 114.4. to read as follows:

§ 114.4 Disbursements for communications beyond the restricted class in connection with a Federal election.

* * * * *

(f) *Candidate debates.*

(1) A nonprofit organization described in 11 CFR 110.13(a)(1) may use its own funds and may accept funds donated by corporations or labor organizations under paragraph (f)(3) of this section to defray costs incurred in staging candidate debates held in accordance with 11 CFR 110.13.

(2) A broadcaster (including a cable television operator, programmer or producer), *bona fide* newspaper,

magazine or other periodical publication may use its own funds to defray costs incurred in staging public candidate debates held in accordance with 11 CFR 110.13.

(3) A corporation or labor organization may donate funds to nonprofit organizations qualified under 11 CFR 110.13(a)(1) to stage candidate debates held in accordance with 11 CFR 110.13 and 114.4(f).

* * * * *

Dated: April 18, 1996.

Lee Ann Elliott,

Chairman.

[FR Doc. 96–10038 Filed 4–23–96; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 11

[Docket No. 28518; Amendment No. 11–41]

General Rulemaking Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Technical amendment.

SUMMARY: The Federal Aviation Administration is making an editorial change to part 11 by changing the words ''rule making'' and ''rule-making'' to read ''rulemaking''. This change is being made for consistency.

EFFECTIVE DATE: April 24, 1996.

FOR FURTHER INFORMATION CONTACT: Clara Thieling, Office of the Chief Counsel, Regulations Division, AGC–200, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3123.

SUPPLEMENTARY INFORMATION:

Background

In response to inquiries as to the uniformity of the spelling of the word rulemaking, the FAA is making an editorial change to part 11 to change the spelling of ''rule-making'' and ''rule making'' to ''rulemaking''. Because this action is merely a technical amendment, the FAA finds that prior notice and public procedure under 5 U.S.C. 553(b)(3)(B) are unnecessary. For the same reason, the FAA finds that good cause exists for making this amendment effective upon publication.

The Amendment

The FAA amends 14 CFR part 11 as follows:

PART 11—GENERAL RULEMAKING PROCEDURES

1. The authority citation for part 11 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, and 46102.

2. In the heading and throughout part 11, remove the words ''rule-making'' and ''rule making'' wherever they appear, and add the word ''rulemaking'' in their place.

Issued in Washington, DC, on March 29, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations, Office of the Chief Counsel.

[FR Doc. 96–10002 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 96–ANE–05; Amendment 39–9568; AD 96–08–02]

Airworthiness Directives; Hamilton Standard Models 14RF–9, 14RF–19, 14RF–21; and 14SF–5, 14SF–7, 14SF–11, 14SFL11, 14SF–15, 14SF–17, 14SF–19, and 14SF–23; and Hamilton Standard/British Aerospace 6/5500/F Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Hamilton Standard Models 14RF–9, 14RF–19, 14RF–21; and 14SF–5, 14SF–7, 14SF–11, 14SFL11, 14SF–15, 14SF–17, 14SF–19, and 14SF–23; and Hamilton Standard/British Aerospace 6/5500/F propellers, that currently requires that all blades of applicable Hamilton Standard propellers be calibrated for ultrasonic transmissibility before conducting the ultrasonic shear wave inspection. In addition, that AD decreases the repetitive inspection interval for the Hamilton Standard Models 14RF–9, 14SF–5, –7, –11, –15, –17, –19, and –23 propellers from 1,250 flight cycles to 500 flight cycles. That AD also establishes a new ultrasonic shear wave inspection interval of 1,000 flight cycles for the Hamilton Standard Model 14RF–19, and 2,500 flight cycles for the Hamilton Standard Model 14RF–21 and Hamilton Standard/British Aerospace Model 6/5500/F. Also, that AD removes Hamilton Standard Model 14SFL11 propellers from service. This amendment requires a blade repair that constitutes terminating action to the repetitive ultrasonic taper bore inspections. Repetitive ultrasonic taper bore inspections are required until the blade is repaired in accordance with this AD. This amendment is prompted by the development of a taper bore repair process that removes the damaged material and returns the blade to a condition that does not require repetitive ultrasonic taper bore inspections. The actions specified by this AD are intended to prevent separation of a propeller blade due to cracks initiating in the blade taper bore, that can result in aircraft damage, and possible loss of aircraft control.

DATES: Effective May 9, 1996.

The incorporation by reference of Hamilton Standard Alert Service Bulletins (ASB's): No. 14RF–9–61–A91, No. 14RF–19–61–A55, No. 14RF–21–61–A73, No. 14SF–61–A93, and No. 6/5500/F–61–A41, all dated December 7, 1995, and Hamilton Standard ASB's No. 14RF–9–61–A91, Revision 1, No. 14RF–19–61–A55, Revision 1, No. 14RF–21–61–A73, and Revision 1, No. 14SF–61–A93, all dated December 15, 1995, and No. 6/5500/F–61–A41, Revision 1, dated December 18, 1995; and Hamilton Standard ASB's No. 14RF–9–61–A95, No. 14RF–19–61–A57, No. 14RF–21–61–A75, No. 14SF–61–A95, and No. 6/5500/F–61–A43, all dated December 18, 1995, and Hamilton Standard ASB's No. 14RF–9–61–A95, Revision 1, No. 14RF–19–61–A57, Revision 1, No. 14RF–21–61–A75, Revision 1, No. 14SF–61–A95, Revision 1, and No. 6/5500/F–61–A43, Revision 1, all dated December 21, 1995, was previously approved by the Director of the Federal Register as of January 9, 1996 (61 FR 617).

The incorporation by reference of Hamilton Standard ASB's No. 14RF–9–61–A94, Revision 1, dated March 6, 1996; No. 14RF–19–61–A53, Revision 1, dated March 6, 1996; No. 14RF–21–61–A72, Revision 1, dated March 6, 1996; No. 14SF–61–A92, Revision 1, dated March 6, 1996; and No. 6/5500/F–61–A39, Revision 1, dated March 6, 1996; is approved by the Director of the Federal Register as of May 9, 1996.

Comments for inclusion in the Rules Docket must be received on or before June 24, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–ANE–05, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be submitted to the following Internet address: ''epd-adcomments@mail.hq.faa.gov''.

The service information referenced in this AD may be obtained from Hamilton Standard, One Hamilton Road, Windsor Locks, CT 06096–1010; telephone (203) 654–6876. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Frank Walsh, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7152, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: On December 26, 1995, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 96–01–01, Amendment 39–9477 (61 FR 617, January 9, 1996), applicable to Hamilton Standard Models 14RF–9, –19, –21; and 14SF–5, –7, –11, –15, –17, –19, and –23; and Hamilton Standard/British Aerospace 6/5500/F propellers, to require all blades of applicable Hamilton Standard propellers be calibrated for ultrasonic transmissibility before conducting the ultrasonic shear wave inspection. In addition, that AD decreases the repetitive inspection interval for the Hamilton Standard Models 14RF–9, 14SF–5, –7, –11, –15, –17, –19, and –23 propellers from 1,250 flight cycles to 500 flight cycles. That AD also establishes a new ultrasonic shear wave inspection interval of 1,000 flight cycles for the Hamilton Standard Model 14RF–19, and 2,500 flight cycles for the Hamilton Standard Model 14RF–21 and Hamilton Standard/British Aerospace Model 6/5500/F. Also, that AD removes Hamilton Standard Model 14SFL11 propellers from service. That action was prompted by improvements in the crack detection capability of the ultrasonic inspection method as well as redefinition of crack growth rate. That condition, if not corrected, could result in separation of a propeller blade due to cracks initiating in the blade taper bore, that can result in aircraft damage, and possible loss of aircraft control.

Since the issuance of that AD, the manufacturer has developed a new taper bore repair process that consists of reaming damaged material out of the taper bore, eddy current inspection (ECI) and fluorescent penetrant inspection (FPI) of the taper bore, followed by a wall thickness check and shotpeening. The FAA has evaluated the structural adequacy of the repair action and has determined that design structural integrity is maintained. In addition, the FAA has revised the cyclic count determination procedure for Canadair CL215T and CL415 water bomber aircraft. The FAA has determined that the water scoop mission profile creates less stress than a touch-and-go or normal takeoff and landing, and has therefore revised this AD to include the new cyclic count definition of one-half flight cycle per each water scoop.

The FAA has reviewed and approved the technical contents of the following Hamilton Standard Alert Service Bulletins (ASB's): No. 14RF–9–61–A91, No. 14RF–19–61–A55, No. 14RF–21–61–A73, No. 14SF–61–A93, and No. 6/5500/F–61–A41, all dated December 7, 1995, and No. 14RF–9–61–A91, Revision 1, No. 14RF–19–61–A55, Revision 1, No. 14RF–21–61–A73, Revision 1, No. 14SF–61–A93, Revision 1, all dated December 15, 1995, and No. 6/5500/F–61–A41, Revision 1, dated December 18, 1995, that describe procedures for ultrasonic shear wave inspections of the blade taper bores for cracks after the lead wool has been removed. The Revision 1 ASB's permit the installation of a plastic cone in the taper bore that will enhance resistance to corrosion and mechanical damage. Inspection procedures are the same.

In addition, the FAA has reviewed and approved the technical contents of Hamilton Standard ASB's No. 14RF–9–61–A95, No. 14RF–19–61–A57, No. 14RF–21–61–A75, No. 14SF–61–A95, and No. 6/5500/F–61–A43, all dated December 18, 1995, and No. 14RF–9–61–A95, Revision 1, No. 14RF–19–61–A57, Revision 1, No. 14RF–21–61–A75, Revision 1, No. 14SF–61–A95, Revision 1, and No. 6/5500/F–61–A43, Revision 1, all dated December 21, 1995, that describe ultrasonic shear wave inspection that can be accomplished without removing the lead from the taper bore which permits an on-wing inspection of the blade taper bores for cracks. The Revision 1 ASB's do not require immediate removal of the blades that cannot be inspected for cracks due to the lead wool absorbing the ultrasonic signal. These blades may be removed at any time within the applicable compliance period. Inspection procedures are the same.

Also, the FAA has reviewed and approved technical contents of Hamilton Standard ASB's No. 14RF–9–61–A94, Revision 1, dated March 6, 1996; No. 14RF–19–61–A53, Revision 1, dated March 6, 1996; No. 14RF–21–61–A72, Revision 1, dated March 6, 1996; No. 14SF–61–A92, Revision 1, dated March 6, 1996; and No. 6/5500/F–61–A39, Revision 1, dated March 6, 1996; that describe procedures for the new taper bore repair process.

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of this same type design, this AD supersedes AD 96–01–01 to require an ultrasonic shear wave inspection of the propeller blade taper bore for cracks. Propeller blades with ultrasonic shear wave readings that exceed the acceptable limits described in the applicable ASB's must be removed from service and replaced with serviceable propeller blades prior to further flight. In addition, this AD requires the new taper bore repair for all Model 14RF–9 propellers no later than July 31, 1996, and for all other affected propeller models February 28, 1997. Propeller blades that cannot be repaired within the repair limits specified in the applicable Hamilton Standard ASB's must be removed from service and replaced with serviceable propeller blades prior to further flight. The calendar end-date was determined based upon fracture mechanics and engineering analysis, as well as logistics considerations, that support the specified calendar end-date. This taper bore repair constitutes terminating action to the repetitive ultrasonic taper bore inspections required by this AD. The actions are required to be accomplished in accordance with the service documents described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–ANE–05.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9477, (61 FR 617, January 9, 1996), and by adding a new airworthiness directive, Amendment 39–9568, to read as follows:

96–08–02 Hamilton Standard: Amendment 39–9568. Docket 96–ANE–05. Supersedes AD 96–01–01, Amendment 39–9477.

Applicability: Hamilton Standard Models 14RF–9, 14RF–19, 14RF–21; and 14SF–5, 14SF–7, 14SF–11, 14SFL11, 14SF–15, 14SF–17, 14SF–19, and 14SF–23; and Hamilton Standard/British Aerospace 6/5500/F propellers installed on but not limited to Embraer EMB–120, EMB–120RT; Aerospatiale ATR42–100, ATR42–300, ATR42–320, ATR72, ATR72–210; deHavilland DHC–8–100 series, DHC–8–200 series, DHC–8–300 series; SAAB-SCANIA SF 340B; Canadair CL–215T, CL–415; Construcciones Aeronauticas SA (CASA) CN–235 series; and British Aerospace ATP aircraft.

Note: This airworthiness directive (AD) applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (u) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any propeller from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of a propeller blade due to cracks initiating in the blade taper bore, that can result in aircraft damage, and possible loss of aircraft control, accomplish the following:

(a) For Hamilton Standard Model 14RF–9 propeller blades, with Serial Numbers less than 882038 and listed in Hamilton Standard Alert Service Bulletins (ASB's) No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–9–61–A95, Revision 1, dated December 21, 1995, installed on but not limited to Embraer EMB–120 and EMB–120RT series aircraft, accomplish the following:

(1) Within the next 150 flight cycles, after the effective date of this AD, perform an ultrasonic shear wave inspection for cracks in the blade taper bore in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–9–61–A95, Revision 1, dated December 21, 1995.

(2) For propeller blades that have been previously inspected in accordance with Hamilton Standards ASB's No. 14RF–9–61–A91, dated December 7, 1995, or No. 14RF–9–61–A91, Revision 1, dated December 15, 1995, perform an ultrasonic shear wave inspection in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–9–61–A95, Revision 1, dated December 21, 1995, within 500 flight cycles since last inspection or 150 flight cycles after the effective date of this AD, whichever occurs later.

(3) Propeller blades that cannot be inspected for cracks in accordance with Hamilton Standard ASB's No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–9–61–A95, Revision 1, dated December 21, 1995, due to the lead wool absorbing the ultrasonic signal, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–9–61–A91, dated December 7, 1995, or No. 14RF–9–61–A91, Revision 1, dated December 15, 1995, within the next 150 flight cycles after the effective date of this AD.

(4) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–9–61–A95, Revision 1, dated December 21, 1995, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–9–61–A91 dated December 7, 1995, or No. 14RF–9–61–A91, Revision 1 dated December 15, 1995.

(5) Thereafter, perform repetitive ultrasonic shear wave inspections at intervals not to exceed 500 flight cycles in accordance with the applicable ASB's.

(6) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14RF–9–61–A91, dated December 7, 1995, or No. 14RF–9–61–A91, Revision 1, dated December 15, 1995, must be removed from service and replaced with a serviceable part prior to further flight.

(b) For Hamilton Standard Models 14SF–5, –7, –11, –15, and –23 propeller blades with Serial Numbers less than 882038 and listed in Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, installed on but not limited to Aerospatiale ATR42–100, ATR42–300, ATR42–320, ATR72 and deHavilland DHC–8–100, DHC–8–200, DHC–8–300 series aircraft, accomplish the following:

(1) Within the next 150 flight cycles, after the effective date of this AD, perform an ultrasonic shear wave inspection for cracks in the blade taper bore in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995.

(2) For propeller blades that have been previously inspected in accordance with Hamilton Standards ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995, perform an ultrasonic shear wave inspection in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, within 500 flight cycles since last inspection or 150 flight cycles after the effective date of this AD, whichever occurs later.

(3) Propeller blades that cannot be inspected for cracks in accordance with Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, due to the lead wool absorbing the ultrasonic signal, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995, within the next 150 flight cycles after the effective date of this AD.

(4) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995.

(5) Thereafter, perform repetitive ultrasonic shear wave inspections at intervals not to exceed 500 flight cycles in accordance with the applicable ASB's.

(6) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995, must be removed from service and replaced with a serviceable part prior to further flight.

(c) For Hamilton Standard Model 14RF–9 propeller blades with Serial Numbers less than 882038 and not listed in Hamilton Standard ASB's No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–9–61–A95, Revision 1, dated December 21, 1995, installed on but not limited to Embraer EMB 120 and EMB 120RT series aircraft, accomplish the following:

(1) Within the next 300 flight cycles, after the effective date of this AD, perform an ultrasonic shear wave inspection for cracks in the blade taper bore in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–61–A95, Revision 1, dated December 21, 1995.

(2) For propeller blades that have been previously inspected in accordance with Hamilton Standards ASB's No. 14RF–9–61–A91, dated December 7, 1995, or No. 14RF–9–61–A91, Revision 1, dated December 15, 1995, perform an ultrasonic shear wave inspection in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–9–61–A95, Revision 1, dated December 21, 1995, within 500 flight cycles since last inspection or 300 flight cycles after the effective date of this AD, whichever occurs later.

(3) Propeller blades that cannot be inspected for cracks in accordance with Hamilton Standard ASB's No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–9–61–A95, Revision 1, dated December 21, 1995, due to the lead wool absorbing the ultrasonic signal, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–9–61–A91, dated December 7, 1995, or No. 14RF–9–61–A91, Revision 1, dated December 15, 1995, within the next 300 flight cycles after the effective date of this AD.

(4) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14RF–9–61–A95, dated December 18, 1995, or No. 14RF–9–61–A95, Revision 1, dated December 21, 1995, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–9–61–A91, dated December 7, 1995, or No. 14RF–9–61–A91, Revision 1, dated December 15, 1995.

(5) Thereafter, perform repetitive ultrasonic shear wave inspections at intervals not to exceed 500 flight cycles in accordance with the applicable ASB's.

(6) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14RF–9–61–A91, dated December 7, 1995, or No. 14RF–9–61–A91, Revision 1, dated December 15, 1995, must be removed from service and replaced with a serviceable part prior to further flight.

(d) For Hamilton Standard Models 14SF–5, –7, –11, –15, and –23 propeller blades with Serial Numbers less than 882038 and not listed in ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, installed on but not limited to Aerospatiale ATR42–100, ATR42–300, ATR42–320, ATR72, ATR72–210 and deHavilland DHC–8–100, DHC–8–200, DHC–8–300 series aircraft, accomplish the following:

(1) Within the next 300 flight cycles, after the effective date of this AD, perform an ultrasonic shear wave inspection for cracks in the blade taper bore in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995.

(2) For propeller blades that have been previously inspected in accordance with Hamilton Standards ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995, perform an ultrasonic shear wave inspection in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, within 500 flight cycles since last inspection or 300 flight cycles after the effective date of this AD, whichever occurs later.

(3) Propeller blades that cannot be inspected for cracks in accordance with Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, due to the lead wool absorbing the ultrasonic signal, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995, within the next 300 flight cycles after the effective date of this AD.

(4) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995.

(5) Thereafter, perform repetitive ultrasonic shear wave inspections at intervals not to exceed 500 flight cycles in accordance with the applicable ASB's.

(6) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995, must be removed from service and replaced with a serviceable part prior to further flight.

(e) For all Hamilton Standard Models 14SF–17, and –19 propeller blades with Serial Numbers less than 882038, installed on but not limited to Canadair CL–215T and CL–415 series aircraft, accomplish the following:

(1) Within the next 300 flight cycles, after the effective date of this AD, perform an ultrasonic shear wave inspection for cracks in the blade taper bore in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995.

(2) For propeller blades that have been previously inspected in accordance with Hamilton Standards ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995, perform an ultrasonic shear wave inspection in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, within 500 flight cycles since last inspection or 300 flight cycles after the effective date of this AD, whichever occurs later.

(3) Propeller blades that cannot be inspected for cracks in accordance with Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, due to the lead wool absorbing the ultrasonic signal, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995, within the next 300 flight cycles after the effective date of this AD.

(4) Propeller blades that have ultrasonic shear wave indications that exceed the limits

specified in Hamilton Standard ASB's No. 14SF–61–A95, dated December 18, 1995, or No. 14SF–61–A95, Revision 1, dated December 21, 1995, must be removed from service and inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–A93, Revision 1, dated December 15, 1995.

(5) Thereafter, perform repetitive ultrasonic shear wave inspections at intervals not to exceed 500 flight cycles in accordance with the applicable ASB's.

(6) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14SF–61–A93, dated December 7, 1995, or No. 14SF–61–93, Revision 1, dated December 15, 1995, must be removed from service and replaced with a serviceable part prior to further flight.

(f) For all Hamilton Standard Models 14RF–19 propeller blades with Serial Numbers less than 882038, installed on but not limited to SAAB–SCANIA SF 340B series aircraft, accomplish the following:

(1) Within the next 300 flight cycles, after the effective date of this AD, perform an ultrasonic shear wave inspection for cracks in the blade taper bore in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–19–61–A57, dated December 18, 1995, or No. 14RF–19–61–A57, Revision 1, dated December 21, 1995.

(2) For propeller blades that have been previously inspected in accordance with Hamilton Standards ASB's No. 14RF–19–61–A55, dated December 7, 1995, or No. 14RF–19–61–A55, Revision 1, dated December 15, 1995, perform an ultrasonic shear wave inspection in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–19–61–A57, dated December 18, 1995, or No. 14RF–19–61–A57, Revision 1, dated December 21, 1995, within 1,000 flight cycles since last inspection or 300 flight cycles after the effective date of this AD, whichever occurs later.

(3) Propeller blades that cannot be inspected for cracks in accordance with Hamilton Standard ASB's No. 14RF–19–61–A57, dated December 18, 1995, or No. 14RF–19–61–A57, Revision 1, dated December 21, 1995, due to the lead wool absorbing the ultrasonic signal, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–19–61–A55, dated December 7, 1995, or No. 14RF–19–61–A55, Revision 1, dated December 15, 1995, within the next 300 flight cycles after the effective date of this AD.

(4) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's 14RF–19–61–A57, dated December 18, 1995, or No. 14RF–19–61–A57, Revision 1, dated December 21, 1995, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–19–61–A55, dated December 7, 1995, or No. 14RF–19–61–A55, Revision 1, dated December 15, 1995.

(5) Thereafter, perform repetitive ultrasonic shear wave inspections at intervals not to exceed 1,000 flight cycles in accordance with the applicable ASB's.

(6) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14RF–19–61–A55, dated December 7, 1995, or No. 14RF–19–61–A55, Revision 1, dated December 15, 1995, must be removed from service and replaced with a serviceable part prior to further flight.

(g) For all Hamilton Standard Model 14RF–21 propeller blades with Serial Numbers less than 882038, installed on but not limited to Construcciones Aeronauticas SA (CASA) CN–235 series aircraft, accomplish the following:

(1) Within the next 300 flight cycles, after the effective date of this AD, perform an ultrasonic shear wave inspection for cracks in the blade taper bore in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–21–61–A75, dated December 18, 1995, or No. 14RF–21–61–A75, Revision 1, dated December 21, 1995.

(2) For propeller blades that have been previously inspected in accordance with Hamilton Standard ASB's No. 14RF–21–61–A73, dated December 7, 1995, or No. 14RF–21–61–A73, Revision 1, dated December 15, 1995, perform an ultrasonic shear wave inspection in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–21–61–A75, dated December 18, 1995, or No. 14RF–21–61–A75, Revision 1, dated December 21, 1995, within 2,500 flight cycles since last inspection or 300 flight cycles after the effective date of this AD, whichever occurs later.

(3) Propeller blades that cannot be inspected for cracks in accordance with Hamilton Standard ASB's No. 14RF–21–61–A75, dated December 18, 1995, or No. 14RF–21–61–A75, Revision 1, dated December 21, 1995, due to the lead wool absorbing the ultrasonic signal, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–21–61–A73, dated December 7, 1995, or No. 14RF–21–61–A73, Revision 1, dated December 15, 1995, within the next 300 flight cycles after the effective date of this AD.

(4) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14RF–21–61–A75, dated December 18, 1995, or No. 14RF–21–61–A75, Revision 1, dated December 21, 1995, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 14RF–21–61–A73, dated December 7, 1995, or No. 14RF–21–61–A73, Revision 1, dated December 18, 1995.

(5) Thereafter, perform repetitive ultrasonic shear wave inspections at intervals not to exceed 2,500 flight cycles in accordance with the applicable ASB's.

(6) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 14RF–21–61–A73, dated December 7, 1995, or No. 14RF–21–61–A73, Revision 1, dated December 15, 1995, must be removed from service and replaced with a serviceable part prior to further flight.

(h) For all Hamilton Standard/British Aerospace 6/5500/F propeller blades, with Serial Numbers less than 882038, installed on but not limited to British Aerospace ATP series aircraft, accomplish the following:

(1) Within the next 300 flight cycles, after the effective date of this AD, perform an ultrasonic shear wave inspection for cracks in the blade taper bore in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 6/5500/F–61–A43, dated December 18, 1995, or No. 6/5500/F–61–A43, Revision 1, dated December 21, 1995.

(2) For propeller blades that have been previously inspected in accordance with Hamilton Standards ASB's No. 6/5500/F–61–A41, dated December 7, 1995, or No. 6/5500/F–61–A41, Revision 1, dated December 18, 1995, perform an ultrasonic shear wave inspection in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 6/5500/F–61–A43, dated December 18, 1995, or No. 6/5500/F–61–A43, Revision 1, dated December 21, 1995, as applicable within 2,500 flight cycles since last inspection or 300 flight cycles after the effective date of this AD, whichever occurs later.

(3) Propeller blades that cannot be inspected for cracks in accordance with Hamilton Standard ASB's No. 6/5500/F–61–A43, dated December 18, 1995, or No. 6/5500/F–61–A43, Revision 1, dated December 21, 1995, due to the lead wool absorbing the ultrasonic signal, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 6/5500/F–61–A41, dated December 7, 1995, or No. 6/5500/F–61–A41, Revision 1, dated December 18, 1995, within the next 300 flight cycles after the effective date of this AD.

(4) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 6/5500/F–61–A43, dated December 18, 1995, or No. 6/5500/F–61–A43, Revision 1, dated December 21, 1995, must be inspected in accordance with the Accomplishment Instructions of Hamilton Standard ASB's No. 6/5500/F–61–A41, dated December 7, 1995, or No. 6/5500/F–61–A41 Revision 1, dated December 18, 1995.

(5) Thereafter, perform repetitive ultrasonic shear wave inspections at intervals not to exceed 2,500 flight cycles in accordance with the applicable ASB's.

(6) Propeller blades that have ultrasonic shear wave indications that exceed the limits specified in Hamilton Standard ASB's No. 6/5500/F–61–A41, dated December 7, 1995, or No. 6/5500/F–61–A41, Revision 1, dated December 18, 1995, must be removed from service and replaced with a serviceable part prior to further flight.

(i) For all Hamilton Standard Model 14SFL11 propellers installed on Aerospatiale ATR72–210 series aircraft, remove these propellers from service prior to further flight, and replace with serviceable Hamilton Standard 247F propellers.

(j) The ultrasonic inspection of the propeller blade taper bore must be performed by a Level II or III inspector who is qualified under the guidelines established by the American Society of Nondestructive Testing or MIL–STD–410 or FAA-approved equivalent, and must be trained by Hamilton Standard-approved personnel on how to do

this inspection procedure. The individual returning the aircraft to service is required to verify that the ultrasonic inspection was accomplished in accordance with the requirements of this paragraph.

(k) For repetitive inspections, propeller blades may be evaluated to determine if the lead wool is absorbing the ultrasonic signal at any time during the respective flight cycle repetitive inspection interval to determine if the lead wool removal is required to complete the ultrasonic shear wave inspection.

(l) No later than August 31, 1996, for all Model 14RF–9 propeller blades with S/N's less than 885718, perform the taper bore repair, eddy current inspect (ECI) and fluorescent penetrant inspect (FPI) the taper bore, perform a wall thickness check, and shotpeen, in accordance with the procedures described in Hamilton Standard ASB No. 14RF–9–61–A94, Revision 1, dated March 6, 1996. Propeller blades repaired in accordance with the original issuance of Hamilton Standard ASB No. 14RF–9–61–A94, dated February 6, 1996, need not be repaired again. Propeller blades found to be beyond repair limits specified in these ASB's must be removed from service.

(m) No later than February 28, 1997, for all Model 14RF–19 propeller blades with S/N's less than 885718, perform the taper bore repair, ECI and FPI the taper bore, perform a wall thickness check, and shotpeen, in accordance with the procedures described in Hamilton Standard ASB No. 14RF–19–61–A53, Revision 1, dated March 6, 1996. Propeller blades repaired in accordance with the original issuance of Hamilton Standard ASB No. 14RF–19–61–A53, dated February 6, 1996, need not be repaired again. Propeller blades found to be beyond repair limits specified in these ASB's must be removed from service.

(n) No later than February 28, 1997, for all Model 14RF–21 propeller blades with S/N's less than 885718, perform the taper bore repair, ECI and FPI the taper bore, perform a wall thickness check, and shotpeen, in accordance with the procedures described in Hamilton Standard ASB No. 14RF–21–61–A72, Revision 1, dated March 6, 1996. Propeller blades repaired in accordance with the original issuance of Hamilton Standard ASB No. 14RF–21–61–A72, dated February 6, 1996, need not be repaired again. Propeller blades found to be beyond repair limits specified in these ASB's must be removed from service.

(o) No later than February 28, 1997, for all Model 14SF propeller blades with S/N's less than 885718, perform the taper bore repair, ECI and FPI the taper bore, perform a wall thickness check, and shotpeen, in accordance with the procedures described in Hamilton Standard ASB No. 14SF–61–A92, Revision 1, dated March 6, 1996. Propeller blades repaired in accordance with the original issuance of Hamilton Standard ASB No. 14SF–61–A92, dated February 6, 1996, need not be repaired again. Propeller blades found to be beyond repair limits specified in these ASB's must be removed from service.

(p) No later than February 28, 1997, for all Model 6/5500/F propeller blades with S/N's less than 885718, perform the taper bore repair, ECI and FPI the taper bore, perform a wall thickness check, and shotpeen, in accordance with the procedures described in Hamilton Standard ASB No. 6/5500/F–61–A39, Revision 1, dated March 6, 1996. Propeller blades repaired in accordance with the original issuance of Hamilton Standard ASB No. 6/5500/F–61–A39, dated February 6, 1996, need not be repaired again. Propeller blades found to be beyond repair limits specified in these ASB's must be removed from service.

(q) Performing the requirements of paragraphs (l), (m), (n), (o), or (p) of this AD, as applicable, constitutes terminating action to the repetitive ultrasonic shear wave inspection requirements of this AD.

(r) For the purpose of this AD, a flight cycle is defined as one takeoff and the next landing of an aircraft. In addition, each touch and go is defined as a flight cycle.

(s) For propellers installed on Canadair CL–215T and CL–415 water bomber aircraft, each water scoop constitutes one-half flight cycle.

(t) Propeller blades removed from service after inspections performed in accordance with AD 95–18–06 R1 or 96–01–01, and subsequently repaired in accordance with the requirements of this AD and found to be serviceable, may be returned to service.

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

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

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

(w) The actions required by this AD shall be done in accordance with the following service documents:

Document No.	Pages	Revision	Date
No. 14RF–9–61–A91 Total Pages: 40	1–40	Original	Dec. 7, 1995.
No. 14RF–9–61–A91 Total Pages: 42	1–42	1	Dec. 15, 1995.
No. 14RF–19–61–A55 Total Pages: 40	1–40	Original	Dec. 7, 1995.
No. 14RF–19–61–A55 Total Pages: 42	1–42	1	Dec. 15, 1995.
No. 14RF–21–61–A73 Total Pages: 40	1–40	Original	Dec. 7, 1995.
No. 14RF–21–61–A73 Total Pages: 42	1–42	1	Dec. 15, 1995.
No. 14SF–61–A93 Total Pages: 40	1–40	Original	Dec. 7, 1995.
No. 14SF–61–A93 Total Pages: 42	1–42	1	Dec. 15, 1995.
No. 6/5500/F–61–A41 Total Pages: 40	1–40	Original	Dec. 7, 1995.
No. 6/5500/F–61–A41 Total Pages: 42	1–42	1	Dec. 18, 1995.
No. 14RF–9–61–A95 Total Pages: 36	1–36	Original	Dec. 18, 1995.
No. 14RF–9–61–A95 Total Pages: 36	1–36	1	Dec. 21, 1995.
No. 14RF–19–61–A57 Total Pages: 35	1–35	Original	Dec. 18, 1995.
No. 14RF–19–61–A57 Total Pages: 35	1–35	1	Dec. 21, 1995.
No. 14RF–21–61–A75	1–35	Original	Dec. 18, 1995.

Document No.	Pages	Revision	Date
Total Pages: 35			
No. 14RF–21–61–A75	1–35	1	Dec. 21, 1995.
Total Pages: 35			
No. 14SF–61–A95	1–37	Original	Dec. 18, 1995.
Total Pages: 37			
No. 14SF–61–A95	1–37	1	Dec. 21, 1995.
Total Pages: 37			
No. 6/5500/F–61–A43	1–35	Original	Dec. 18, 1995.
Total Pages: 35			
No. 6/5500/F–61–A43	1–35	1	Dec. 21, 1995.
Total Pages: 35			
No. 14RF–9–61–A94	1–80	1	Mar. 6, 1996.
Total Pages: 80			
No. 14RF–19–61–A53	1–77	1	Mar. 6, 1996.
Total Pages: 77			
No. 14RF–21–61–A72	1–77	1	Mar. 6, 1996.
Total Pages: 77			
No. 14SF–61–A92	1–79	1	Mar. 6, 1996.
Total Pages: 79			
No. 6/5500/F–61–A39	1–77	1	Mar. 6, 1996.
Total Pages: 77			

The incorporation by reference of Hamilton Standard Alert Service Bulletins (ASB's): No. 14RF–9–61–A91, No. 14RF–19–61–A55, No. 14RF–21–61–A73, No. 14SF–61–A93, and No. 6/5500/F–61–A41, all dated December 7, 1995, and Hamilton Standard ASB's No. 14RF–9–61–A91, Revision 1, No. 14RF–19–61–A55, Revision 1, No. 14RF–21–61–A73, and Revision 1, No. 14SF–61–A93, all dated December 15, 1995, and No. 6/5500/F–61–A41, Revision 1, dated December 18, 1995; and Hamilton Standard ASB's No. 14RF–9–61–A95, No. 14RF–19–61–A57, No. 14RF–21–61–A75, No. 14SF–61–A95, and No. 6/5500/F–61–A43, all dated December 18, 1995, and Hamilton Standard ASB's No. 14RF–9–61–A95, Revision 1, No. 14RF–19–61–A57, Revision 1, No. 14RF–21–61–A75, Revision 1, No. 14SF– 61–A95, Revision 1, and No. 6/5500/F–61–A43, Revision 1, all dated December 21, 1995, was previously approved by the Director of the Federal Register as of January 9, 1996, (61 FR 617). For those documents not previously approved for incorporation by reference, the 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 for those documents not previously approved. Copies may be obtained from Hamilton Standard, One Hamilton Road, Windsor Locks, CT 06096–1010; telephone (203) 654–6876. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(x) This amendment becomes effective on May 9, 1996.

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

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–9806 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 95–AGL–17]

Establishment of Class E Airspace; Hettinger, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This corrective action changes the effective date for the establishment of Class E airspace at Hettinger, ND. This delay is necessary so that the charting dates of the new Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) and the Class E airspace area coincide.

EFFECTIVE DATE: The effective date of 0901 UTC, April 25, 1996, is delayed to 0901 UTC, June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Peter H. Salmon, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7459.

SUPPLEMENTARY INFORMATION:

History

Airspace Docket no. 95–AGL–17, published in the Federal Register on March 18, 1996, (53 FR 10886) establishes Class E airspace at Hettinger, ND. The development of the new GPS SIAP made this action necessary. This action was originally to become effective on April 25, 1996. The effective date of this action has been delayed until June 20, 1996 so that it coincides with the charting date of the new GPS SIAP.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Delay of Effective Date

The effective date on Airspace Docket No. 95–AGL–17 is hereby delayed from April 25, 1996, to June 20, 1996.

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

Issued in Des Plaines, Illinois on April 4, 1996.

Maureen Woods,

Acting Manager, Air Traffic Division.

[FR Doc. 96–9998 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AEA–05]

Establishment of Class E Airspace; Clarksville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Clarksville, VA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 4 at Marks Municipal Airport has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Marks Municipal Airport.

EFFECTIVE DATE: 0901 UTC, June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Frances T. Jordan, Airspace Specialist, System Management Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Marks Municipal Airport, Clarksville, VA (60 FR 61668). The development of a GPS SIAP at Marks Municipal Airport has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at Clarksville, VA. The development of a GPS SIAP at Marks Municipal Airport has made this action necessary. The intended effect of this action is to provide adequate Class E airspace for aircraft executing the GP5 RWY 4 SIAP at the airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995 and effective September 16, 1995, is amended as follows:

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

* * * * *

AEA VA E5 Clarksville, VA [New]

Marks Municipal Airport, VA
(Lat. 36°35′45″ N, Long. 78°33′37″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Marks Municipal Airport excluding that portion within the Chase City Municipal Airport 700 foot Class E Airspace Area.

* * * * *

Issued in Jamaica, New York on March 22, 1996.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 96–10005 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ACE–1]

Revocation of Class E Airspace; Lake Winnebago, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class E airspace area at Lake Winnebago, MO. On June 9, 1995, the Lake Winnebago Airport closed and Class E airspace at this location is no longer necessary.

EFFECTIVE DATES: 0901 UTC, April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Air Traffic Operations Branch, ACE–530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) removes the Class E airspace area at Lake Winnebago, MO. The FAA is removing this airspace area as a result of the closure of the Lake Winnebago Municipal Airport on June 9, 1995. Class E airspace is no longer needed at this location. Accordingly, since the action revokes controlled airspace and returns that airspace to the users, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

* * * * *

ACE MO E5 Lake Winnebago, MO [Removed]

* * * * *

Issued in Kansas City, MO, on February 18, 1996.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 96–10006 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AEA–06]

Establishment of Class E Airspace; Stevensville, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Stevensville, MD. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 11 at Bay Bridge Airport has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Bay Bridge Airport.

EFFECTIVE DATE: 0901 UTC, June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Frances T. Jordan., Airspace Specialist, System Management Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1995, the FAA proposed to amend part 17 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Bay Bridge Airport, Stevensville, MD (60 FR 65044). The development of a GPS SIAP at Bay Bridge Airport has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at Stevensville, MD. The development of a GPS SIAP at Bay Bridge Airport has made this action necessary. The intended effect of this action is to provide adequate Class E airspace for aircraft executing the GPS RWY 11 SIAP at the airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995 and effective September 16, 1995, is amended as follows:

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

* * * * *

AEA MD E5 Stevensville, MD [New]

Bay Bridge Airport, MD
(Lat. 38°58′35″N, Long. 76°19′47″W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Bay Bridge Airport.

* * * * *

Issued in Jamaica, New York on March 22, 1996.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 96–10013 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AWP–14]

Establishment of Class E Airspace; Auburn, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Auburn, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 7 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Auburn Municipal Airport, Auburn, CA.

EFFECTIVE DATE: 0901 UTC June 20, 1996.

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

SUPPLEMENTARY INFORMATION:

History

On February 26, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Auburn, CA (61 FR 7079).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at Auburn, CA. The development of a GPS SIAP to RWY 7 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the GPS RWY 7 SIAP at Auburn Municipal Airport, Auburn, CA.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporated by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

* * * * *

AWP CA E5 Auburn, CA [New]

Auburn Municipal Airport, CA
(Lat. 38°57′10″ N, long. 121°04′55″ W).

That airspace extending upward from 700 feet above the surface within an 4.3-mile radius of the Auburn Municipal Airport and within 4.3 miles each side of the 291° bearing from Auburn Municipal Airport, extending from the 4.3-mile radius to 5.6 miles northwest of the Auburn Municipal Airport.

* * * * *

Issued in Los Angeles, California, on March 29, 1996.

James H. Snow,

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

[FR Doc. 96–10000 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AGL–19]

Modification of Class E Airspace; Rice Lake, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E5 airspace to accommodate a Very High Frequency Omnidirectional Range (VOR) for runway 19 approach and a Nondirectional Radio Beacon (NDB) for runway 1/19 approach at Rice Lake Regional—Carls' Field Airport, Rice Lake, WI. Controlled airspace extending upward from 700 to 1,200 feet above ground level (AGL) is needed for aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

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

SUPPLEMENTARY INFORMATION:

History

On November 24, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class E5 at Rice Lake Regional—Carl's Field Airport, Rice Lake, WI (60 FR 58022). The proposal was to add controlled airspace extending upward from 700 to 1,200 feet AGL for Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E5 airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E5 airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace to accommodate a Very High Frequency Omnidirectional Range (VOR) for runway 19 approach and a Nondirectional Radio Beacon (NDB) for runway 1/19 approach at Rice Lake Regional—Carl's Field Airport, Rice Lake, WI. Controlled airspace extending upward from 700 to 1,200 feet AGL is needed for aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigational (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

* * * * *

AGL WI E5 Rice Lake, WI [Revised]

Rice Lake Regional—Carl's Field Airport, WI
(Lat. 45°25′14″ N, long. 91°46′25″ W).

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Rice Lake Regional—Carl's Field Airport, excluding that airspace within the Cumberland, WI, E5 airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 27, 1996.

Maureen Woods,

Acting Manager, Air Traffic Division.

[FR Doc. 96–9997 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AEA–07]

Amendment to Class E Airspace; Elkins, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace at Elkins, WV, to accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 23 at Elkins-Randolph County-Jennings Randolph Field Airport. Additional controlled airspace extending upward from 700 feet above the surface is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Frances T. Jordan., Airspace System Management Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On December 1, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying Class E airspace at Elkins, WV (60 FR 61669). This action will provide adequate Class E airspace for IFR operations at Elkins-Randolph County-Jennings Randolph Field Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modified Class E airspace area at Elkins, WV, to accommodate a GPS RWY 23 SIAP and for IFR operations at Elkins-Randolph County-Jennings Randolph field Airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995 and effective September 16, 1995, is amended as follows:

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

* * * * *

AEA WV 35 Elkins, WV [Revised]

Elkins-Randolph County-Jennings Randolph Field Airport
(Lat. 38°53′22″ N, Long. 79°51′26″ W).

That airspace extending upward from 700 feet above the surface within a 11-mile radius of Elkins-Randolph County-Jennings Randolph Field Airport.

* * * * *

Issued in Jamaica, New York on March 22, 1996.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 96–10001 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 94–ANM–25]

Reconfiguration of Restricted Area R–6714, Yakima Firing Center; Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action restructures restricted airspace at Yakima Firing Center, WA. Currently, Restricted Area R–6714 is composed of five subareas: R–6714A, R–6714B, R–6714C, R–6714D, and R–6714E. This rule decreases the size of areas R–6714A, R–6714C, and R–6714D by deleting the restricted airspace west of Interstate Highway 82, and the airspace south of the Yakima Firing Center property boundary. The remainder of R–6714A and R–6714E are redesigned, with three new subareas established: R–6714F, R–6714G, and R–6714H, to facilitate the release of portions of the restricted area for public access. A portion of R–6714G, and all of R–6714H, consisting of new restricted airspace, are established. These changes are the result of a Department of Army review of their overall training and operational requirements.

EFFECTIVE DATE: 0901 UTC, June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation

Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3075.

SUPPLEMENTARY INFORMATION:

History

On June 1, 1995, the FAA proposed to amend part 73 of the Federal Aviation Regulations (14 CFR part 73) to restructure Restricted Area R–6714, Yakima Firing Center, WA. Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. After further consideration, it was determined that the time of designation for R–6714A would not be amended as proposed. The time of designation would remain as intermittent by NOTAM. Except for the change to the time of designation and editorial changes, this amendment is the same as that proposed in the notice. The coordinates for this airspace docket are based on North American Datum 83. Section 73.67 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8C dated June 29, 1995.

The Rule

This amendment to part 73 of the Federal Aviation Regulations (14 CFR part 73) restructures Restricted Area R–6714, Yakima Firing Center, WA. The Department of Army has performed a review of overall training and operational requirements and has requested changes in the Yakima Firing Center restricted airspace to accommodate changes in its training tactics.

The revised restricted areas support the firing of long-range weapons into existing impact areas. No additional impact areas are established and there is no change in the types of activities currently conducted in the R–6714 complex. In order to achieve training and operational requirements, it was necessary to redesign R–6714A, R–6714B, R–6714C, R–6714D, and R–6714E. R–6714E is a high altitude subdivision that overlies the current restricted airspace configuration. The current subareas R–6714A, R–6714C, and R–6714D, are being decreased in size. Three new subareas are established: R–6714F, R–6714G, and R–6714H. R–6714F is formed from airspace currently in the northwest end of the existing R–6714A. The purpose of the ''F'' area subdivision is to facilitate the release of restricted airspace to accommodate the VOR and GPS-A instrument approaches at Bowers Field, Ellenburg, WA. R–6714F will be activated approximately 30 days per year thus reducing the impact on instrument approach procedures at Bowers Field. R–6714G is established from a combination of airspace comprising the northern tip of the existing R–6714A, and the designation of new restricted airspace. R–6714H consists totally of new restricted airspace to the north of the existing R–6714A boundary. The redesigned high altitude subdivision, R–6714E, will overlie all subareas except the new R–6714H. Under this rule, existing restricted airspace outside the Yakima Firing Center boundary is deleted, including all restricted airspace west of Interstate Highway 82, and airspace south of the Yakima Firing Center boundary. Restricted airspace is expanded to the north of the current complex boundary by establishing R–6714G and R–6714H. The expanded area consists of approximately 58,340 acres of Army-owned land and 6,630 acres of Bureau of Land Management (BLM) land. The BLM Wenzichee Resource Office has transferred control of the affected BLM land in R–6714H and R–6714G to the Army for military activities in accordance with 43 CFR 8364.1(a). In addition, the internal boundaries of R–6714A, R–6714B, R–6714C, and R–6714D are also redesigned to accommodate the requirements of the U.S. Army.

The new R–6714 configuration allows the activation of all or selected portions of the restricted area on an as needed basis, thus decreasing the burden on nonparticipating aircraft that normally circumnavigate the restricted areas when they are in use. The activities presently being conducted in the Yakima Firing Center complex, as well as the time of designation, and designated altitudes remain the same.

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

Environmental Review

The Airfield Commander, Yakima Firing Center, and the Environmental Resources Branch, Environmental and Natural Resources Division, Directorate of Engineering and Housing, Fort Lewis, Washington, performed an environmental assessment (EA) and issued a finding of no significant impact (FONSI). The FAA adopts the U.S. Army EA/FONSI on the basis of the conclusions contained in the EA.

Use of the subject area, as proposed, is consistent with existing national environmental policies and objectives as set forth in Section 101(a) of the National Environmental Policy Act (NEPA) and would not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 102(2)(c) of NEPA.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—[AMENDED]

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

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

§ 73.67 [Amended]

2. Section 73.67 is amended as follows:

R–6714A Yakima, WA [Amended]

By removing the present boundaries and altitudes and substituting the following:

Boundaries. Beginning at lat. 46°51′15″N., long. 119°57′57″W.; thence south along the west edge of the Columbia River to lat. 46°42′28″N., long. 119°58′19″W.; to lat. 46°35′04″N., long. 120°02′50″W.; to lat. 46°37′50″N., long. 120°20′26″W.; to lat. 46°38′29″N., long. 120°20′25″W.; to lat. 46°38′59″N., long. 120°22′13″W.; to lat. 46°42′19″N., long. 120°26′12″W.; then north along the east side of Interstate Highway 82 to lat. 46°47′49″N., long. 120°21′19″W.; to lat. 46°51′09″N., long. 120°09′02″W.; thence to point of beginning.

Designated altitudes. Surface to but not including 29,000 feet MSL.

R–6714B Yakima, WA [Amended]

By removing the present boundaries and altitudes and substituting the following:

Boundaries. Beginning at lat. 46°42′28″N., long. 119°58′19″W.; then

south along the west edge of the Columbia River to lat. 46°38′59″N., long. 119°56′09″W.; to lat. 46°38′08″N., long. 119°56′13″W.; to lat. 46°38′08″N., long. 119°55′04″W.; to lat. 46°33′55″N., long. 119°55′04″W.; to lat. 46°35′04″N., long. 120°02′50″W.; thence to point of beginning.

Designated altitudes. Surface to but not including 29,000 feet MSL.

R–6714C Yakima, WA [Amended]

By removing the present boundaries and altitudes and substituting the following:

Boundaries. Beginning at lat. 46°33′55″N., long. 119°55′04″W.; to lat. 46°32′50″N., long. 119°55′04″W.; to lat. 46°32′50″N., long. 120°04′25″W.; to lat. 46°37′03″N., long. 120°20′26″W.; to lat. 46°37′50″N., long. 120°20′26″W.; to lat. 46°35′04″N., long. 120°02′50″W.; thence to point of beginning.

Designated altitudes. Surface to but not including 29,000 feet MSL.

R–6714D Yakima, WA [Amended]

By removing the present boundaries and altitudes and substituting the following:

Boundaries. Beginning at lat. 46°38′59″N., long. 120°22′13″W.; to lat. 46°38′59″N., long. 120°23′45″W.; to lat. 46°40′34″N., long. 120°26′39″W.; to lat. 46°42′19″N., long. 120°26′12″W.; thence to point of beginning.

Designated altitudes. Surface to but not including 29,000 feet MSL.

R–6714E Yakima, WA [Amended]

By removing the present boundaries and altitudes and substituting the following:

Boundaries. Beginning at lat. 46°51′15″N., long. 119°57′57″W.; thence south along the west side of the Columbia River to lat. 46°42′28″N., long. 119°58′19″W.; thence south along the west side of the Columbia River to lat. 46°38′59″N., long. 119°56′09″W.; to lat. 46°38′08″N., long. 119°56′13″W.; to lat. 46°38′08″N., long. 119°55′04″W.; to lat. 46°33′55″N., long. 119°55′04″W.; to lat. 46°33′19″N., long. 119°55′04″W.; to lat. 46°32′50″N., long. 119°55′04″W.; to lat. 46°32′50″N., long. 120°04′25″W.; to lat. 46°37′03″N., long. 120°20′26″W.; to lat. 46°37′50″N., long. 120°20′26″W.; to lat. 46°38′29″N., long. 120°20′25″W.; to lat. 46°38′59″N., long. 120°22′13″W.; to lat. 46°38′59″N., long. 120°23′45″W.; to lat. 46°40′34″N., long. 120°26′39″W.; to lat. 46°42′19″N., long. 120°26′12″W.; thence north along the east side of Interstate Highway 82 to lat. 46°47′49″N., long. 120°21′19″W.; thence north along the east side of Interstate Highway 82 to lat. 46°49′35″N., long. 120°21′38″W.; to lat. 46°51′09″N., long. 120°21′38″W.; to lat. 46°51′09″N., long. 120°16′34″W.; to lat. 46°54′29″N., long. 120°15′04″W.; to point of beginning.

Designated altitudes. 29,000 feet MSL to but not including 55,000 feet MSL.

R–6714F Yakima, WA [New]

Boundaries. Beginning at lat. 46°47′49″N., long. 120°21′19″W.; thence north along the east side of Interstate Highway 82 to lat. 46°49′35″N., long. 120°21′38″W.; to lat. 46°51′09″N., long. 120°21′38″W.; to lat. 46°51′09″N., long. 120°09′02″W; thence to point of beginning.

Designated altitudes. Surface to 29,000 feet MSL.

Time of designation. Intermittent by NOTAM.

Controlling agency. FAA, Seattle ARTCC.

Using agency. U.S. Army, Commanding General, Fort Lewis, WA.

R–6714G Yakima, WA [New]

Boundaries. Beginning at lat. 46°51′09″N., long. 120°16′34″W.; to lat. 46°54′29″N., long. 120°15′04″W.; to lat. 46°51′15″N., long. 119°57′57″W.; to lat. 46°51′09″N., long. 120°08′54″W.; thence to point of beginning.

Designated altitudes. Surface to but not including 29,000 feet MSL.

Time of designation. Intermittent by NOTAM.

Controlling agency. FAA, Seattle ARTCC.

Using agency. U.S. Army, Commanding General, Fort Lewis, WA.

R–6714H Yakima, WA [New]

Boundaries. Beginning at lat. 46°54′58″N., long. 120°00′33″W.; excluding that airspace within a 1.5-mile radius of the Vantage Airport to lat. 46°54′39″N., long. 119°59′31″W.; thence south along the west side of the Wanpaum Road to lat. 46°51′15″N., long. 119°57′57″W,; to lat. 46°54′29″N., long. 120°15′04″W,; to lat. 46°55′20″N., long. 120°15′04″W., thence to point of beginning.

Designated altitudes. Surface to but not including 5,500 feet MSL.

Time of designation. Intermittent by NOTAM.

Controlling agency. FAA, Seattle ARTCC.

Using agency. U.S. Army, Commanding General, Fort Lewis, WA.

Issued in Washington, DC, on April 11, 1996.

Harold W. Becker,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 96–9999 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 95

[Docket No. 28526; Amdt. No. 395]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, April 25, 1996.

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

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the

close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, D.C. on March 29, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR 95) is amended as follows effective at 0901 UTC,

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, and; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 395 Effective Date, April 25, 1996]

From	To	MEA
§ 95.6004 VOR Federal Airway 4 Is Amended To Read in Part		
Downs, KY FIX *2300–MOCA	Louisville, KY VORTAC	*2600
§ 95.6007 VOR Federal Airway 7 Is Amended To Read in Part		
Menominee, MI VOR/DME *3000–MOCA	Marquette, MI VOR/DME	*3600
§ 95.6133 VOR Federal Airway 133 Is Amended To Read in Part		
Uuper, MI FIX *3000–MOCA	Marquette, MI VOR/DME	*6000
§ 95.6224 VOR Federal Airway 224 Is Amended To Read in Part		
Marquette, MI VOR/DME *2800–MOCA	Eston, MI FIX	*6000
§ 95.6316 VOR Federal Airway 316 Is Amended to Read in Part		
Hermy, MI FIX *3100–MOCA	Marquette, MI VOR/DME	*3600
Marquette, MI VOR/DME *2800–MOCA	Traen, MI FIX	*6000
§ 95.6341 VOR Federal Airway 341 Is Amended To Read in Part		
Iron Mountain, MI VORTAC *3000–MOCA	Marquette, MI VOR/DME	*3600

From	To	MEA	MAA
§ 95.7588 Jet Route No. 588 Is Amended To Read in Part			
Sault Ste Marie, MI VORTAC	U.S. Canadian Border	25000	45000

§ 95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

Airway segment		Changeover points	
From	To	Distance	From
V–133 is amended to read in part: Escanaba, MI VORTAC	Marquette, MI VOR/DME	20	Escanaba.

[FR Doc. 96–10003 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 95

[Docket No. 28525; Amdt. No. 394]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace

System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, February 29, 1996.

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

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, D.C. on January 26, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC.

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, and 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINT

[Amendment 394 Effective Date, February 29, 1996]

From	To	MEA
§ 95.1001 Direct Routes–U.S. 95.48 Green—Federal Airway 8 Is Amended To Read in Part		
Dutch Harbor, AK NDB/DME,	ELFEE, AK NDB NDB	9000

[FR Doc. 96–10014 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28528; Amdt. No. 1722]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

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

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

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC, on April 5, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective April 25, 1996*

Sioux City, IA, Sioux Gateway, VOR/DME RNAV RWY 17, Orig
Independence, KS, Independence Muni, NDB RWY 35, Orig
Independence, KS, Independence Muni, ILS RWY 35, Orig
Independence, KS, Independence Muni, NDB or GPS RWY 17, Amdt 1, CANCELLED
Independence, KS, Independence Muni, NDB or GPS RWY 35, Amdt 8, CANCELLED
Kaiser/Lake Ozark, MO, Lee C. Fine Memorial, GPS RWY 21, Orig Victoria, TX, Victoria Regional, ILS RWY 12L, Amdt 9

** * * Effective May 23, 1996*

Cambridge, OH, Cambridge Muni, LOC/DME RWY 22, Orig
Hamilton, TX, Hamilton Muni, NDB RWY 36, Amdt 1, CANCELLED
Hamilton, TX, Hamilton Muni, NDB RWY 36, Orig

** * * Effective June 20, 1996*

Auburn, CA, Auburn Muni, GPS RWY 7, Orig
Vacaville, CA, Nut Tree, GPS RWY 20, Orig
Hailey, ID, Friedman Memorial, GPS RWY 31, Orig
Abilene, KS, Abilene Muni, GPS RWY 35, Orig
Winfield/Arkansas City, KS, Strother Field, GPS RWY 35, Orig
Boston, MA, General Edward Lawrence Logan Intl, ILS RWY 27, Amdt 1
Boston, MA, General Edward Lawrence Logan Intl, ILS RWY 33L, Amdt 1
Roosevelt, UT, Roosevelt Muni, GPS RWY 25, Orig
Tooele, UT, Bolinder Field-Tooele Valley, GPS RWY 16, Orig
Morrisville, VT, Morrisville-Stowe State, GPS RWY 19, Orig

The FAA published an amendment in Docket No. 28447, Amdt. No. 1707 to Part 97 of the Federal Aviation Regulations, Vol 61, No. 23, Page 3796, dated February 2, 1996, Section 97.23 effective February 29, 1996, which is amended as follows:

Lake Ozark, MO, Lee C. Fine Memorial, GPS RWY 21, Orig is amended to read:
Kaiser/Lake Ozark, MO, Lee C. Fine Memorial, GPS RWY 21, Orig

The FAA published an amendment in Docket No. 28475, Amdt. No. 1712 to Part 97 of the Federal Aviation Regulations, Vol 61, FR No. 41, Page 7699, dated February 29, 1996, Section 97.25 effective April 25, 1996, which is amended as follows:

Colorado Springs, CO, City of Colorado Springs Muni, GPS RWY 35L, Orig. is hereby rescinded.

The FAA published an amendment in Docket No. 28491, Amdt. No. 1717 to Part 97 of the Federal Aviation Regulations, Vol 61, FR No. 53, Page 10889, dated March 18, 1996, Section 97.27 effective April 25, 1996, which is amended as follows:

Independence, KS, Independence Muni, NDB RWY 35, Amdt 8, CANCELLED is amended to read:
Independence, KS, Independence Muni, NDB or GPS RWY 35, Amdt 8, CANCELLED

The FAA published an amendment in Docket No. 28508, Amdt. No. 1718 to Part 97 of the Federal Aviation Regulations, Vol 61, No. 62, Page 14018, dated March 29, 1996, Section 97.27 effective April 25, 1996, which is amended as follows:

Independence, KS, Independence Muni, NDB RWY 17, Amdt 1, CANCELLED is amended to read:

Independence, KS, Independence Muni, NDB or GPS RWY 17, Amdt, CANCELLED

[FR Doc. 96–10015 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28527; Amdt. No. 1721]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 5, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking

Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
03/21/96	CA	Chico	Chico Muni	FDC 6/1785	VOR/DME or GPS RWY 31R ORIG...
03/22/96	FL	Melbourne	Melbourne Intl	FDC 6/1802	LOC BC RWY 27L AMDT 8B...
03/22/96	FL	Melbourne	Melbourne Intl	FDC 6/1803	VOR or GPS RWY 27L AMDT 11A...
03/22/96	OH	Oxford	Miami University	FDC 6/1806	NDB or GPS RWY 4 AMDT 9...
03/25/96	IA	Estherville	Estherville Muni	FDC 6/1841	VOR or GPS RWY 16, AMDT 4...
03/25/96	IA	Estherville	Estherville Muni	FDC 6/1842	VOR RWY 34, AMDT 6...
03/25/96	IA	Estherville	Estherville Muni	FDC 6/1843	NDB or GPS RWY 34, ORIG...
03/25/96	KY	Louisville	Louisville Intl-Standiford Field	FDC 6/1839	NDB or GPS RWY 29, AMDT 19... This corrects NOTAM in TL96–8.
03/25/96	OK	Boise City	Boise City	FDC 6/1838	NDB or GPS–A, AMDT 1...
03/25/96	OK	Tulsa	Tulsa Intl	FDC 6/1837	ILS RWY 36R, AMDT 28; ILS RWY 36R CAT II, AMDT 28...
03/26/96	TX	Dalhart	Dalhart Muni	FDC 6/1859	VOR or GPS RWY 17, AMDT 12...
03/26/96	TX	Dalhart	Dalhart Muni	FDC 6/1860	VOR/DME or GPS RWY 34, AMDT 2...
03/26/96	TX	Mesquite	Mesquite Metro	FDC 6/1862	ILS RWY 17, ORIG...
03/29/96	IN	Indianapolis	Greenwood Muni	FDC 6/1933	NDB or GPS RWY 1 AMDT 2A...
03/29/96	NM	Ruidoso	Sierra Blanca Regional	FDC 6/1934	LOC/DME RWY 24 ORIG...
03/29/96	NM	Ruidoso	Sierra Blanca Regional	FDC 6/1935	NDB RWY 24 AMDT 1...
03/29/96	OH	Chillicothe	Ross County	FDC 6/1931	VOR RWY 23 AMDT 3...
03/29/96	OH	Chillicothe	Ross County	FDC 6/1932	NDB RWY 23 AMDT 7...
03/29/96	OK	Ada	Ada Muni	FDC 6/1925	VOR/DME–A ORIG...
03/29/96	UT	Salt Lake City	Salt Lake City Intl	FDC 6/1930	ILS/DME RWY 34R AMDT 1A...
04/02/96	LA	Leesville	Leesville	FDC 6/1985	NDB or GPS RWY 35 ORIG...
04/03/96	OK	Pauls Valley	Pauls Valley Muni	FDC 6/2009	NDB RWY 35 ORIG...
04/03/96	WY	Sheridan	Sheridan Co	FDC 6/2008	ILS/DME RWY 32, ORIG...

[FR Doc. 96–10016 Filed 4–23–96; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28534; Amdt. No. 1723]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97)

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

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

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

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

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 5, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

* * * *Effective June 20, 1996*

Winfield/Arkansas City, KS, Strother Field, NDB or GPS RWY 35, Amdt 3A CANCELLED
Winfield/Arkansas City, KS, Strother Field, NDB RWY 35, Amdt 3A
Farmington, MO, Farmington Regional, NDB or GPS RWY 2, Amdt 2A CANCELLED
Farmington, MO, Farmington Regional, NDB RWY 2, Amdt 2A
Roosevelt, UT, Roosevelt Muni, RNAV or GPS RWY 25, Amdt 1A CANCELLED
Roosevelt, UT, Roosevelt Muni, RNAV RWY 25, Amdt 1A
Renton, WA, Renton Muni, NDB or GPS RWY 15, Amdt. 2 CANCELLED
Renton, WA, Renton Muni, NDB RWY 15, Amdt. 2

[FR Doc. 96–10017 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

Office of the Secretary

14 CFR Part 221

[Docket No. 50355; Notice No. 12]

RIN 2105–AC23

Electronic Filing of International Airline Passenger Rules Tariffs

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule authorizes airlines to electronically file tariff rules governing availability of passenger fares and their conditions of service, subject to certain minimal format requirements. The Department's regulations have permitted the electronic filing of passenger fares since 1989. The Department is undertaking this action in support of the administration's campaign to reinvent government and at the request of tariff publishing agents in order to extend the efficiencies of electronic data transmission and processing to the filing of passenger rules tariffs.

EFFECTIVE DATE: This regulation is effective on April 24, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Keith A. Shangraw or Mr. John H. Kiser, Office of the Secretary, Office of International Aviation, Pricing and Multilateral Affairs Division, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–2435.

SUPPLEMENTARY INFORMATION:

Background

On May 19, 1995, the Department published a Notice of Proposed Rulemaking (NPRM) to authorize electronic filing of airline tariff rules governing international passenger fares and the general conditions of service associated with their use (60 FR 26848). The proposed action would largely eliminate the filing of paper tariff rules, an archaic system that no longer meets the data transmission and processing requirements of the industry or the Department. In addition, it will save the airline industry over a million dollars in tariff submission, printing and distribution costs and will substantially reduce the Department's review, filing and storage expenses.

The Department's regulations have permitted the electronic filing of

international passenger fare *levels* and associated data in tariffs since 1989, as an alternative to the filing of paper fares tariffs (54 FR 2087, January 19, 1989).[1] The regulation, contained in Subpart W of Part 221, established a number of criteria that must be met for carriers or their agents to make such filings, including a signed agreement or agreements providing for the maintenance and security of the on-line tariff database. Approval by the Department of an application containing various hardware and software service commitments, as well as the filer's proposed format, is also required.

ATPCO, a publishing agent owned by and representing a number of U.S. and foreign airlines, was initially the only entity that applied for authority to make electronic fare filings under the rule. In December 1989, it received final approval from the Department to commence official electronic filings. On November 28, 1990, ATPCO filed a petition for rulemaking in Docket 47288, requesting the amendment of Part 221 to permit the alternative electronic filing of all international tariffs. The petition included suggested regulatory changes to accommodate the filing of passenger and cargo rules, and cargo rates.

In February 1992, the Department permitted ATPCO to begin filing electronic passenger rules that apply to specific fare types on an unofficial test basis. The official fare rules, however, continue to be filed on paper. In addition, ATPCO has not completed development of electronic formats for general passenger rules relating to conditions of carriage; these too, continue to be filed on paper.

By a Notice of Proposed Rulemaking published October 15, 1992, in Docket 48385, 57 FR 47303, the Department proposed extensive revisions to Part 221 to permit the electronic filing of all international tariffs. Following a comment period and a public meeting, the proposal was withdrawn for further study of various technical issues, and the proceeding was terminated. 58 FR 12350, March 4, 1993.

Requests for Further Action

Since the termination of the 1992 rulemaking, ATPCO has informally urged the Department to take whatever actions may be necessary to develop the capability for the acceptance and processing of all tariffs electronically.

In addition, another entity demonstrated interest in filing international tariffs electronically with the Department. The Societé Internationale de Télécommunications Aéronautiques (SITA), a tariff publishing service which developed an electronic tariff filing system for use in Europe and elsewhere, demonstrated its ProFile system to the Department's staff and made modifications to accommodate U.S. requirements and procedures. On June 21, 1994, SITA submitted an application under section 221.260 for the necessary Department approvals to permit it to begin filing international passenger tariffs, encompassing fares and rules to the extent authorized by the Department, and SITA has filed passenger fares on an unofficial test basis. However, on November 10, 1995, SITA withdrew its application, stating that its proposed filing service has not encountered the anticipated international endorsement by government authorities and airlines.

The Proposal

In the May 1995 NPRM the Department proposed to amend section 221.251 of Subpart W of its tariff filing regulations, 14 CFR Part 221, to authorize the electronic filing by all airlines and tariff publishing agents of any or all rules relating to the provision of passenger services.[2] Like the filing of passenger fare levels already authorized, this alternative to the traditional paper format and procedures set forth in Part 221 would be permissive in nature, and would be governed by the provisions of Subpart W. This Subpart would authorize the electronic filing of all tariff material relating to passenger services that airlines are required to file with the Department, although the existing requirements for final approval of a particular electronic tariff filing system and its associated formats, set forth in Subpart W, must be complied with before the Department will accept authorized electronic filings as official tariffs.

The Department also proposed to amend section 221.283 of subpart W to add certain minimum tariff format requirements to provide a basic working framework for the processing of tariff rules, which differ from fare filings in many technical respects. The existing format requirements set forth in section 221.283(b)(8), developed largely for the processing of fares and associated data, would not be changed but would be described as specifically applicable to the filing of fares. The new format requirements for the filing of rules would be set forth in a new section 221.283(b)(9).[3] The provisions would not necessarily have to be presented in the same order as listed in proposed section 221.283(b)(9), but each rule would have to include at least all of the listed provisions.[4] Consequential amendments would be made to provisions regarding maintenance of historical data (paragraph (c) of section 221.283, and section 221.260(b)(7)).

Three format issues were raised for comment in the NPRM. First, our proposed format criteria did not address the filing format of so-called ''general'' fare rules and ''unpublished fare'' rules. General fare rules typically include provisions, applicable to all passengers, relating to general conditions of carriage such as liability, baggage, fare construction, and refunds. Unpublished fare rules typically establish discounts for certain classes of traffic not limited to specific markets, e.g., children and infants, agents, tour conductors, emigrants and cargo attendants. Electronic formats for filing general and unpublished fare rules are still under development by the industry.

Second, we proposed not to accept ''Intentionally Left Blank'' as a category entry in an electronic fare rule, nor would we accept the complete omission of a rule category to serve as a default to a general rule.[5] These practices, which have been a source of confusion in the paper filing environment, would become increasingly confusing in an environment where the fare rules are filed electronically but the general rules are still filed on paper. Where carriers wish to default to a general rule for a particular condition, we proposed to require that electronic rules contain a specific entry for each category in the rule. The entry could be either a specific reference to the relevant general rule or

[1] Associated data include arbitraries, footnotes, routing numbers and fare class explanations. *See* 14 CFR sections 221.4 and 221.283.

[2] The proposed amendment to section 221.251, as drafted, did not encompass the filing of cargo rates and rules tariffs. By a final rule issued November 30, 1995, the Department exempted all carriers from the statutory and regulatory duty to file international property (cargo) tariffs with the Department, and the carriers ceased filing all cargo rates and rules tariffs on that date (60 FR 61472).

[3] The NPRM also noted that most individual format issues have been and will continue to be resolved through consultations between the Department and individual filing agents, as provided in section 221.260(b)(1) of the current regulations. However, the Department recognizes that there may be a need to propose further amendments to Part 221 to deal comprehensively with general format and procedural issues, as well as with the question of the appropriate filing fees to be charged in the future, as soon as more data and experience are available.

[4] We would consider each provision of an electronic tariff rule to be a ''record'' for purposes of assessing filing fees under 14 CFR sections 389.20(b) and 389.25(b).

[5] Under the Department's interpretation, where a particular provision is intentionally left blank in a rule, no such provision applies to the fare covered by the rule. For example, where the ''group requirements'' section is left blank, it means there are no group requirements.

specific conditions extracted from the general rule.

Third, in the test electronic rules we have received thus far, carriers have been including some extraneous material that is not properly part of a tariff and of which we take no regulatory notice, e.g., provisions concerning ticket and booking codes and annotations, wait listing procedures, and reservation record requirements. We recognize that carriers submit such material to their filing agents along with associated fare and rule changes for non-regulatory purposes, such as notifying computer reservations systems of the carrier's technical procedures. However, this extraneous material is not approved by the Department, and its inclusion in official electronic rules would cause confusion. Therefore, our proposal precluded inclusion of such material in official electronic tariff filings.

Comments

We received comments on our proposal from Aer Lingus; Air France; ATPCO; American Airlines, Inc.; British Airways, PLC; SITA; United Air Lines, Inc.; and USAir, Inc.[6] In general, all commenters support the proposal in principle. Most, however, expressed reservations concerning the formatting issues discussed in the NPRM. The formatting drawing the most extensive comments from carriers and agents involves the filing of ''extraneous material''. ATPCO also commented extensively on issues relating to general rule defaults and formats.

Decision

We have decided to adopt the rule substantially as proposed. However, we will make certain changes regarding the formatting issues in response to the comments.

Discussion of Comments and Issues

Scope of the Proposed Rule

ATPCO requests that the Department take a broader, more flexible approach that authorizes electronic filing of *all* tariff material, subject only to DOT's approval of the filer's format, rather than the narrow approach, limited to passenger fare rules, it believes has been taken here. ATPCO contends that Departmental references to future Part 221 amendments, relating to general format and procedural issues and to filing fees, suggest that the Department is contemplating future massive changes to Part 221 which would substantially change requirements governing electronic filing. APTCO has no objection if these are references to future rulemaking proceedings to ''tie up loose ends''. However, it does object if the Department is contemplating sweeping changes to electronic filing rules in place. At a minimum, ATPCO believes that the Department should explain its future plans for adopting a comprehensive electronic tariff-filing rule.

It appears that ATPCO has misunderstood the scope and intent of our NPRM and believes that the proposed rule only authorizes the electronic filing of passenger fare rules. In fact, proposed Part 221.251 (a) states that ''[a]ny carrier * * * may file its international passenger fare tariffs and international passenger rules tariffs electronically * * *''. This includes passenger fare rules and general rules. While the Department has indicated that additional changes in Part 221 may be necessary to deal with general format and procedural issues, we have resolved most individual format issues, in the past, through consultations with individual filing agents, as provided in section 221.260(b)(1) of the current regulations, and fully expect to make use of this process in the future. Thus ATPCO's general rule format, when it is developed, could be reviewed and approved by the Department independently of any future amendments to Part 221. The same process could also apply to formats for the electronic filing of unpublished fare rules and for routing tariffs.

Intentionally Left Blank

ATPCO also requested elimination of the proposed format criteria under which the Department would not accept ''Intentionally Left Blank'' as a category entry in an electronic fare rule, or the complete omission of a rule category to serve as a default to a general rule. While not objecting to the exclusion of ''Intentionally Left Blank'', ATPCO is concerned about a required specific reference to the general rule or conditions extracted from the general rule. It argues that this would impose a greater regulatory burden than is now required for paper filings where, in the absence of a provision in a fare rule, the general rules tariff applies without the need to specify the general rule. In addition, while ATPCO is presently developing a general rules format which will provide a ''logical path'' from the fare rule to the general rule, it maintains that this will not be operational until the second half of 1996. This delay, it contends, should not prevent users from reaping the benefits of the electronic filing of fare rules. Otherwise, it would have to continue to file its rules on paper until its general rules system is operational, or longer if the Department requires another rulemaking proceeding.

As noted in the NPRM, the use of ''Intentionally Left Blank'' can be quite misleading, especially in an electronic filing environment. This language can be interpreted in two quite different ways: it can be perceived to mean that there are no provisions applicable for that rule category, or it can be viewed as a default to provisions set forth in the general rule. This kind of ambiguity is not acceptable in an electronic filing environment. Clarity of tariff material has always been a prime objective of the Department's tariff regulations, and we affirm our proposal not to accept ''Intentionally Left Blank'' in electronic rules. We are, however, mindful of ATPCO's statement that it is developing a logical path from the fare rule to the general rule, and, therefore, we will not adopt our proposal in the NPRM to require that the fare rule contain either a specific reference to the applicable portion of the general rule or an actual extract taken from the general rule. We believe that any remaining issues related to the exclusion of ''Intentionally Left Blank'' can be resolved in the context of an application by ATPCO for approval of its specific electronic rule filing formats.

''Extraneous Material''

As noted, the formatting issue prompting the most extensive comments from carriers and agents involves the filing of ''extraneous material'', such as ticket and booking codes, wait list procedures and reservations requirements. In general, ATPCO and the U.S. carriers argue that this information is vital not only to carrier CRS's, but also to travel agents and the public, since it is essential for the proper handling of passenger reservations. ATPCO maintains that its existing, unified filing system is designed to present this information to all users in the most cost effective, efficient and flexible way. However, were the requirement regarding non-filing of extraneous material adopted, the respondents contend that ATPCO would have to either undertake an expensive and time consuming creation of a separate data base for the Department, or would have to continue to file carrier fare rules on paper. ATPCO estimates that ''extraneous information'' constitutes no more than ten percent of the fare rule information, and believes that filing it on a ''for information purposes only'' basis would not unduly burden DOT.

[6] The submissions of Aer Lingus and Air France were both accompanied by motions to file comments out of time, which we will grant.

In addition, SITA, supported by British Airways and Air France, asserts that the Department should accept ticket codes and annotations, wait listing procedures and reservations record requirements as proper material for filing in official electronic tariffs. They contend that this material is part of the conditions imposed by the carriers on a passenger's use of a fare and, therefore, should be part of the official filed tariff. This viewpoint, they argue, is supported by two of the new format requirements proposed in the NPRM which would require carriers to include specific material relating to reservations/ticketing and capacity control in their official tariff filings.

Upon consideration of the comments, we have decided not to preclude inclusion of such material in official electronic tariff filings at this time, provided that it is sufficiently identified as unofficial and non-binding. As a threshold matter, we are not persuaded by SITA and the two foreign carriers that this material should be filed for approval in official tariffs. While these codes, procedures and other provisions may have certain informational value for agents and other carriers, they are not needed by the Department to evaluate proper tariff material or otherwise perform its regulatory duties, and they are not, nor have they ever been, reviewed for legal sufficiency or approved in amy manner under our statute. Moreover, we believe that the presence of such unofficial material in official filings could potentially mislead passengers, courts or other carriers into the assumption that it has the binding legal effect normally accorded to official tariff material. At the same time, however, we are persuaded that requiring the immediate exclusion of such material would create an implementation burden and impose additional programming costs on carriers and filing agents. While, in the long run, we expect that all filers will review their software formats and procedures to minimize the amount of extraneous material appearing in official electronic filings with the Department, material of the nature may accompany tariffs provided that it is clearly identified as ''for information only; not part of official tariff'' in a manner acceptable to the Department.[7] Should confusion persist that such material may be binding on carriers and passengers as a matter of statute, we may have to take further action to alleviate the problem.

We wish to reiterate that the amendments proposed leave in place the procedural and technical requirements of Subpart W, which each electronic filer must satisfy before official electronic rule filings can be accepted. In addition to those listed in section 221.260, for example, are provisions such as those in section 221.500 regarding the submission of machine-readable copies of records existing when electronic filing is implemented, and the cancellation of records from the paper tariff. As noted above, section 221.260 includes the requirement that the Department approve the precise format used by each electronic filer before official filings can be made. This is normally done by letter once a period of successful test filings has been accomplished and the Department is satisfied that the filing system meets regulatory needs. However, Subpart W also imposes continuing performance requirements, violations of which could lead to enforcement action or even withdrawal of electronic filing privileges.

Finally, we would note that the success of electronic rules filing will depend on scrupulous adherence to the Department's regulatory requirements by both carriers and their filing agents. The Department's staff will be closely monitoring performance in this regard, and will work with parties to ensure the utility and integrity of the electronic tariff system.

We find good cause to make this rule effective upon publication because it allows an alternative means of compliance and relieves current restrictions.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The Office of Management and Budget has determined that this rule is not a significant regulatory action under Executive Order 12866 and, therefore, not subject to OMB review. The Department has determined that the rule is not significant under the Department's Regulatory Policies and Procedures (44 CFR 11034; Feb. 26, 1979). The rule reduces the paperwork burden for all U.S. and foreign air carriers now filing their passenger rules tariffs on paper. The Department expects the economic impact of the rule, however, to be modest. The rule will not result in any required additional costs to the carriers or the public. It will simply provide an alternative method of meeting the statutory tariff-filing requirements. The estimated savings are discussed below.

Executive Order 12612

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''), and the Department has determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities. The tariff filing requirements apply to scheduled service air carriers. The vast majority of the air carriers filing international (''foreign'') passenger rules tariffs are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file such tariffs.

Paperwork Reduction Act

With respect to the Paperwork Reduction Act, this rule would replace two paper filings for most rules with a single electronic filing. Thus, while this rule will significantly reduce the paperwork burden on government and industry, it does not eliminate information collection requirements that require the approval of the Office of Management and Budget pursuant to the Act.

The Department estimates that filing of passenger tariff rule pages in paper format will be reduced by about ninety percent, with the remaining ten percent continuing to be filed in paper form. A total of about 42,000 passenger tariff rule pages and about 6,400 Passenger Special Tariff Permission Applications (STPA's) were filed in 1994. At a filing fee of $2 a rule page and $12 a passenger STPA, we estimate the carriers could save as much as $145,000 annually in filing fees paid to the Department. In addition, ATPCO charges the carriers $35.00 for each filed tariff page and up to $30.00 for each STPA. On this basis, we estimate that the rule could save the carriers an additional $1,500,000 in associated fees paid to ATPCO, producing potential total savings to the carriers in excess of $1,600,000.

While not estimated, we expect that costs of governmental review, filing and archiving of paper tariff rule filings will be similarly reduced.

The reduction in reporting and recordkeeping requirements associated with this rule are being submitted to

[7] The determination of whether certain fare rule elements are extraneous and not proper tariff material can be complex. Therefore, we reserve the right to determine whether material filed ''for information only; not part of official tariff'' is proper tariff material or not, and to take appropriate regulatory action should we decide that it is.

OMB for approval in accordance with 44 U.S.C. chapter 35 under OMB NO. 2137–AC23; Administration: Department of Transportation; TITLE: Electronic Filing of Passenger Service Rules Tariffs; NEED FOR INFORMATION: Authorizes the electronic filing of rules governing the provision of passenger services; PROPOSED USE OF INFORMATION: Authorization is based on the request of tariff publishing agents to extend the efficiencies of electronic data transmission and processing to the filing of rules tariffs; FREQUENCY: An initial passenger tariff rule filing is required of each respondent; changes are voluntary, whenever an air carrier elects; ESTIMATED TOTAL ANNUAL BURDEN UNDER NEW RULE: 1,312,480 hours; RESPONDENTS: 230; FORM(S) 26,681 electronic filings, pages or applications per annum; AVERAGE BURDEN HOURS PER RESPONDENT: 5706 hours.

For further information on paperwork reduction contact: The Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–4735 or DOT Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 14 CFR Part 221

Air rates and fares, Agents, Reporting and recordkeeping requirements.

For the reasons set forth herein, and under authority delegated in 49 CFR 1.56(j)(2)(ii), the Department of Transportation amends 14 CFR Part 221 as follows:

PART 221—TARIFFS

Subpart W—Electronically Filed Tariffs

1. The authority citation for Part 221 continues to read as follows:

Authority: 49 USC 40101, 40109, 40113, 46101, 46102, Chapter 411, Chapter 413, Chapter 415, and Subchapter I of Chapter 417.

2. Section 221.251 is amended by revising paragraph (a) to read as follows:

§ 221.251 Applicability of the subpart.

(a) Any carrier, consistent with the provisions of this subpart, and part 221 generally, may file its international passenger fares tariffs and international passenger rules tariffs electronically in machine-readable form as an alternative to the filing of printed paper tariffs as provided for elsewhere in Part 221. This subpart applies to all carriers and tariff publishing agents and may be used by either if the carrier or agent complies with the provisions of subpart W. Any carrier or agent that files electronically under this subpart must transmit to the Department the remainder of the tariff, as applicable, in a form consistent with this Part 221, subparts A through V, on the same day that the electronic tariff would be deemed received under § 221.270(b).

* * * * *

3. Paragraph (b)(7) of section 221.260, is revised to read as follows:

§ 221.260 Requirements for filing.

* * * * *

(b) * * *

(7) The filer shall maintain all fares and rules with the Department and all Departmental approvals, disapprovals and other actions, as well as all Departmental notations concerning such approvals, disapprovals or other actions, in the on-line tariff database for a period of two (2) years after the fare or rule becomes inactive. After this period of time, the carrier or agent shall provide the Department, free of charge, with a copy of the inactive date on a machine-readable tape or other mutually acceptable electronic medium.

* * * * *

4. Section 221.283 is amended by revising the introductory text of paragraph (b)(8) and by adding new paragraphs (b)(9) and (b)(10) to read as follows:

§ 221.283 The filing of tariffs and amendments to tariffs.

* * * * *

(b) * * *

(8) Fares tariff, or proposed changes to the fares tariffs, including: * * *

(9) Rules tariff, or proposed changes to the rules tariffs.

(i) Rules tariffs shall include:

(A) Title: General description of fare rule type and geographic area under the rule;

(B) Application: Specific description of fare class, geographic area, type of transportation (one way, round-trip, etc.);

(C) Period of Validity: Specific description of permissible travel dates and any restrictions on when travel is not permitted;

(D) Reservations/ticketing: Specific description of reservation and ticketing provisions, including any advance reservation/ticketing requirements, provisions for payment (including prepaid tickets), and charges for any changes;

(E) Capacity Control: Specific description of any limitation on the number of passengers, available seats, or tickets;

(F) Combinations: Specific description of permitted/restricted fare combinations;

(G) Length of Stay: Specific description of minimum/maximum number of days before the passenger may/must begin return travel;

(H) Stopovers: Specific description of permissible conditions, restrictions, or charges on stopovers;

(I) Routing: specific description of routing provisions, including transfer provisions, whether on-line or inter-line;

(J) Discounts: Specific description of any limitations, special conditions, and discounts on status fares, e.g. children or infants, senior citizens, tour conductors, or travel agents, and any other discounts;

(K) Cancellation and Refunds: Specific description of any special conditions, charges, or credits due for cancellation or changes to reservations, or for request for refund of purchased tickets;

(L) Group Requirements: Specific description of group size, travel conditions, group eligibility, and documentation;

(M) Tour Requirements: Specific description of tour requirements, including minimum price, and any stay or accommodation provisions;

(N) Sales Restrictions: Specific description of any restrictions on the sale of tickets;

(O) Rerouting: Specific description of rerouting provisions, whether on-line or inter-line, including any applicable charges; and

(P) Miscellaneous provisions: Any other applicable conditions.

(ii) Rules tariffs shall not contain the phrase ''intentionally left blank''.

(10) Any material accepted by the Department for informational purposes only shall be clearly identified as ''for information only, not part of official tariff'', in a manner acceptable to the Department.

5. Paragraph (c) of § 221.283 is amended by redesignating existing paragraphs (c) (8) through (15) as paragraphs (c) (9) through (16), respectively, and by adding a new paragraph (c)(8) to read as follows:

§ 221.283 The filing of tariffs and amendments to tariffs.

* * * * *

(c) * * *

(8) Rule text.

* * * * *

Issued in Washington DC, on this 15th day of April, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–9960 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–62–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 422

RIN 0960–AD74

Statement of Earnings and Benefit Estimates

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are amending our rules on sending statements of earnings and benefit information to individuals. Under our current rules, which implement section 1143(a) of the Social Security Act (the Act), we are required to send a statement to an eligible individual who requests it. Under these final rules, we will provide the statement without a request to an eligible individual, as required by section 1143(c) of the Act.

EFFECTIVE DATE: These rules are effective April 24, 1996.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–8471. For information on eligibility or claiming benefits, call our national toll-free number 1–800–772–1213.

SUPPLEMENTARY INFORMATION: Section 1143 of the Act requires the Commissioner of Social Security (the Commissioner) to provide to eligible individuals ''a social security account statement'' (statement). We must fulfill this requirement in three phases. In the first phase, we were required, by October 1, 1990, to provide, upon the request of an ''eligible individual,'' a statement that contains certain information described below. Section 1143 defines an ''eligible individual'' as one who has a social security account number, has attained age 25 or over, and has wages or net earnings from self-employment.

The statement we provide under section 1143 of the Act must contain the following information as of the date of the request:

1. The amount of wages paid to and self-employment income derived by the individual;

2. An estimate of the aggregate of the employee and self-employment contributions of the individual for old-age, survivors', and disability insurance benefits;

3. A separate estimate of the aggregate of the employee and self-employment contributions of the individual for medicare hospital insurance coverage; and

4. An estimate of the potential monthly retirement (old-age), disability, dependents', and survivors' insurance benefits payable on the individual's earnings record and a description of medicare hospital insurance coverage.

We are carrying out this first phase, which is required by section 1143(a) of the Act and which we explained in the final rules published November 23, 1992, in the Federal Register (57 FR 54917). In these final rules, we explain how we will fulfill our obligations in the second and third phases of section 1143.

The second phase of providing statements, as stated in section 1143(c)(1) of the Act, requires that by not later than September 30, 1995, we must furnish this statement to each ''eligible individual'' who has attained age 60 by October 1, 1994 (i.e., by the beginning of fiscal year 1995), is not receiving benefits under title II of the Act, and for whom we can determine a current mailing address by methods we consider appropriate. We must also send this statement to each ''eligible individual'' who attains age 60 in fiscal years 1995 through 1999, i.e., October 1, 1994 through September 30, 1999, if the individual is not receiving benefits under title II of the Act, and if we can determine a current mailing address by methods we consider appropriate. In the case of an individual who attains age 60 in fiscal years 1995 through 1999, we will mail a statement to the individual either in the fiscal year in which he or she attains age 60 or in an earlier fiscal year, as resources allow. We will mail the statement without requiring a request from the individual. We will also advise individuals receiving these statements that the information in our records will be updated annually and is available upon request. In February 1995, we began mailing the statements to individuals who attained age 60 by October 1, 1994.

The third phase of providing statements, as stated in section 1143(c)(2) of the Act, requires that beginning not later than October 1, 1999, we must provide this statement on an annual basis to each ''eligible individual'' who is not receiving benefits under title II and for whom we can determine a current mailing address by methods we consider appropriate. We must provide a statement without a request from the eligible individual and, unlike the second phase, regardless of whether the eligible individual has attained age 60.

To implement the second and third phases of section 1143, we are using our records of assigned social security account numbers to identify eligible individuals who are not receiving benefits under title II of the Act. We have decided that the appropriate method now for determining an individual's current mailing address is to obtain it from the individual taxpayer files of the Internal Revenue Service (IRS). The IRS is authorized by section 6103(m)(7) of the Internal Revenue Code (26 U.S.C. 6103(m)(7)), as added by section 5111 of Public Law 101–508 (the Omnibus Budget Reconciliation Act of 1990), to disclose this information to us for our use in mailing the statements required by section 1143 of the Act. This source of address information is readily available to us, i.e., electronically accessible, using social security numbers as identifiers, and was clearly contemplated by Congress in the enactment of section 6103(m)(7) of the Internal Revenue Code.

Because individuals who live in Puerto Rico, the Virgin Islands, and Guam generally are not required to pay Federal income taxes, the IRS does not have their addresses. We have arranged to use the addresses from their local taxpayer records, which the tax agencies in these three entities will provide to us.

In these final regulations, we state the circumstances under which we will not send an unrequested statement. Those circumstances, stated in the new § 404.812(b), are based on our judgment that sending, or attempting to send, a statement to specified categories of individuals is not reasonably required under section 1143 of the Act.

We will mail the statements on a flow basis throughout the fiscal year, rather than in one mass mailing. This is an administratively effective and cost-efficient method of handling the more than 6 million statements we mailed in fiscal year 1995 and the 10 to 120 million we expect to mail annually beginning in 1996. As resources allow, we may mail statements to some eligible individuals, who attain age 60 in fiscal years 1996 through 1999, even before the fiscal year in which they attain age 60.

In the final rules we published on November 23, 1992, (57 FR 54917), we revised § 404.810 to describe an individual's right to obtain a statement of earnings and benefit estimates, how to request it, and the information we need to comply with the request. In a new § 404.811, we listed the information that we will furnish in the statement of earnings and benefit estimates. Further, we revised § 422.125 so that most of the rules on statements of earnings and benefit estimates are now located in subpart I of part 404.

In these final regulations, we are revising § 404.811 for consistency with the new § 404.812, which explains the statement we will send without a request, as required by section 1143(c) of the Act. We will also indicate whether the individual has the required credits (quarters of coverage) to be eligible for each type of benefit, and the ages at which various retirement amounts are potentially payable.

When individuals request statements, they are asked for information about when they expect to retire, i.e., stop working, how much they earned last year, and how much they expect to earn this year and in future years up to retirement. In § 404.811, we explain that if the individual does not already have the required credits (quarters of coverage) to be eligible to receive benefits, we may include up to eight additional estimated credits (four per year maximum) based on the requester's information about earnings for last year and this year that are not yet on our records. In addition, we state that the benefit estimates will be based partly on the information the requester provided about his or her planned retirement age and current and future earnings.

For the unrequested statements, we will not have information from the individual. Instead, we will estimate the individual's recent and future earnings based on his or her current social security record. In § 404.812, we explain that if there are earnings recorded in either of the two years before the year in which the individual is selected to get a statement, we will use the same earnings amount as that recorded in the later of these two years to project earnings for the current year and future years when we estimate the benefits. In addition, if the individual does not already have the required credits (quarters of coverage) to be eligible to receive benefits, we will use that last recorded earnings amount to estimate up to eight additional credits (four per year) for the last year and the current year. If there are no earnings recorded in either of the two years preceding the year of selection, we will not estimate any current and future earnings or additional credits (quarters of coverage) for the individual.

In summary, both §§ 404.811 and 404.812 list the information that we will include in the revised statement format. In addition, § 404.812 explains who will be sent an unrequested statement, who will not be sent an unrequested statement, and the selection and mailing process we will use. We are also amending § 422.125 to conform it to the changes we have described for subpart I of part 404.

On January 19, 1995, we published proposed rules in the Federal Register at 60 FR 3787. We received no comments. However, as explained previously, we have revised these final rules to provide that we may mail statements to some individuals even before the year in which they attain age 60. These revisions will be advantageous to eligible individuals and are consistent with the Act.

Regulatory Procedures

Since these rules interpret the statute, and provide statements of policy, the 30-day delay in effectuating rules, as provided in 5 U.S.C. 553(d), does not apply.

Executive Order 12866

The Office of Management and Budget has reviewed these rules and determined that they meet the criteria for a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

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

Paperwork Reduction Act

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

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.004 Social Security-Survivors Insurance; 93.773 Medicare-Hospital Insurance)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 422

Administrative practice and procedure; Freedom of information; Organization and functions (Government agencies); Social Security.

Dated: December 20, 1995.

Shirley Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, we are amending subpart I of part 404 and subpart B of part 422 of 20 CFR chapter III as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart I—[Amended]

1. The authority citation for subpart I of part 404 continues to read as follows:

Authority: Secs. 205(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 702(a)(5), and 1143 of the Social Security Act (42 U.S.C. 405(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 902(a)(5), and 1320b-13).

2. Section 404.811 is revised to read as follows:

§ 404.811 The statement of earnings and benefit estimates you requested.

(a) *General.* After receiving a request for a statement of earnings and the information we need to comply with the request, we will provide you or your authorized representative a statement of the earnings we have credited to your record at the time of your request. With the statement of earnings, we will include estimates of the benefits potentially payable on your record, unless you do not have the required credits (quarters of coverage) for any kind of benefit(s). (However, see paragraph (b)(3) of this section regarding the possibility of our estimating up to eight additional credits on your record.) If we do not provide a statement of earnings and an estimate of all the benefits potentially payable, or any other information you requested, we will explain why.

(b) *Contents of statement of earnings and benefit estimates.* The statement of your earnings and benefit estimates will contain the following information:

(1) Your social security taxed earnings as shown by our records as of the date of your request;

(2) An estimate of the social security and medicare hospital insurance taxes paid on your earnings (although we do not maintain such tax information);

(3) The number of credits, i.e., quarters of coverage, not exceeding 40, you have for both social security and medicare hospital insurance purposes, and the number you need to be eligible

for social security and also for medicare hospital insurance coverage. If you do not already have the required credits (quarters of coverage) to be eligible to receive social security benefits and medicare hospital insurance coverage, we may include up to eight additional estimated credits (four per year) based on the earnings you told us you had for last year and this year that we have not yet entered on your record;

(4) A statement as to whether you meet the credits (quarters of coverage) requirements, as described in subpart B of this part, for each type of social security benefit when we prepare the benefit estimates, and also whether you are eligible for medicare hospital insurance coverage;

(5) Estimates of the monthly retirement (old-age), disability, dependents' and survivors' insurance benefits potentially payable on your record if you meet the credits (quarters of coverage) requirements. The benefit estimates we send you will be based partly on your stated earnings for last year (if not yet on your record), your estimate of your earnings for the current year and for future years before you plan to retire, and on the age at which you plan to retire. The estimate will include the retirement (old-age) insurance benefits you could receive at age 62 (or your current age if you are already over age 62), at full retirement age (currently age 65 to 67, depending on your year of birth) or at your current age if you are already over full retirement age, and at age 70;

(6) A description of the coverage under the medicare program;

(7) A reminder of your right to request a correction of your earnings record; and

(8) A remark that an annually updated statement is available on request.

3. Section 404.812 is added to read as follows:

§ 404.812 Statement of earnings and benefit estimates sent without request.

(a) Who will be sent a statement. Unless one of the conditions in paragraph (b) of this section applies to you, we will send you, without request, a statement of earnings and benefit estimates if:

(1) You have a social security account number;

(2) You have wages or net earnings from self-employment on your social security record;

(3) You have attained age 25 or older, as explained in paragraph (c)(3) of this section; and

(4) We can determine your current mailing address.

(b) *Who will not be sent a statement.* We will not send you an unrequested statement if any of the following conditions apply:

(1) You do not meet one or more of the conditions of paragraph (a) of this section;

(2) Our records contain a notation of your death;

(3) You are entitled to benefits under title II of the Act;

(4) We have already sent you a statement, based on your request, in the fiscal year we selected you to receive an unrequested statement;

(5) We cannot obtain your address (see paragraph (c)(2) of this section); or

(6) We are correcting your social security earnings record when we select you to receive a statement of earnings and benefit estimates.

(c) *The selection and mailing process.* Subject to the provisions of paragraphs (a) and (b) of this section, we will use the following process for sending statements without requests:

(1) *Selection.* We will use our records of assigned social security account numbers to identify individuals to whom we will send statements.

(2) *Addresses.* If you are living in one of the 50 States or the District of Columbia, our current procedure is to get your address from individual taxpayer files of the Internal Revenue Service, as authorized by section 6103(m)(7) of the Internal Revenue Code (26 U.S.C. 6103(m)(7)). If you live in Puerto Rico, the Virgin Islands, or Guam, we will get your address from the taxpayer records of the place in which you live.

(3) *Age.* If you have attained age 60 on or before September 30, 1995, we will send you a statement by that date. If you attain age 60 on or after October 1, 1995 but no later than September 30, 1999, we will send you a statement in the fiscal year in which you attain age 60, or in an earlier year as resources allow. Also, we will inform you that an annually updated statement is available on request. Beginning October 1, 1999, we will send you a statement each year in which you are age 25 or older.

(4) *Ineligible.* If we do not send you a statement because one or more conditions in paragraph (b) of this section apply when you are selected, we will send a statement in the first appropriate fiscal year thereafter in which you do qualify.

(5) *Undeliverable.* If the statement we send you is returned by the Post Office as undeliverable, we will not remail it.

(d) *Contents of statement of earnings and benefit estimates.* To prepare your statement and estimate your benefits, we will use the earnings in our records. If there are earnings recorded for you in either of the two years before the year in which you are selected to get a statement, we will use the later of these earnings as your earnings for the current year and future years when we estimate your benefits. In addition, if you do not already have the required credits (quarters of coverage) to be eligible to receive benefits, we will use that last recorded earnings amount to estimate up to eight additional credits (four per year) for last year and the current year if they are not yet entered on your record. If there are no earnings entered on your record in either of the two years preceding the year of selection, we will not estimate current and future earnings or additional credits for you. Your earnings and benefit estimates statement will contain the following information:

(1) Your social security taxed earnings as shown by our records as of the date we select you to receive a statement;

(2) An estimate of the social security and medicare hospital insurance taxes paid on your earnings (although we do not maintain such tax information);

(3) The number of credits, i.e., quarters of coverage, not exceeding 40 (as described in paragraph (d) of this section), that you have for both social security and medicare hospital insurance purposes, and the number you need to be eligible for social security benefits and also for medicare hospital insurance coverage;

(4) A statement as to whether you meet the credit (quarters of coverage) requirements, as described in subpart B of this part, for each type of social security benefit when we prepare the benefit estimates, and also whether you are eligible for medicare hospital insurance coverage;

(5) Estimates of the monthly retirement (old-age), disability, dependents' and survivors' insurance benefits potentially payable on your record if you meet the credits (quarters of coverage) requirements. If you are age 50 or older, the estimates will include the retirement (old-age) insurance benefits you could receive at age 62 (or your current age if you are already over age 62), at full retirement age (currently age 65 to 67, depending on your year of birth) or at your current age if you are already over full retirement age, and at age 70. If you are under age 50, instead of estimates, we may provide a general description of the benefits (including auxiliary benefits) that are available upon retirement;

(6) A description of the coverage provided under the medicare program;

(7) A reminder of your right to request a correction of your earnings record; and

(8) A remark that an annually updated statement is available on request.

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—[Amended]

1. The authority citation for subpart B of part 422 continues to read as follows:

Authority: Secs. 205, 232, 702(a)(5), 1131, and 1143 of the Social Security Act (42 U.S.C. 405, 432, 902(a)(5), 1320b–1 and 1320b–13.)

2. Section 422.125 is amended by revising paragraphs (a) and (b) to read as follows:

§ 422.125 Statements of earnings; resolving earnings discrepancies.

(a) *Obtaining a statement of earnings and estimated benefits.* An individual may obtain a statement of the earnings on his earnings record and an estimate of social security benefits potentially payable on his record either by writing, calling, or visiting any social security office, or by waiting until we send him one under the procedure described in § 404.812 of this chapter. An individual may request this statement by completing the proper form or by otherwise providing the information the Social Security Administration requires, as explained in § 404.810(b) of this chapter.

(b) *Statement of earnings and estimated benefits.* Upon receipt of such a request or as required by section 1143(c) of the Social Security Act, the Social Security Administration will provide the individual, without charge, a statement of earnings and benefit estimates or an earnings statement. See §§ 404.811 through 404.812 of this chapter concerning the information contained in these statements.

* * * * *

[FR Doc. 96–9791 Filed 4–23–96; 8:45 am]

BILLING CODE 4190–29–P

20 CFR Part 498

RIN 0960–AE23

Civil Monetary Penalties, Assessments and Recommended Exclusions

AGENCY: Office of the Inspector General (OIG), SSA.

ACTION: Final rule.

SUMMARY: This final rule establishes procedures to impose civil monetary penalties and assessments against certain Old-Age, Survivors, and Disability Insurance beneficiaries, Supplemental Security Income recipients, third parties, physicians, medical providers, and other individuals and entities who make false statements or representations for use in determining any right to or amount of title II or title XVI benefits under the Social Security Act. This final rule implements the civil monetary penalty provisions of section 206(b) of the Social Security Independence and Program Improvements Act of 1994.

EFFECTIVE DATE: This final rule is effective May 24, 1996.

FOR FURTHER INFORMATION CONTACT : Judith A. Kidwell, Office of the Inspector General, (410) 965–9750.

SUPPLEMENTARY INFORMATION:

Background

We published a notice of proposed rulemaking (NPRM) in the Federal Register on November 27, 1995, (60 FR 58305) which proposed to establish procedures to implement the civil monetary penalty (CMP) provisions of section 206(b) of the Social Security Independence and Program Improvements Act of 1994, Public Law 103–296, which added section 1129 of the Social Security Act (the Act), effective October 1, 1994. Section 108 of Public Law 103–296 made additional conforming amendments to section 1129, effective March 31, 1995, to reflect the Social Security Administration's (SSA) new status as an independent agency.

The 60-day public comment period closed on January 26, 1996. We received comments on the NPRM from only one commenter, a disability law center. The comments, our responses, and the final rule, with several technical changes we have made, are discussed below.

Since we have made only technical changes, we are adopting the regulations as proposed.

Public Comments on the Proposed Regulations

The commenter was concerned that the regulations were overly broad and that there were unaddressed problems at the SSA which would increase the likelihood of an overbroad application of these rules to claimants and their representatives. The substantive comments made by the commenter and our responses are summarized below.

Comment: The commenter raised concerns that the proposed regulations were overbroad in defining when a person has made or caused to be made a statement, representation, or omission of material fact, inasmuch as the basis and purpose statement in § 498.100 does not include an intent requirement.

Response: Section 498.100 has been developed to briefly catalog the general types of penalty and assessment authorities that will be in part 498. This section is not intended to include the legally operative language to impose a penalty or assessment. Such language can be found in §§ 498.101 through 498.132.

Comment: The commenter expressed a concern that the definition of material fact at § 498.101 is not limited to facts that might have made a difference in the eligibility decision.

Response: The definition of ''material fact'' which appears in the NPRM is taken verbatim from section 1129(a)(2) of the Act.

Comment: Although the commenter acknowledged that § 498.102 contains elements of intent, it raised a concern that the basis for imposition of CMPs does not adequately link misstatements and omissions to an intent to fraudulently obtain benefits.

Response: Section 498.102 carefully tracks the language of section 1129(a)(1) of the Act. In order to impose a penalty or assessment under § 498.102, the OIG must determine that an individual knew or should have known that his or her statement or representation was false or misleading or omitted a material fact, or that the individual made the false or misleading statement with knowing disregard for the truth.

Comment: The commenter recited an example of an experience to illustrate problems it perceived with this rule. The commenter also expressed concerns that: (1) The vast majority of claimants do not understand eligibility and reporting requirements; (2) because of staff reductions, access to SSA staff for information is limited; (3) the ability of SSA staff to completely and accurately relate program requirements varies widely; (4) SSA pamphlets are difficult for persons with learning disabilities and limited education or English skills; and (5) SSA record keeping is such that it is not unusual for records to be lost.

Response: Many of these comments are more appropriately directed to the administration of SSA programs and are not within the scope of this rule. However, we would like to point out that section 1129 of the Act is directed toward those persons who defraud the SSA's programs or receive benefits or payments to which they are not entitled, and that steps have been taken to address due process concerns and ensure that innocent persons are not penalized.

As required by section 1129 of the Act, the respondent will be notified of a proposed penalty in a manner authorized by Rule 4 of the Federal Rules of Civil Procedure. Additionally, except with respect to affirmative defenses and mitigating circumstances, the burden of persuasion is on the Government in CMP cases. Finally, the

SSA plans to go beyond the requirements of the statute to ensure due process with respect to the CMP process. The statute requires only that a person be given ''an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.'' The SSA intends to enter into an agreement with the Departmental Appeals Board (DAB) of the U.S. Department of Health and Human Services to conduct the hearings in these cases because of the DAB's expertise with CMP cases involving Medicare and Medicaid fraud over a period of more than 10 years. SSA plans to include an appeal to the appellate division of the DAB in the administrative review process which will provide an additional opportunity for the respondent to address legal issues before being required to litigate in federal court.

Comment: The commenter expressed concerns that the imposition of CMP magnifies the dilemma of the sometimes competing duties of zealous representation, client confidentiality, and candor towards the tribunal. The commenter opines that the rule will: (1) Interfere with the obligation of advocates to determine the relevance or evidentiary value of information being considered for admission for the record; (2) require representatives to determine what is a material fact and what is opinion; and (3) magnify the dilemma of competing duties of representation, client confidentiality and candor towards the tribunal.

Response: As acknowledged by the commenter, attorneys and paralegals supervised by attorneys are bound by federal and state codes of professional conduct. We do not believe that ''zealous representation'' would ever include knowingly assisting in presenting or supplying false information to the SSA in order to obtain benefits or payments for a client.

Comment: The commenter indicated that representatives should not be required to submit potentially prejudicial reports or face CMP without the availability of an enforceable subpoena for the report writer.

Response: The Inspector General (IG) has the authority under the Inspector General Act of 1978, as amended, to obtain such information through the issuance of subpoenas during a fraud investigation involving the SSA's programs or operations. Additional subpoena authority exists at sections 205(d) and 1129(i) of the Act.

Comment: The commenter expressed concerns that § 498.109 does not allow for a showing of good cause for a late request for a hearing, and suggested that the OIG should send a second notice by certified mail.

Response: The SSA's proposed hearing regulations which will be published in the Federal Register in the near future will give the administrative law judge the authority to grant a late request for a hearing upon a showing of good cause. We have revised § 498.109 of this final rule to reflect this good cause exception.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and have determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they are not subject to OMB review.

Paperwork Reduction Act

These regulations impose no new reporting or record keeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We have determined that no regulatory impact analysis is required for these final regulations. While the penalties and assessments which the IG could impose as a result of section 1129 of the Act and these regulations might have a slight impact on small entities, we do not anticipate that a substantial number of these small entities will be significantly affected by this rulemaking. Based on our determination, the IG certifies that these regulations will not have a significant economic impact on a substantial number of small business entities. Any impact on small businesses would primarily be a result of the legislation rather than these regulations. Therefore, we have not prepared a regulatory flexibility analysis.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; and 96.006, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 498

Administrative practice and procedure, Fraud, and Penalties.

Approved: April 16, 1996.

David C. Williams,

Inspector General.

For the reasons set out in the preamble, part 498 of chapter III of title 20 of the Code of Federal Regulations is amended as set forth below:

PART 498—CIVIL MONETARY PENALTIES, ASSESSMENTS AND RECOMMENDED EXCLUSIONS

1. The authority citation for part 498 is revised to read as follows:

Authority: Secs. 702(a)(5), 1129, and 1140 of the Social Security Act (42 U.S.C. 902(a)(5), 1320a–8, and 1320b–10).

2. Section 498.100 is amended by revising paragraphs (a) and (b) introductory text and adding paragraph (b)(1) to read as follows:

§ 498.100 Basis and purpose.

(a) *Basis.* This part implements sections 1129 and 1140 of the Social Security Act (42 U.S.C. 1320a–8 and 1320b–10).

(b) *Purpose.* This part provides for the imposition of civil monetary penalties and assessments, as applicable, against persons who—

(1) Make or cause to be made false statements or representations, or omissions of material fact for use in determining any right to or amount of benefits under title II or benefits or payments under title XVI of the Social Security Act; or

* * * * *

3. Section 498.101 is amended by adding the following definitions and revising the definition of ''Respondent'' to read as follows:

§ 498.101 Definitions.

* * * * *

Assessment means the amount described in § 498.104, and includes the plural of that term.

* * * * *

Material fact means a fact which the Commissioner of Social Security may consider in evaluating whether an applicant is entitled to benefits under title II or eligible for benefits or payments under title XVI of the Social Security Act.

* * * * *

Respondent means the person upon whom the Commissioner or the Inspector General has imposed, or intends to impose, a penalty and assessment, as applicable.

* * * * *

4. Section 498.102 is amended by revising the section heading and adding paragraph (a) to read as follows:

§ 498.102 Basis for civil monetary penalties and assessments.

(a) The Office of the Inspector General may impose a penalty and assessment, as applicable, against any person whom it determines in accordance with this part—

(1) Has made, or caused to be made, a statement or representation of a

material fact for use in determining any initial or continuing right to or amount of:

(i) Monthly insurance benefits under title II of the Social Security Act; or

(ii) Benefits or payments under title XVI of the Social Security Act; and

(2)(i) Knew, or should have known, that the statement or representation—

(A) Was false or misleading; or

(B) Omitted a material fact; or

(ii) Made such statement with knowing disregard for the truth.

* * * * *

5. Section 498.103 is amended by adding paragraph (a) to read as follows:

* * * * *

§ 498.103 Amount of penalty.

(a) Under § 498.102(a), the Office of the Inspector General may impose a penalty of not more than $5,000 for each false statement or representation.

* * * * *

6. Section 498.104 is added to read as follows:

§ 498.104 Amount of assessment.

A person subject to a penalty determined under § 498.102(a) may be subject, in addition, to an assessment of not more than twice the amount of benefits or payments paid as a result of the statement or representation which was the basis for the penalty. An assessment is in lieu of damages sustained by the United States because of such statement or representation.

7. Section 498.106 is amended by revising the section heading and adding paragraph (a) to read as follows:

§ 498.106 Determinations regarding the amount or scope of penalties and assessments.

(a) In determining the amount or scope of any penalty and assessment, as applicable, in accordance with §§ 498.103(a) and 498.104, the Office of the Inspector General will take into account:

(1) The nature of the statements and representations referred to in § 498.102(a) and the circumstances under which they occurred;

(2) The degree of culpability of the person committing the offense;

(3) The history of prior offenses of the person committing the offense;

(4) The financial condition of the person committing the offense; and

(5) Such other matters as justice may require.

* * * * *

8. Section 498.108 is revised to read as follows:

§ 498.108 Penalty and assessment not exclusive.

Penalties and assessments, as applicable, imposed under this part are in addition to any other penalties prescribed by law.

9. Section 498.109 is revised to read as follows:

§ 498.109 Notice of proposed determination.

(a) If the Office of the Inspector General seeks to impose a penalty and assessment, as applicable, it will serve written notice of the intent to take such action. The notice will include:

(1) Reference to the statutory basis for the proposed penalty and assessment, as applicable;

(2) A description of the false statements, representations, and incidents, as applicable, with respect to which the penalty and assessment, as applicable, are proposed;

(3) The amount of the proposed penalty and assessment, as applicable;

(4) Any circumstances described in § 498.106 that were considered when determining the amount of the proposed penalty and assessment, as applicable; and

(5) Instructions for responding to the notice, including

(i) A specific statement of respondent's right to a hearing; and

(ii) A statement that failure to request a hearing within 60 days permits the imposition of the proposed penalty and assessment, as applicable, without right of appeal.

(b) Any person upon whom the Office of the Inspector General has proposed the imposition of a penalty and assessment, as applicable, may request a hearing on such proposed penalty and assessment.

(c) If the respondent fails to exercise the respondent's right to a hearing within the time permitted under this section, and does not demonstrate good cause for such failure before an administrative law judge, any penalty and assessment, as applicable, becomes final.

10. Section 498.110 is revised to read as follows:

§ 498.110 Failure to request a hearing.

If the respondent does not request a hearing within the time prescribed by § 498.109(a), the Office of the Inspector General may seek the proposed penalty and assessment, as applicable, or any less severe penalty and assessment. The Office of the Inspector General shall notify the respondent by certified mail, return receipt requested, of any penalty and assessment, as applicable, that has been imposed and of the means by which the respondent may satisfy the amount owed.

11. Section 498.114 is added to read as follows:

§ 498.114 Collateral estoppel.

In a proceeding under section 1129 of the Social Security Act that—

(a) Is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal or State crime charging fraud or false statements; and

(b) Involves the same transactions as in the criminal action, the person is estopped from denying the essential elements of the criminal offense.

12. Section 498.127 is revised to read as follows:

§ 498.127 Judicial review.

Sections 1129 and 1140 of the Social Security Act authorize judicial review of any penalty and assessment, as applicable, that has become final. Judicial review may be sought by a respondent only in regard to a penalty and assessment, as applicable, with respect to which the respondent requested a hearing, unless the failure or neglect to urge such objection is excused by the court because of extraordinary circumstances.

13. Section 498.128 is amended by revising the section heading, paragraph (a), and adding paragraphs (b), (d), and (e) to read as follows:

§ 498.128 Collection of penalty and assessment.

(a) Once a determination has become final, collection of any penalty and assessment, as applicable, will be the responsibility of the Commissioner or his or her designee.

(b) In cases brought under section 1129 of the Social Security Act, a penalty and assessment, as applicable, imposed under this part may be compromised by the Commissioner or his or her designee, and may be recovered in a civil action brought in the United States District Court for the district where the statement or representation referred to in § 498.102(a) was made, or where the respondent resides.

* * * * *

(d) As specifically provided under the Social Security Act, in cases brought under section 1129 of the Social Security Act, the amount of a penalty and assessment, as applicable, when finally determined, or the amount agreed upon in compromise, may also be deducted from:

(1) Monthly title II or title XVI payments, notwithstanding section 207 of the Social Security Act as made

applicable to title XVI by section 1631(d)(1) of the Social Security Act;

(2) A tax refund to which a person is entitled to after notice to the Secretary of the Treasury under 31 U.S.C. § 3720A;

(3) By authorities provided under the Debt Collection Act of 1982, as amended, 31 U.S.C. 3711, to the extent applicable to debts arising under the Social Security Act; or

(4) Any combination of the foregoing.

(e) Matters that were raised or that could have been raised in a hearing before an administrative law judge or in an appeal to the United States Court of Appeals under sections 1129 or 1140 of the Social Security Act may not be raised as a defense in a civil action by the United States to collect a penalty and assessment, as applicable, under this part.

14. Section 498.129 is added to read as follows:

§ 498.129 Notice to other agencies.

As provided in section 1129 of the Social Security Act, when a determination to impose a penalty and assessment, as applicable, with respect to a physician or medical provider becomes final, the Office of the Inspector General will notify the Secretary of the final determination and the reasons therefore.

15. Section 498.132 is revised to read as follows:

§ 498.132 Limitations.

The Office of the Inspector General may initiate a proceeding in accordance with § 498.109(a) to determine whether to impose a penalty and assessment, as applicable—

(a) In cases brought under section 1129 of the Social Security Act, after receiving authorization from the Attorney General pursuant to procedures agreed upon by the Inspector General and the Attorney General; and

(b) Within 6 years from the date on which the violation was committed.

[FR Doc. 96–9926 Filed 4–23–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for 33 approved new animal drug applications (NADA's) from American Cyanamid Co. to Hoffmann-La Roche, Inc. In addition, the agency is amending its regulations to correct some errors. This action is being taken to clarify and improve the accuracy of the animal drug regulations.

EFFECTIVE DATE: April 24, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Berdan Ave., Wayne, NJ 07470, has informed FDA that it has transferred ownership of, and all rights and interests in, the following approved NADA's to Hoffmann-La Roche, Inc., Nutley, NJ 07110–1199.

NADA no.	Ingredients
33–950	Sulfamerazine.
35–688	Chlortetracycline Calcium Complex, Penicillin G Procaine, Sulfamethazine
35–805	Chlortetracycline Hydrochloride, Sulfamethazine.
36–361	Chlortetracycline Calcium Complex, Amprolium , Ethopabate, Sodium Sulfate.
41–647	Sulfamethazine, Chlortetracycline Calcium Complex.
41–648	Sulfamethazine, Chlortetracycline Calcium Complex.
41–649	Sulfamethazine, Chlortetracycline Calcium Complex.
41–650	Sulfamethazine, Chlortetracycline Calcium Complex.
41–651	Sulfamethazine, Chlortetracycline Calcium Complex.
41–652	Sulfamethazine, Chlortetracycline Calcium Complex.
41–653	Sulfamethazine, Chlortetracycline Calcium Complex.
41–654	Sulfamethazine, Chlortetracycline Calcium Complex.
46–920	Bacitracin zinc.
48–486	Robenidine Hydrochloride.
48–761	Chlortetracycline Calcium Complex.
48–762	Chlortetracycline Calcium Complex.
48–763	Chlortetracycline Calcium Complex.
55–040	Chlortetracycline Hydrochloride.
92–507	Chlortetracycline Calcium Complex, Robenidine Hydrochloride.
93–372	Chlortetracycline Hydrochloride.
95–546	Robenidine Hydrochloride, Roxarsone.
96–933	Bacitracin zinc, Robenidine Hydrochloride.
97–085	Robenidine Hydrochloride, Bacitracin MD.
105–758	Bacitracin zinc, Amprolium, Ethopabate, Roxarsone.
114–794	Bacitracin zinc, Amprolium, Ethopabate.
121–553	Monensin Sodium, Chlortetracycline Hydrochloride.
123–154	Monensin Sodium, Bacitracin ZN, Roxarsone.
136–484	Bacitracin zinc, Carbasone.
139–075	Maduramicin ammonium.
139–190	Bacitracin zinc, Salinomycin, Sodium Roxarsone.
139–235	Bacitracin zinc, Salinomycin, Sodium Roxarsone.
140–859	Chlortetracycline Calcium Complex, Salinomycin Sodium.
140–867	Chlortetracycline Calcium Complex, Roxarsone, Salinomycin Sodium.

Accordingly, the agency is amending the regulations in part 558 (21 CFR part 558) to reflect the change of sponsor. FDA is also correcting some errors that have been incorporated into the agency's codified regulations. The errors in the regulations are as follows:

In § 558.95(b)(1)(xiii)(*b*) the reference to the limitations cited in (e)(1)(vii)(*b*) is incorrect; the correct cite is ''paragraph (b)(1)(vii)(*b*) of this section''. In § 558.355(b)(9) the cited reference ''paragraphs (f)(1)(xv), (xvi), and (xvii)'' incorrectly listed the sponsor, ''(xvii)'' should refer to sponsor 012799. The agency is correcting this error by removing ''(xvii)'' from § 558.355(b)(9) and adding sponsor 012799 to § 558.355(b)(10).

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.58 [Amended]

2. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraph (d)(1), in the entry for (iii), under the ''Limitations'' and the ''Sponsor'' columns by removing ''010042'' wherever it appears and adding in its place ''000004''.

§ 558.78 [Amended]

3. Section 558.78 *Bacitracin zinc* is amended in paragraph (a)(2), and in the table in paragraph (d)(1) in the entries for (i), (ii), (v), and (vi) under the ''Sponsor'' column, and in paragraph (d)(2)(ii) by removing ''010042'' and adding in its place ''000004''.

§ 558.95 [Amended]

4. Section 558.95 *Bambermycins* is amended in paragraph (b)(1)(xiii)(*b*) by removing ''(e)(1)(vii)(*b*)'' and adding in its place ''(b)(1)(vii)(*b*)''.

§ 558.120 [Amended]

5. Section 558.120 *Carbarsone (not U.S.P.)* is amended in paragraph (c)(1)(iii)(*b*) by removing ''010042'' and adding in its place ''000004''.

§ 558.128 [Amended]

6. Section 558.128 *Chlortetracycline* is amended in paragraph (a) by removing ''010042'' and adding in its place ''000004''.

§ 558.145 [Amended]

7. Section 558.145 *Chlortetracycline, procaine penicillin, and sulfamethazine* is amended in paragraphs (a)(1) and (a)(2) by removing ''010042'' and adding in its place ''000004''.

§ 558.340 [Amended]

8. Section 558.340 *Maduramicin ammonium* is amended in paragraph (a) by removing ''010042'' and adding in its place ''000004''.

§ 558.355 [Amended]

9. Section 558.355 is amended in paragraphs (b)(8), (b)(9), (f)(1)(iv)(*b*), (f)(1)(v)(*b*), (f)(1)(xiv)(*b*), (f)(1)(xv)(*b*), and (f)(1)(xvi)(*b*) by removing ''010042'' and adding in its place ''000004'', in paragraph (b)(9) by removing '', (xvi), and (xvii)'' and adding in its place ''and (xvi)'', and by adding paragraph (b)(10) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(10) To 012799: 45 and 60 grams per pound, as monensin sodium, paragraph (f)(1)(xvii) of this section.

* * * * *

§ 558.515 [Amended]

10. Section 558.515 *Robenidine hydrochloride* is amended in paragraphs (a), (d)(1)(iii)(*b*), (d)(1)(iv)(*b*), and (d)(1)(v)(*b*) by removing ''010042'' and adding in its place ''000004'' and in paragraph (d)(1)(vi)(*b*) by removing ''No. 011716'' and adding in its place ''Nos. 000004 and 011716''.

§ 558.550 [Amended]

11. Section 558.550 *Salinomycin* is amended in paragraphs (b)(1)(vii)(*c*), (b)(1)(ix)(*c*), (b)(1)(xv)(*c*), and (b)(1)(xvi)(*c*) by removing ''010042'' and adding in its place ''000004''.

§ 558.582 [Amended]

12. Section 558.582 *Sulfamerazine* is amended in paragraph (a) by removing ''010042'' and adding in its place ''000004''.

Dated: April 4, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–10019 Filed 4–23–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

[1076–AD65]

Land Acquisitions

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final Rule.

SUMMARY: This rule establishes a 30-day waiting period after final administrative decisions to acquire land into trust under the Indian Reorganization Act and other federal statutes. The Department is establishing this waiting period so that parties seeking review of final decisions by the Interior Board of Indian Appeals or of decisions of the Assistant Secretary-Indian Affairs, will have notice of administrative decisions to take land into trust before title is actually transferred. This notice allows interested parties to seek judicial or other review under the Administrative Procedure Act and applicable regulations.

EFFECTIVE DATE: April 24, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Jane Sheppard, Staff Attorney, Office of the Solicitor, Division of Indian Affairs, Room 6456, Main Interior Building, 1849 C Street, NW, Washington, DC 20240; Telephone (202) 208–6260.

SUPPLEMENTARY INFORMATION: On July 15, 1991, the proposed rule for off-reservation land acquisitions for Indian tribes was published in the Federal Register (56 FR 32278–32280). On June 23, 1995, the final rule was published at 60 FR 32878. That rulemaking supplemented the existing regulations in part 151. This procedural rule adds a subsection to existing 25 CFR 151.12, Action on requests.

Background

In response to a recent court decision, *State of South Dakota* v. *U.S. Department of the Interior,* 69 F.3d 878 (8th Cir. 1995), the Department of the Interior is establishing a procedure to ensure the opportunity for judicial review of administrative decisions to acquire title to lands in trust for Indian tribes and individual Indians under section 5 of the Indian Reorganization Act (IRA) (Pub. L. 73–383, 48 Stat. 984–988, 25 U.S.C. 465). Following consideration of the factors in the current regulations and completion of the title examination, the Department, through Federal Register notice, or other notice to affected members of the public, will announce any final administrative determination to take land in trust. The Secretary will not acquire title to the land in trust until at least 30 days after publication of the announcement. This procedure permits judicial review before transfer of title to the United States. The Quiet Title Act (QTA), 28 U.S.C. 2409a, precludes judicial review after the United States acquires title. See, *e.g., United States* v. *Mottaz,* 476 U.S. 834 (1986); *North Dakota* v. *Block,* 461 U.S. 273 (1983); *Florida* v. *Department of Interior,* 768 F.2d 1248 (11th Cir. 1985).

Section 5 of the IRA authorizes the Secretary to acquire land in trust for Indians and Indian tribes: (1) Within or adjacent to an Indian reservation; or (2) for purposes of facilitating tribal self-determination, economic development, or Indian housing. *State of South Dakota,* a case involving an off-reservation trust land acquisition, held Section 5 of the IRA unconstitutional on the ground that it violates the nondelegation doctrine. The court's decision was based in substantial part on the understanding that judicial review is not available to challenge the Secretary's action. The court noted that ''judicial review is a factor weighing in favor of upholding a statute against a nondelegation challenge.'' This rule ensures that such review is available before formal conveyance of title to land to the United States, when the QTA's bar to judicial review becomes operative. Judicial review is available

under the APA because the IRA does not preclude judicial review and the agency action is not committed to agency discretion by law within the meaning of the APA.

While the Eighth Circuit decision precludes the Secretary from taking into trust the land at issue in that particular case, new trust acquisitions will be made on a case-by-case basis. The procedure announced in today's rule, however, will apply to all pending and future trust acquisitions.

The Department certifies that this procedural rule meets the standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

The Department has determined that this rule:

—Does not have significant federalism effects.
—Will not have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).
—Does not have significant takings implications under E.O. 12630.
—Does not have significant effects on the economy, nor will it result in increases in costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographical regions.
—Does not have any adverse effects on competition, employment, investment, productivity, innovation, or the export/import market.
—Is categorically excluded from the National Environmental Policy Act of 1969 because it is of an administrative, technical, and procedural nature. Therefore, neither an environmental assessment nor an environmental impact statement is warranted.

This rule is not a significant rule under E.O. 12866 and does not require approval by the Office of Management and Budget.

This rule is not a major rule as defined in 5 U.S.C. 804. The annual number of tribal requests to place lands in trust is small. There will be costs incurred by a party seeking judicial review. The author of this rule is: Mary Jane Sheppard, Office of the Solicitor, U.S. Department of the Interior.

Because this is a procedural rule under Section 553(b)(3)(A) of the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, it is exempt from requirements for notice and comment rulemaking.

List of Subjects in 25 CFR Part 151

Indians—lands.

For reasons set out in the preamble, Part 151 of Title 25, Chapter I of the Code of Federal Regulations is amended as set forth below.

PART 151—LAND ACQUISITIONS (NONGAMING)

1. The authority for part 151 continues to read as follows:

Authority: R.S. 161: 5 U.S.C. 301. Interpret or apply 46 Stat. 1106, as amended; 46 Stat. 1471, as amended; 48 Stat. 985, as amended; 49 Stat. 1967, as amended, 53 Stat. 1129; 63 Stat. 605; 69 Stat. 392, as amended; 70 Stat. 290, as amended; 70 Stat. 626; 75 Stat. 505; 77 Stat. 349; 78 Stat. 389; 78 Stat. 747; 82 Stat. 174, as amended, 82 Stat. 884; 84 Stat. 120; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530; 86 Stat. 744; 88 Stat. 78; 88 Stat. 81; 88 Stat. 1716; 88 Stat. 2203; 88 Stat. 2207; 25 U.S.C. 2, 9, 409a, 450h, 451, 464, 465, 487, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d–10, 1466, 1495, and other authorizing acts.

2. Section 151.12, Action on requests, is amended by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 151.12 Title examination.

* * * * *

(b) Following completion of the Title Examination provided in § 151.13 of this part and the exhaustion of any administrative remedies, the Secretary shall publish in the Federal Register, or in a newspaper of general circulation serving the affected area a notice of his/her decision to take land into trust under this part. The notice will state that a final agency determination to take land in trust has been made and that the Secretary shall acquire title in the name of the United States no sooner than 30 days after the notice is published.

Dated: April 17, 1996.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

[FR Doc. 96–9922 Filed 4–29–96; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 375 and 379

Organizational Charter; Removal of Parts

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes Department of Defense's organizational charters on the Assistant to the Secretary of Defense (Public Affairs) and the Assistant to the Secretary of Defense (Atomic Energy) (ATSD(AE)) codified in the CFR. The parts have served the purpose for which they were intended in the CFR and are no longer necessary.

EFFECTIVE DATE: April 24, 1996.

FOR FURTHER INFORMATION CONTACT: L. Bynum or P. Toppings, 703–697–4111.

SUPPLEMENTARY INFORMATION: DoD Directive 5122.5 (32 CFR part 375) has been revised. A change was issued to DoD Directive 5134.8 (32 CFR part 379), changing the organizational name from ''Assistant to the Secretary of Defense for Atomic Energy (ATSD(AE))'' to ''Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs (ATSD(NSB))''. Copies of the basic Directives and changes thereto may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

List of Subjects in 32 CFR Parts 375 and 379

Organization and functions.

PARTS 375 AND 379—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR parts 375 and 379 are removed.

Dated: April 19, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–9994 Filed 4–23–96; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5460–9]

Clean Air Act Final Interim Approval of the Federal Operating Permits Program; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Interim Approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the California Air Resources Board on behalf of the San Joaquin Valley Unified Air Pollution Control District for the purpose of complying with Federal requirements which mandate that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: May 24, 1996.

ADDRESSES: Copies of the District's submittal and other supporting

information used in developing the proposed interim approval including the Technical Support Document with response to comments are available for inspection during normal business hours at the following location: Operating Permits Section, A–5–2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, (415) 744–1250, Operating Permits Section, A–5–2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

SUPPLEMENTARY INFORMATION:

I. Background and purpose

A. Introduction

Title V of the Clean Air Act (the Act), and implementing regulations at 40 CFR part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years.

On November 1, 1995, EPA proposed interim approval of the operating permits program for the San Joaquin Valley Unified Air Pollution Control District (San Joaquin Valley or District). See 60 FR 55516. The EPA received comments on the proposal and has summarized its response to the major comments in this notice and has fully responded to all comments in the Technical Support Document (TSD) accompanying this rulemaking. The TSD also describes the operating permits program in greater detail. In this notice, EPA is taking final action to promulgate interim approval of the operating permits program for San Joaquin Valley.

In the November 1, 1995 proposal, EPA also proposed approval of the San Joaquin Valley's Rule 2530 *Federally Enforceable Potential to Emit* as a revision to San Joaquin Valley portion of the California State Implementation Plan and under section 112(l) of the Act. In a separate notice, EPA has taken final action to approve Rule 2530.

II. Final Action and Implications

A. Response to Comments

EPA received comments from four groups during the comment period: Caufield Enterprises (an independent oil producer in the southern San Joaquin Valley), the Western States Petroleum Association (WSPA), Chevron, and the San Joaquin Valley District. EPA's response to the major comments is summarized below. A full response to each comment is in the TSD.

1. Stationary Source Definition

The District's title V program defines stationary source by combining elements of part 70's definitions of ''major source'' and ''stationary source.'' The District's definition of stationary source, which is common to both its title V program and its new source review program, contains a provision applicable to any facility located totally within the Western or Central Kern County Oil Fields or the Fresno County Oil Field that is used for the production of light oil, heavy oil or gas. This provision states that all sources under common control or ownership within each field shall be considered a single stationary source even if they are located on non-contiguous or adjacent properties. This provision is more stringent than part 70; however, the section also states that light oil production, heavy oil production, and gas production shall constitute separate stationary sources. Part 70's definition of ''major source'' requires aggregating all emission points that belong to the same Major Group as described in the Standard Industrial Classification (SIC) Manual. See § 70.2 ''Major source.'' Light oil production, heavy oil production and gas production are all in the same Major Group. EPA proposed as an interim approval issue that the District either revise the SIC code exemption in its definition of stationary source or show that it is as stringent as part 70.

The District stated that changing the definition of stationary source from its historic usage in the new source review (NSR) program would complicate permitting actions under title V. The District also provided data that few emission units (and few emissions) would be added to the program compared to the number of the units and emissions that would be lost from the program if part 70's definition were used to determine applicability. WSPA and Chevron also raised concerns regarding changing from the historic NSR definition of stationary source.

EPA has reviewed the information provided by the San Joaquin District on the number and type of additional emission units that would be included should the District change to EPA's definition of major source. These units are relatively few in number, have insignificant emissions, are attached to otherwise major sources, and would for the most part qualify for treatment as insignificant activities or insignificant emission units. Overall, San Joaquin Valley's definition of stationary source is neither inconsistent with nor less stringent than EPA's definition of major source; therefore, EPA is removing the proposed interim approval issue regarding it.

Caufield Enterprises commented that the District's part 70 program as proposed is in conflict with the Clean Air Act because both section 502 of the Act and § 70.2 define a major source to be a contiguous source while San Joaquin Valley's program combines non-contiguous properties into a single source. The commenter stated that it was immaterial whether this provision is stricter or less strict than federal law since it was the intent of Congress to implement the title V program uniformly throughout the United States and that allowing the District to use a different definition for stationary source and major source for title V permitting is inconsistent with this intent.

EPA believes that it is the intent of Congress to require states to implement operating permit programs that all contain *certain minimum elements.* See section 502(b). EPA also believes that Congress did not intend to bar States from establishing additional permitting requirements provided that those requirements were not inconsistent with the Act. See section 506(a).

While it is true that section 501(2) of the Act defines major source as ''any stationary source (or group of stationary sources located within a contiguous area and under common control) * * *'', this definition serves to define the sources Congress, *at a minimum,* intended to be included in the program. The definition of major source in section 501(2) does not define the *only* sources that a state may include in its operating permit program. Clearly, states are allowed to include a broader range of sources in their programs than the Act nominally requires.

San Joaquin Valley's definition of major source (which encompasses its definition of stationary source in its NSR program) differs from the definition of major source in section 501(2) by grouping all sources within an oil field that are under common control or ownership regardless of whether the sources are on contiguous or adjacent properties. This provision of San

Joaquin's stationary source definition will bring into its part 70 program more sources than EPA's definition. On the other hand, the provision does not effectively exclude any sources subject to title V under the federal definition. As a result, the non-contiguous and non-adjacent requirement in San Joaquin Valley's definition constitutes an additional permitting requirement that is not inconsistent with the Act and is allowed by section 506(a) of the Act.

2. Permit Terms for Model General Permits and Model General Permit Templates

Chevron, WSPA, and the District commented that model general permits and model general permit templates should not be required to have permit terms of five years or less as proposed in interim approval issue 9. All three commenters recommended that these model permits have indefinite terms and require revision only when an applicable requirement changes or needs to be added. WSPA and Chevron noted that if EPA or the District believes that a correction is needed in a model permit/template then they have the ability to effect such a change and modify all associated permits.

Title V and part 70 requires all elements of part 70 permits, whether or not they are based on model permits or permit templates, to undergo public, affected state, and EPA review at least once every five years. Rule 2520 sections 11.3.8, 11.7.6 and 11.7.7 limit public and EPA comment to the applicability of the permit/template to a source and thus prohibit public or EPA comment on the internal elements of a model permit/template after that model permit/template is issued. In effect, these provisions of the Rule bar regular public, affected state, and EPA review of the conditions and terms of a source's part 70 permit that are based on a model permit/template. The ability to comment on the applicability of a model general permit or permit template does not replace the ability to comment on the internal elements of that permit because not all issues will be ones of applicability. Hence there is a need to provide some mechanism to assure regular public, affected state, and EPA review of the model general permits and permit templates. Therefore, EPA is retaining this interim approval issue.

In reviewing this issue, EPA did determine that it is not necessary that the model general permits/permit templates to contain five-year permit terms but rather that the District's part 70 program provide some mechanism that requires regular public, affected state, and EPA review of the internal provisions of each model general permit or permit template at least once every five years. EPA, therefore, has revised the interim approval issue.

EPA does not argue with the commenters that EPA has the ability to reopen model permits/templates when necessary, but this ability does not replace the requirement for regular public and affected state review. EPA would also note that regulatory changes are not the sole reason why model general permits/permit templates may need to be changed.

3. Permit Shield Provision for General Permits and Permit Templates

Proposed interim approval issue 15 required that Rule 2520 be revised to state, as required by § 70.6(d), that, notwithstanding the permit shield provisions, if a source that is operating under a general permit is later determined not to qualify for the terms and conditions of that general permit, then the source is subject to enforcement action for operation without a part 70 permit. The District declined to revise Rule 2520 to add this language arguing it was unnecessary because its general permit provisions are more stringent than part 70. The District noted that any general permit obtained by a source under Rule 2520 would include qualification criteria and the applicable requirements, thus any deviation from the general permit should be treated like any other part 70 permit violation.

EPA agrees that the District's general permit provisions are different from the provisions in part 70 in that the District's program gives each source a part 70 permit derived from the model general permit rather than issuing one permit that applies to multiple sources. EPA, however, is retaining this interim approval issue.

At issue is not whether a source is complying with the terms of its permit but rather whether the permit the source has is the correct permit for that source. A source that applies to use a model general permit and receives a permit based on that model when it does not qualify is not substantially different from a source that fails to apply for and receive any permit because both sources do not have permits applicable to them. The former source may appear to have a permit and may appear to comply with some of the terms of that permit, but, because the permit was not crafted for that source, there is in fact no valid permit with which to comply. The source should be treated as operating without a part 70 permit rather than not operating in compliance with a part 70 permit.

Chevron and WSPA requested clarification that this interim approval issue does not carry over into the application and use of general permit templates. The commenters noted that a general permit template is only a partial coverage for certain emission units. The commenters also recommended extending this concept to general permits in cases where the non-applicability represents failure to properly manage change at the facility, in contrast to a misrepresentation of the source at the time of permit application.

EPA agrees with the commenters and has clarified the interim approval issue. If a general permit template is later determined not to be applicable to the sources then the emission units or the portion of the facility that was covered by the terms of the general permit template would be subject to enforcement action for operating without a title V permit and the balance of the facility, where the permit remains in force, would not be subject to the enforcement action.

EPA does not believe there is any need to extend this concept to general permits where the source modifies so as to no longer qualify for the general permit. EPA interprets the requirement in § 70.6(d) to apply only to sources that misrepresented their qualifications for a general permit at the time of initial issuance or renewal.

4. Other Comments

The District addressed each of EPA's 17 proposed interim approval issues and in most cases stated it would propose language changes to Rule 2520 to address the interim approval issue. EPA appreciates the District's responses on these issues. For several interim approval issues, the District stated that it did not believe Rule revisions were warranted. These issues are discussed below. Please note that the issue numbers reflect those in the proposal and not the revised numbering in this notice.

Interim Approval Issue 9: Clarify minor source applicability. The District believes that section 2.4 of Rule 2520 clearly applies only to area sources and that it is not necessary to clarify the sentence in section 2.4 that ''[o]nly the affected emissions units within the stationary source shall be subject to part 70 permitting requirements'' applies only to stationary sources that are also area sources. The District noted that any major source subject to an NSPS would be subject to title V permitting by its major source status.

EPA agrees with the District that any major source regulated under an NSPS or section 112 standard would be

subject to the District's rule under the major source requirement in section 2.3 of Rule 2520; however, it is also true that such a source would also be subject to Rule 2520 under the ''subject to an NSPS or 112 standard'' requirement in section 2.4. In fact, it will be common for sources to be subject to the District's rule on a number of grounds (e.g., a major source subject to an NSPS). Therefore, the exclusivity of section 2.4 to area sources is not inherent in the rule. In addition, section 2.4 of Rule 2520 parallels the language of § 70.3(a)(3) which reads ''any source, including an area source, subject to a standard * * *''. EPA does not interpret § 70.3(a)(3) to apply only to area sources and would not agree that section 2.4 applies only to area sources. EPA is therefore retaining this interim approval issue.

Interim Approval Issue 10: Review and public notice municipal waste incinerator permits every five years, even in the event that permit expiration may be every 12 years. The District noted that § 70.6(a)(2) does require that the District review permits for municipal waste incinerators every five years, but it does not require public notice and comment.

Part 70 does not fully repeat the Act's requirement that title V permits for municipal waste incinerators be subject to public review every five years. The requirement is a provision of section 129(e) of the Act and not of title V. Section 129(e) of the Act requires that all municipal waste incinerators obtain title V permits and that those permits may have a permit term of up to 12 years, shall be reviewed every 5 years, and shall remain in effect until the date of termination, unless EPA or the permitting authority determines that the unit is not in compliance with all standards and conditions contained in the permit. Under section 129(e), such determination shall be made at regular intervals during the term of the permit, such intervals not to exceed five years, *and only after public comment and public hearing.* Based on the explicit language of section 129(e) requiring public comment and hearing, EPA is retaining this interim approval issue.

Interim Approval Issue 12: Allow trading of emission increases and decreases without a case-by-case review to the extent allowed by an applicable requirement, and not merely those allowed by Rule 2301. The District commented that District Rule 2301, ''Emission Reduction Credit Banking'' states that the rule is applicable to all transfers or uses of emission reduction credits in the San Joaquin Valley, and that the District does not propose to change this provision. The District also commented that the permit terms will identify circumstances under which credits can be transferred without a case-by-case review, that under these circumstances, the language in Rule 2520 which requires that emission reduction transfers be consistent with Rule 2301 is appropriate, and that the District does not propose to change it.

EPA notes that proposed interim approval issue 12 did not address the part of Rule 2520, section 9.12 that restricts the use of emission reduction credits. Rather, this interim approval issue addresses the first provision in section 9.12 that restricted terms and conditions in a permit for the trading of emission increases and decreases in the permitted facility to those allowed by Rule 2201. Section 70.6(a)(10) requires permitting authorities to include terms for emission trading without case-by-case approvals to the extent applicable requirements allow them. EPA's interim approval issue is to remove Rule 2520's restriction to Rule 2201 and expand it to encompass any applicable requirement, such as the Hazardous Organic NESHAP, that allows for emission trading without case-by-case approval. EPA, therefore, is retaining this interim approval issue but is clarifying that it does not affect the emission reduction credit provisions in Rule 2520, section 9.12.

Interim Approval Issue 13: Require a schedule of compliance be included in the permit even if the source is in compliance with all applicable requirements. The District argues, based on language in part 70 and title V, that neither title V nor part 70 requires that each permit issued contain a schedule of compliance unless the source is in non-compliance.

The District is correct in stating that § 70.6(c)(3) merely requires that a permit contain a schedule of compliance consistent with § 70.5(c)(8); that § 70.5(c)(8) requires a compliance plan be submitted with the application, part of which is a compliance schedule; and finally that § 70.5(c)(8)(iii) lists what constitutes a compliance schedule and that for non-complying source, this is the ''schedule of compliance'' in § 70.5(c)(8)(iii)(C).

The District is also correct in stating that section 504 of the Act requires that ''each permit issued under this title shall include * * * a schedule of compliance * * *'' However, the District is not correct in stating that facilities are not required to submit a schedule of compliance with their applications unless they are out of compliance. Section 503 clearly requires all permit applications, without regard to the source's compliance status, to include a ''compliance plan describing how the source will comply with all applicable requirements * * *'' and that the ''[c]ompliance plan shall include a schedule of compliance * * *''.

Part 70 and the Act need to be read with the understanding that the terms ''compliance schedule'' and ''schedule of compliance'' are synonymous. With this understanding, it is clear that all sources, complying and non-complying, must include a schedule of compliance (i.e., a compliance schedule) in their applications and that all permits must have schedules of compliance (i.e., compliance schedules) in them. For complying sources and sources that have future-effective applicable requirements, the compliance schedule is a simple statement that the source will continue to comply or will comply in a timely manner. Only for non-complying sources are there detailed requirements for the contents of a schedule of compliance. Given the requirements of the Act and part 70, EPA is retaining this interim approval issue.

B. Interim Approval

The EPA is promulgating interim approval of the operating permits program submitted by the California Air Resources Board on behalf of the San Joaquin Valley Unified Air Pollution Control District on July 3 and August 17, 1995, and supplemented on September 6 and 21, 1995. The District or the State must make the following changes to receive full approval:

(1) Revise the applicability language in Rule 2520 2.2 and the definitions of Major Air Toxics Source (Rule 2520 3.18) and Major Source (Rule 2520 3.19) to be consistent with the Act and part 70 to cover sources that *emit* at major source levels.

(2) Limit the exemption for non-major sources in Rule 2520 4.1 so that it does not exempt non-major sources that EPA determines, upon promulgation of a section 111 or 112 standard, must obtain title V permits. § 70.3(b)(2)

(3) Revise Rule 2520 7.1.3.2 to eliminate the requirement that fugitive emission estimates need only be submitted in the application if the source is in a source category identified in the major source definition in 40 CFR part 70.2. See § 70.3(d).

(4) Revise Rule 2520 to provide that unless the District requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. See §§ 70.5(a)(2) and 70.7(a)(4).

(5) Revise Rule 2520 sections 11.1.4.2 and 11.3.1.1 and Rule 2201 5.3.1.1.1 to include notice ''by other means if necessary to assure adequate notice to the affected public.'' See § 70.7(h)(1).

(6) Revise Rule 2520's permit issuance procedures to provide for notifying EPA and affected states in writing of any refusal by the District to accept all recommendations for the proposed permit that an affected state submitted during the public/affected state review period. See § 70.8(b)(2).

(7) Either delete section 11.7.5 in Rule 2520 and section 5.3.1.8.5 in Rule 2201, which purport to limit the grounds upon which EPA may object to a permit to compliance with applicable requirements, or revise them to be fully consistent with § 70.8(c).

EPA's authority to object to issuance of permits derives from section 505(b) of the Act. No state or local agency may restrict authorities granted EPA under the Clean Air Act; therefore, EPA views section 11.7.5 of Rule 2520 and Section 5.3.1.8.5 of Rule 2201 as not binding upon its actions. EPA will exercise its authority to object to permits consistent with § 70.8(c) and without regard to the restriction on that authority in San Joaquin's title V program. Should the District issue a permit to which EPA has objected and the District has not revised or reissued to meet the objection, EPA will consider the permit invalid and will require the District to revise and reissue the proposed permit or will revoke, revise, and reissue the permit itself. EPA has made these revisions to Rule 2520 an interim approval issue in order to ensure that the Rule 2520 clearly states EPA's authority to object to permits.

(8) Revise Rule 2520 2.4 to clarify that the sentence in section 2.4 that ''[o]nly the affected emissions units within the stationary source shall be subject to part 70 permitting requirements'' applies only to stationary sources that are also area sources.

(9) Revise Rule 2520 8.1 to provide that each model general permit and model general permit templates will be subject to public, affected state, and EPA review consistent with initial permit issuance at least once every 5 years.

(10) Revise Rule 2520 8.1 to provide that any permit for a solid waste incineration unit that has a permit term of more than 5 years shall be subject to review, including public notice and comment, at least once every five years. See § 70.6(a)(2).

(11) Revise Rule 2520 13.2.3 to state that the permit shield will apply only to requirements addressed in the permit. EPA will not consider a source shielded from an enforcement action for failure to comply with an applicable requirement if that applicable requirement is addressed only in the written reviews supporting permit issuance and not in the permit. Further, EPA will veto any permit that extends the permit shield to conditions, terms, or findings of non-applicability that are not included in the permit.

(12) Revise Rule 2520 9.12 to require the permit contain terms and conditions for the trading of emission increases and decreases in the permitted facility to the extent that *any* applicable requirement provides for such trading without case by case approval. The District may limit transfers of emission reduction credits in accordance with District Rules 2201 and 2301. § 70.6(a)(10)

(13) Revise Rule 2520, Section 9.0 (permit content) to include the § 70.6(c)(3) requirement for schedules of compliance for applicable requirements for which the source is in compliance or that will become effective during the permit term. During the interim period, the District should incorporate compliance schedules, as required by § 70.6(c)(3), into all issued permits.

(14) Revise Rule 2520 to treat changes made under the prevention of significant deterioration (PSD) provisions of the Act and EPA' PSD regulations in the same manner as ''title I modifications'' as that term is defined in Rule 2520 and Rule 2201.

(15) Revise Rule 2520 to state that, notwithstanding the permit shield provisions, if a source that is operating under a general permit or general permit template is later determined not to qualify for the terms and conditions of that general permit or template, then the source is subject to enforcement action for operation without a part 70 permit. For sources operating under a general permit template, if a source is later determined not to qualify for the template, only the portion of the facility covered by the template shall be subject to enforcement action for operation without a part 70 permit. See § 70.6(d).

(16) Because California State law currently exempts agricultural production sources from permit requirements, CARB has requested source category-limited interim approval for all California districts. EPA is granting source category-limited interim approval to the San Joaquin program. In order for this program to receive full approval, the Health and Safety Code must be revised to eliminate the exemption of agricultural production sources from the requirement to obtain a title V permit. Once the California statute has been revised, the District must also revise its permit exemption rules to eliminate any blanket exemption granted agricultural sources.

This interim approval, which may not be renewed, extends until May 25, 1998. During this interim approval period, the State is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the District. Permits issued under a program with interim approval have full standing with respect to Part 70, and the one-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the three-year time period for processing the initial permit applications.

If the District fails to submit a complete program through the State for full approval by November 24, 1997, EPA will start an 18-month clock for mandatory sanctions. If the District fails to submit a complete program before the expiration of that 18-month period, EPA would impose sanctions. If EPA disapproves the District's corrective program, and has not granted full approval within 18 months after the disapproval, then EPA must impose mandatory sanctions. In both cases, if the District has not come into compliance within 6 months after EPA applies the first sanction, a second sanction is required. In addition, discretionary sanctions may be applied where warranted any time after the end of the interim approval period. If the EPA has not granted full approval to the District program by May 25, 1998, EPA must promulgate, administer, and enforce a Federal permits program for San Joaquin Valley.

C. District Program Implementing Section 112(g)

EPA is approving the use of San Joaquin Valley's preconstruction review program (Rule 2201) as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and adoption by San Joaquin Valley of rules specifically designed to implement section 112(g). EPA is limiting the duration of this approval to 18 months following promulgation by EPA of the section 112(g) rule.

D. Program for Delegation of Section 112 Standards as Promulgated

Requirements for part 70 program approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5)

requires that the District's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of San Joaquin Valley's program for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated. This program for delegations applies to both existing and future standards but is limited to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of the District's submittal and other information relied upon for the final interim approval, including all comments received on the proposal and EPA's responses to those comments, are contained in docket number CA–SJV–95–001 maintained at the EPA Regional Office. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's action under section 502 of the Act does not create any new requirements but simply addresses the operating permits program developed and submitted by the San Joaquin Valley District to meet the requirements of 40 CFR part 70. EPA evaluated the impact on small businesses of the title V operating permit program as part of its promulgation of part 70 and determined that operating permit programs required by part 70 would not have a significant economic impact on a substantial number of small business and no Regulatory Flexibility Act analysis was necessary.

D. Unfunded Mandates Act

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

EPA has determined that the approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector and therefore, no budgetary impact statement is necessary.

List of Subjects in 40 CFR Part 70

Environmental Protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 10, 1996.

Felicia Marcus,

Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding paragraph (y) to the entry for California to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

California

* * * * *

(y) *San Joaquin Valley Unified APCD* (complete submittal received on July 5 and August 18, 1995); interim approval effective on May 24, 1996; interim approval expires May 25, 1998.

* * * * *

[FR Doc. 96–10094 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 261

[SW–FRL–5461–2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a petition submitted by Bethlehem Steel Corporation (''BSC''), Lackawanna, New York, to exclude (or ''delist''), on a one-time basis, certain solid wastes contained in a landfill from being listed hazardous wastes. This action responds to BSC's petition to delist these wastes on a ''generator-specific'' basis from the hazardous waste lists. Based on careful analyses of the waste-specific information provided by the petitioner, the Agency has concluded that BSC's petitioned waste will not adversely affect human health and the environment. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

EFFECTIVE DATE: April 24, 1996.

ADDRESSES: The RCRA regulatory docket for this final rule is located at Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (703) 603–9230 for appointments. The reference number for this docket is F–96–B5EF–FFFFF. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION, CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (703) 412–9810. For technical information concerning this notice, contact Chichang Chen, Waste Identification Branch, Office of Solid Waste (Mail Code 5304), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–7392.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of Title 40 of the Code of Federal Regulations; and § 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. Petitioners must provide sufficient information to EPA to allow the Agency to determine that the waste to be excluded does not meet any of the

criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

B. History of This Rulemaking

Bethlehem Steel Corporation (BSC), Lackawanna, New York, petitioned the Agency to exclude from hazardous waste control its ammonia still lime sludge presently listed as EPA Hazardous Waste No. K060. After evaluating the petition, EPA proposed, on December 7, 1995, to exclude BSC's waste from the lists of hazardous waste under § 261.31 and § 261.32 (see 60 FR 62794). This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to grant BSC's petition.

II. Disposition of Delisting Petition

Bethlehem Steel Corporation, Lackawanna, New York

A. Proposed Exclusion

Bethlehem Steel Corporation (BSC), located in Lackawanna, New York, was engaged in primary metal-making and coke-making operations prior to 1983. BSC petitioned the Agency to exclude, on a one-time basis, the waste contained in an on-site landfill, presently listed as EPA Hazardous Waste No. K060—''Ammonia still lime sludge from coking operations''. The listed constituents of concern for EPA Hazardous Waste No. K060 are cyanide, naphthalene, phenolic compounds, and arsenic. BSC refers to this landfill as Hazardous Waste Management Unit No. 2 (HWM–2). Although only a portion of the waste in the landfill is the ammonia still lime sludge, the entire volume of waste is considered to be a listed waste in accordance with § 261.3(a)(2)(iv) (*i.e.*, the mixture rule). The mixture of listed ammonia still lime sludge and solid waste contained in HWM–2 is the subject of this petition.

BSC petitioned the Agency to exclude its waste because it does not believe that the waste meets the criteria of the listing. BSC claims that the mixture of ammonia still lime sludge and solid waste is not hazardous because the constituents of concern, although present in the waste, are present in either insignificant concentrations or, if present at significant levels, are essentially in immobile forms. BSC also believes that this waste is not hazardous for any other reason (*i.e.*, there are no additional constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See Section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4).

On July 18, 1984, BSC petitioned the Agency to exclude the waste contained in its on-site landfill identified as HWM–2, and subsequently provided additional information. After evaluating the petition, the Agency proposed to deny BSC's petition to exclude the waste contained in HWM–2 on April 7, 1989 (see 54 FR 14101). The Agency's evaluation of the petition, which used the ''VHS'' fate and transport model and the analytical data provided by BSC, indicated that the petitioned waste exhibited significant concentrations of leachable lead and benzo(a)pyrene. Furthermore, the Agency considered the sampling and analysis program conducted in support of the petition to be incomplete. Moreover, groundwater monitoring data collected from wells monitoring this on-site landfill indicated that the landfill might have been adversely impacting groundwater quality at the site. On August 26, 1991, the Agency published a final denial, including responses to public comments, in the Federal Register (see 56 FR 41944). On October 30, 1991, BSC petitioned the U.S. Court of Appeals for the District of Columbia Circuit to overturn EPA's denial decision. Subsequently, BSC agreed to stay this litigation for a re-evaluation by EPA using a new fate and transport model (EPA's Composite Model for Landfills (''EPACML'')) and updated health-based levels, and on November 17, 1992 submitted extensive supplemental waste characterization and groundwater monitoring data. After reviewing the new data in conjunction with the existing petition information, the Agency proposed on December 7, 1995 to withdraw its August 26, 1991 final denial decision and to grant BSC's petition (see 60 FR 62794 for details).

In support of its petition, BSC submitted: (1) Detailed descriptions and schematics of its manufacturing process; (2) a list of all raw materials and Material Safety Data Sheets (MSDS) for all trade name materials that might be expected to have contributed to the waste; (3) results from total constituent analyses for the eight Toxicity Characteristic (TC) metals listed in § 261.24, antimony, nickel, thallium, and cyanide; (4) results from the Toxicity Characteristic Leaching Procedure (TCLP; SW–846, Method 1311) for the eight TC metals, antimony, nickel, and thallium; (5) results from the EP leachate procedure for the eight TC metals, nickel, and cyanide; (6) results from total constituent analyses for sulfide and reactive sulfide; (7) results from total oil and grease analyses; (8) results from characteristics testing for ignitability, corrosivity, and reactivity; (9) results from total constituent analyses for 70 volatile organic and semivolatile organic constituents, including the TC organic constituents (excluding pesticides and herbicides); (10) results from the TCLP analyses for 63 volatile organic and semivolatile organic constituents, including the TC organic constituents (excluding pesticides and herbicides); and (11) ground-water monitoring data collected from wells monitoring the on-site landfill.

B. Response to Public Comments

Comment: The Agency received public comments from one interested party (BSC) on the December 7, 1995 proposal. The commenter expressed its strong support for the proposed rule and urged the Agency to finalize this rulemaking as soon as practicable. The commenter also stated it ''does not believe that any of its comments materially affect the Agency analyses, evaluations and conclusions in the proposed rule.'' However, the commenter recommended a slight modification of the proposed language for the regulatory exclusion. Specifically, the commenter recommended that based on its legal survey of the landfill surface acreage and resulting recalculation of the waste volume contained in the unit, the proposed exclusion language in the Waste Description at 40 CFR part 261, Appendix IX be modified to specify approximately 118,000 cubic yards of waste, in lieu of 110,000 cubic yards. The commenter contended that such an increase in waste volume does not affect the Agency's EPACML evaluation of BSC's waste.

Some of the other comments relate to the conservative nature of the Agency's analysis and evaluation of BSC's petition. The commenter agreed that EPA's use of the EPACML model as described in the proposal is an appropriate means for evaluating its petitioned waste. However, the commenter briefly described several conservative assumptions (pertaining to input parameter frequency distributions, infinite steady-state contaminant source, and various subsurface attenuation mechanisms including biodegradation of organics, metal precipitation, non-

linear non-equilibrium sorption phenomena, etc.) inherent in the EPACML, and believed that the model as proposed is more appropriate for use as a worst-case, first-stage screening tool in a delisting evaluation. The commenter also argued that the Agency's use of EP and TCLP extract concentrations as inputs to the EPACML tends to overstate the real-world leaching potential of metals from wastes that are not reasonably likely to be co-disposed in a municipal landfill environment. Moreover, the commenter questioned the Agency's use of the proposed health-based levels for lead and 1,1-dichloroethane, meaning that they may be too stringent.

Finally, the commenter presented a variety of clarifications and corrections, primarily for the record, on miscellaneous items and details addressed in the proposed rule. The commenter considered these to be ''relatively minor''. The commenter also believed that any EPA statements, comments, or interpretations pertaining to the regulatory status of the HWM–2 landfill and BSC's compliance obligations are not necessary.

Response: In the December 7, 1995 proposal, the Agency determined that disposal in any Subtitle D landfill is the most reasonable, worst-case disposal scenario for BSC's petitioned waste, that the major exposure route of concern for any hazardous constituents would be ingestion of contaminated groundwater, and that the EPACML fate and transport model is appropriate for evaluating BSC's petitioned waste. As further explained in the ''Docket Report on EPACML Evaluation of Bethlehem Steel's Petitioned Waste'' contained in the public docket for the proposed rule, the Agency used an EPACML dilution/attenuation factor (DAF) of 48 to evaluate the potential for groundwater contamination due to contaminant releases from BSC's estimated waste volume of 110,000 cubic yards. The Agency notes here that this one-time waste volume of 110,000 cubic yards (equivalent to annual generation of 5,500 cubic yards over 20 years) actually corresponds to an EPACML DAF of 51. In order to account for possible variations associated with land survey and volume calculations, the Agency in fact applied a slightly lower, thus more stringent, DAF of 48 corresponding to one-time waste volume of 120,000 cubic yards, or 6,000 cubic yards/year x 20 years. Hence, increasing the petitioned volume from 110,000 cubic yards to 118,000 cubic yards (less than 120,000 cubic yards) has no adverse effect on the results of the Agency's evaluation of the potential impact of BSC's waste via groundwater route of exposure.

The small volume increase of 8,000 cubic yards (constituting only 7.3% of 110,000 cubic yards) does not adversely affect the Agency's air and surface water evaluations either, for the following reasons. As discussed in the proposed rule, the Agency's evaluation of the potential hazards resulting from air and surface water routes of exposure to BSC's petitioned waste quantity of 110,000 cubic yards were very conservative. Furthermore, the calculated airborne and surface water release concentrations at the assumed downgradient receptors were well below (more than 10 times and 29 times lower, respectively) the applicable air emissions levels of concern and water quality criteria for consumption of water and organisms used for the evaluation of BSC's waste (see docket for the proposed rule). Therefore, calculations based on 118,000 cubic yards (as compared to 110,000 cubic yards) would result in an insignificant change in air and surface water releases.

Consequently, the Agency is finalizing the exclusion language in 40 CFR part 261, Appendix IX, Table 2 to delist 118,000 cubic yards of the petitioned waste as the commenter (*i.e.*, BSC) recommended. The Agency believes this revised volume more accurately reflects the actual waste quantity contained in the petitioned HWM–2 landfill. The other issues raised by the commenter with respect to the conservative nature of the Agency's analysis and evaluation of BSC's petition as well as the commenter's clarifications and corrections for the record do not affect EPA's decision to grant this petition; therefore, the Agency is not addressing those comments in today's rule. The Agency would like to refer the readers to relevant Agency responses to some similar comments provided in previous delisting rulemakings, *e.g.*, 56 FR 67197, December 30, 1991; 58 FR 40067, July 27, 1993; 60 FR 31107, June 13, 1995.

E. Final Agency Decision

For the reasons stated in both the proposal and this final rule, the Agency believes that BSC's petitioned waste should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Bethlehem Steel Corporation, Lackawanna, New York, for its ammonia still lime sludge and other co-disposed solid wastes contained in the on-site landfill referred to as HWM–2, described in the petition as EPA Hazardous Waste No. K060. This one-time exclusion applies to 118,000 cubic yards of waste covered by BSC's delisting demonstration.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction by this final exclusion, the generator of the delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation (see 40 CFR part 260, Appendix I).

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the States. Because a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact State regulatory authorities to determine the current status of their wastes under the State laws.

Furthermore, some States are authorized to administer a delisting program in lieu of the Federal program, *i.e.*, to make their own delisting decisions. Therefore, this exclusion does not apply in those authorized States. If the petitioned waste will be transported to and managed in any State with delisting authorization, BSC must obtain delisting authorization from that State before the waste may be managed as nonhazardous in that State.

IV. Effective Date

This rule is effective on April 24, 1996. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule reduces the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after

publication and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, pursuant to 5 USC § 553(d).

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. The effect of this rule is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. The reduction is achieved by excluding waste from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous. This rule does not represent a significant regulatory action under the Executive Order, and no assessment of costs and benefits is necessary. 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

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (*i.e.*, 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 a significant economic impact on a substantial number of small entities.

This rule will not have an adverse economic impact on any small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and will be limited to one facility. Accordingly, I hereby certify that this regulation 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 final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''UMRA''), Pub. L. 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local, or tribal governments or the private sector. EPA finds that today's 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, today's 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.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: April 4, 1996.

James R. Berlow,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is 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 2 of Appendix IX, Part 261 add the following wastestream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 2. WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
* *	* *	* * *
Bethlehem Steel Corporation	Lackawanna, New York	Ammonia still lime sludge (EPA Hazardous Waste No. K060) and other solid waste generated from primary metal-making and coking operations. This is a one-time exclusion for 118,000 cubic yards of waste contained in the on-site landfill referred to as HWM–2. This exclusion was published on April 24, 1996.
* *	* *	* * *

[FR Doc. 96–10106 Filed 4–23–96; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[Gen. Dockets Nos. 90–54 and 80–113, MM Docket No. 94–131 and PP Docket No. 93–253, FCC 96–130]

Private Operational-Fixed Microwave Service, et. al.; 2.1 and 2.5 GHz Frequency Use

Use of the Frequencies in the 2.1 and 2.5 GHz Affecting Private Operational-Fixed Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, and Cable Television Relay Service; Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding.

AGENCY: Federal Communications Commission.

ACTION: Final rule; Third Order on Reconsideration and Order to Clarify.

SUMMARY: This *Third Order on Reconsideration and Order to Clarify* resolves the issues raised in reconsideration petitions filed against the *Second Order on Reconsideration* in Gen. Dockets No. 90–54 and 80–113. The *Second Order on Reconsideration* essentially adopted three changes. First, it enlarged the protected service area for Multipoint Distribution Service (MDS) stations from 710 square-miles (the area of a circle with a 15-mile radius) to approximately 3,848 square-miles (the area of a circle with a 35-mile radius). Second, it revised the rules for serving interference studies upon potentially affected stations in the Instructional Television Fixed Service (ITFS). Third, it clarified the use of frequency offset interference protection and the MDS cut-off rule. In this *Third Order on Reconsideration and Order to Clarify*, the Commission also provides clarification of provisions set forth in the *MDS Report and Order* in MM Docket No. 94–131 and PP Docket No. 93–253, including the interference study requirements for pending ITFS applications and the statement of intention to be filed by some winning bidders in the MDS auction. This Commission action is intended to expedite more service to the public and enhance opportunities for wireless cable to reach its potential as a competitor to wired cable.

EFFECTIVE DATES: June 24, 1996, except that the new or modified paperwork requirements contained in Section 21.902(i), which are subject to approval by the Office of Management and Budget (OMB), will go into effect upon OMB approval. The Commission will issue at a later date a public notice with this effective date.

FOR FURTHER INFORMATION CONTACT: Jerianne Timmerman at (202) 416–0881 or Sharon Bertelsen at (202) 416–0892.

The complete text of the *Third Order on Reconsideration and Order to Clarify* follows. It is also available for inspection and copying during normal business hours in the MDS public reference room, Room 207, at the Federal Communications Commission, 2033 M Street, N.W., Washington, D.C., and it may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street NW., Suite 140, Washington, D.C. 20037, (202) 857–3800.

I. Introduction and Background

1. The Commission has before it three petitions for reconsideration of the *Second Order on Reconsideration* in Gen. Docket Nos. 90–54 and 80–113, 10 FCC Rcd 7074 (1995), 60 FR 36737 (July 18, 1995) (''*Second Order on Reconsideration*''), which revised the definition of the protected service area of Multipoint Distribution Service (''MDS'')[1] stations. In the *Second Order on Reconsideration*, the protected service area for MDS stations was enlarged from 710 square-miles (the area of a circle with a 15-mile radius) to approximately 3,848 square-miles (the area of a circle with a 35-mile radius). Also revised were the rules for serving interference studies upon potentially affected stations in the Instructional Television Fixed Service (''ITFS''). In addition, clarification was provided regarding frequency offset interference protection and the MDS cut-off rule. Three petitions for reconsideration of various aspects of the *Second Order on Reconsideration* were timely filed with the Commission. The reconsideration petitions include a request for clarification of certain provisions of the order and a request for reconsideration of a Commission public notice issued after the order was released, which cited the order. Two oppositions were received, and no replies were filed.

2. The petitions for reconsideration principally raise issues regarding the expanded protected service area for authorized and previously proposed MDS stations. The major factors that prompted adoption of the expanded protected service area in the *Second Order on Reconsideration* included: (1) the many MDS operators that have been serving areas larger than the 710 square-mile service area formerly provided by the MDS rules; (2) the technological innovations in reception equipment that have contributed to a significant increase in the geographic area to which reliable MDS service can be provided; and (3) the potential overcrowding of the MDS spectrum that would result from continued use of the smaller service area. *See Second Order on Reconsideration* at 7077–78. We also noted that the desirability of an expansion of the protected service area had been enhanced by two separate rulemakings: a 1995 ITFS rulemaking which established a fixed 35-mile distance as one of several criterion for ITFS receiver site protection,[2] and the *Report and Order* in *Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act–Competitive Bidding*, 10 FCC Rcd 9589 (1995), 60 FR 36524 (July 17, 1995) (''*MDS Report and Order*''), *recon. granted in part and denied in part, Memorandum and Order on Reconsideration, Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section*

[1] Unless otherwise indicated, ''MDS'' includes single channel Multipoint Distribution Service stations and Multichannel Multipoint Distribution Service stations.

[2] *Report and Order, Amendment of Part 74 of the Commission's Rules with Regard to the Instructional Television Fixed Service*, 10 FCC Rcd 2907, 2921 (1995), 60 FR 20241 (April 25, 1995) (''*ITFS Filing Procedures Order*''). A combination of ITFS and MDS frequencies are used to provide a video entertainment service popularly known as ''wireless cable.'' The rules for these two services were initially developed independently. However, with the increasing combined use of both service frequencies to provide a single video service to consumers and to provide a competitor to wired cable operators, coordination of the rules and policies for both services has been encouraged. *See Notice of Proposed Rulemaking and Notice of Inquiry, Amendment of Parts 21, 43, 74, 78, and 94 of the Commission's Rules, Pertaining to Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands Affecting: Private Operational-Fixed Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, and Cable Television Relay Service*, 5 FCC Rcd 971 (1990), 55 FR 7344 (March 1, 1990).

309(j) of the Communications Act–Competitive Bidding, FCC 95–445, MM Docket No. 94–131 and PP Docket No. 93–253 (released October 27, 1995), 60 FR 57365 (Nov. 15, 1995), in which the Commission established competitive bidding procedures to select among mutually exclusive MDS applications. *See Second Order on Reconsideration* at 7079.[3]

3. In addition to resolving the petitions for reconsideration filed in response to the *Second Order on Reconsideration* in this order, we, on our own motion, provide clarification of certain provisions set forth in the *MDS Report and Order,* including the interference study requirements for pending ITFS applications and the 30-day period for the filing of either a MDS long-form application or a statement of intention by winning bidders in the MDS auction. We also provide guidance in respect to the instances that permit a winning bidder in the MDS auction to file a statement of intention for an encumbered BTA. *See* 47 CFR 21.956(a), Appendix C, *MDS Report and Order,* 10 FCC Rcd at 9702. We deal first with the petitions for reconsideration filed in response to the *Second Order on Reconsideration.*

II. Discussion

4. Effective Date of *Second Order on Reconsideration.* A petition for reconsideration was filed by the Law Offices of John D. Pellegrin, Chartered (''Pellegrin''), on ''behalf of clients,'' in which Pellegrin seeks clarification of the effective date of the revision of 47 CFR 21.902(d), which expanded the protected service areas for MDS stations, as provided in the *Second Order on Reconsideration.* In the *Second Order on Reconsideration,* the effective date of the revision of § 21.902(d) was stated as the ''60th day after publication of a summary of [the] order in the Federal Register.'' *Second Order on Reconsideration* at 7096.[4] A summary of the *Second Order on Reconsideration* was published at 60 FR 36736 (July 18, 1995). Pursuant to 47 CFR 1.4 (e) and (j), the 60th day after July 18, 1995 is September 18, 1995.

5. Pellegrin concedes that September 18, 1995, is the effective date for this specific § 21.902(d) revision. However, Pellegrin claims that, although the effective date of the expanded protected service area can be discerned from reading the text of the order itself, clarification is sought in light of the use of dates other than September 18, 1995, in the *MDS Report and Order.* We confirm Pellegrin's understanding that the *Second Order on Reconsideration* provided that the effective date of the revision of § 21.902(d), which expanded protected service areas for MDS stations, was September 18, 1995.

6. Delay of the Effective Date of *Second Order on Reconsideration.* Pellegrin also requests that the Commission postpone the effective date of the revision of § 21.902(d) to a minimum of 120 days after the July 18, 1995, publication date of the summary of the *Second Order on Reconsideration* in the Federal Register. The effective date suggested by Pellegrin would be November 15, 1995, 36 days after the October 10, 1995, deadline for the filing of applications to participate in the MDS auction and two days after November 13, 1995, the first day of competitive bidding in the MDS auction.[5] Pellegrin argues that, due to limited engineering resources, additional time is needed to prepare modification applications which would be filed with the Commission prior to September 18, 1995. Pellegrin concludes, without elaboration, that a later effective date ''will not delay any prospective MDS auction.''

7. In selecting an effective date for the revision of § 21.902(d), the Commission balanced two goals: (1) affording the expanded protected service area to previously proposed and authorized stations as soon as possible; and (2) providing additional time to file modification applications under the former protected service area rules. The effective date was fully considered in the *Second Order on Reconsideration.* We also note that the record strongly supported the selection of an effective date prior to the first application filing opportunity provided under the new competitive bidding licensing procedures. The party who filed the petition for partial reconsideration that initiated the *Second Order on Reconsideration,* argued persuasively that the expanded protected service area should become effective before the Commission lifted the freeze on the filing of new applications.[6] Pellegrin did not file an opposition or any type of response to that petition for partial reconsideration.[7] In addition, the majority of the parties filing responses to a 1993 public notice, in which we announced our then-future intention to lift the freeze on the filing of new MDS applications,[8] also requested that the effective date of any expanded protected service area be prior to the Commission's lifting of the freeze on the filing of new applications.[9] Pellegrin also did not file a response to this *1993 Public Notice,* although responses were encouraged.[10] The Commission announced on September 5, 1995, that the filing deadline for short-form applications (FCC Form 175–M) to participate in the MDS auction would be October 10, 1995.[11]

---

[3] In the *Second Order on Reconsideration,* we noted that ''[i]n view of the competitive bidding procedures we are adopting * * *, we have decided that it is even more important that an MDS station's protected service area boundary be 'easy to use and understand so that the spectrum use rights of licensees are clear.''' *Second Order on Reconsideration at 7079 (citing Amendment of Parts 21, 74 and 94 of the Commission Rules and Regulations with regard to the technical requirements applicable to the Multipoint Distribution Service, the Instructional Television Fixed Service and the Private Operational-Fixed Microwave Service (OFS),* 98 FCC 2d 68, 105–106 (1984), 49 FR 25456 (June 21, 1984)). As part of the new licensing scheme, the Commission developed a plan under which MDS authorizations would be auctioned for geographic areas called Basic Trading Areas (BTAs). High bidders in the auction would be entitled to seek authorizations to construct MDS stations on any usable channels within their BTAs. Previously proposed and authorized MDS stations within the BTAs would continue to provide service within the expanded 35-mile protected service area provided in the *Second Order on Reconsideration.*

[4] 47 CFR 1.427(a) provides that ''[a]ny rule issued by the Commission will be made effective not less than 30 days from the time it is published in the Federal Register.''

[5] *Public Notice, FCC Announces Auction of Multipoint Distribution Service,* Report No. AUC–95–06 (released September 5, 1995), 60 FR 48110 (Sept. 12, 1995) (''*MDS Auction Public Notice*''), at 1–2.

[6] *See* December 13, 1991 Petition for Partial Reconsideration of the Wireless Cable Association International, Inc. (''WCA''). In its December 13, 1991 petition, WCA argued:

> The current [protected service area] is a ticking time-bomb set to explode in the wireless [cable] industry's future. So far, the Commission's temporary freeze on new MMDS applications has protected wireless cable operators from the inadequacy of the [protected service area] definition. Once that temporary freeze is lifted, the only protection a wireless cable system operator will have to protect its subscriber base against harmful interference is the [protected service area] definition—a definition that is woefully inadequate.

WCA Petition for Partial Reconsideration at 2–3.

[7] *See Second Order on Reconsideration* at 7075 n. 1.

[8] *Public Notice, MDS/MMDS Applications Filing Freeze,* Mimeo No. 34165 (released July 28, 1993) (''*1993 Public Notice*'').

[9] *See* Response of WCA to *1993 Public Notice* at 8–15; Response of the Coalition of Wireless Cable Operations to *1993 Public Notice* at 10. *See also* Response of United Telephone Mutual Aid Corp., *et al.* to *1993 Public Notice* at 4. Parties filing comments in response to the Notice of Proposed Rulemaking for the *MDS Report and Order,* which raised the issue of interference protection, also requested an effective date prior to the lifting of the freeze against the filing of MDS applications for new stations. *See* Comments of WCA to NPRM for *MDS Report and Order* at 10–25; Reply Comments of CAI Wireless Systems, Inc. at 2; Reply Comments of Hardin and Associates, Inc. at 2–3; and Reply Comments of Heartland Communications at 2.

[10] The public was asked to file responses to the MDS issues raised and the approaches and resolutions suggested in the notice. *1993 Public Notice* at 2.

[11] *MDS Auction Public Notice* at 2.

8. Moreover, we find that the September 18, 1995, effective date of the expanded protected service area did provide an adequate amount of time for conditional licensees and licensees to prepare and file modification applications based on the former 710 square-mile protected service area. The release date of the *Second Order on Reconsideration*, June 21, 1995, provided licensees with nearly three months within which to file modification applications. In response to Pellegrin's claim that a ''log jam of orders for consulting services'' will be created due to the ''short FCC deadline'' and the limited number of qualified consulting engineers who can prepare the engineering analyses required for modification applications, WCA asserts that it has ''informally canvassed consulting engineers and wireless cable operators and has uncovered no evidence that those who acted promptly in response to the release of the [order] are encountering the difficulties in securing consulting services that [Petitioner] predicts.'' [12] Indeed, Pellegrin's complaint was voiced by no other commenter. Thus, we find Pellegrin's claims of hardship to be speculative and belied by the evidence before us.

9. MDS conditional licensees and licensees were in no way prohibited from filing MDS modification applications after September 18, 1995. No freeze has been imposed upon the filing of MDS modification applications. A conditional licensee or licensee may file an application requesting the same type station design, location or status modifications that were permissible prior to the September 18, 1995, effective date of the § 21.902(d) revision provided in the *Second Order on Reconsideration*. We, therefore, reject Pellegrin's argument that the effective date may not have provided licensees an adequate amount of time to prepare modification applications. Pellegrin has failed to persuade us to reverse our earlier determination and further delay implementation of this new interference protection standard.

10. We also reject Pellegrin's arguments that postponing the effective date would not have delayed the MDS auction. Although delaying the effective date of the revision of § 21.902(d) to expand the MDS protected service area would not have made it technically impossible to begin the MDS auction on November 13, 1995, it would have made it commercially impracticable. We do not agree with Pellegrin's characterization that the Commission adopted a ''caveat emptor'' policy for the MDS auction. The record reflects that the Commission advised potential bidders in the MDS auction that they were responsible for investigating the status of markets due to the heavily encumbered nature of the service. Over the past several months, we have repeatedly encouraged interested bidders to thoroughly review all Commission orders, public notices, MDS file information and other documentation prior to making a final determination to bid on authorizations for BTAs.[13] Because high bidders in the auction must choose transmitter sites and design stations so as to protect each point within the protected service area of all previously proposed and authorized stations from harmful interference, it is important that the § 21.902(d) revision which expanded the MDS protected service area become effective on a date well before the first day of bidding. Delaying the effective date of the expanded service area to a date beyond the first day of bidding in the MDS auction would cut against the goal of market certainty and would be incongruent with the auction licensing scheme. Accordingly, and for all the reasons discussed, we deny Pellegrin's request for a delay of the effective date of the revision of § 21.902(d) to expand the protected service area for MDS stations.

11. Filing of Applications for New ITFS Stations. On August 3, 1995, the Commission announced by public notice that the Mass Media Bureau would accept ITFS applications for major modifications for a limited period of time from August 3, 1995, through September 15, 1995.[14] In a separate petition for reconsideration, Pellegrin requests that for applicants who would file pursuant to 47 CFR § 74.990(a), the Commission permit the filing of applications for new ITFS stations during this filing window for modification applications by defining the term ''major change'' to include new applications filed pursuant to § 74.990(a).

12. It appears, however, that Pellegrin's request for an opportunity to file applications for new ITFS stations was addressed and resolved by the public notice released the day after the August 3, 1995, public notice was issued. On August 4, 1995, the Commission announced by public notice that the Mass Media Bureau would open a window from October 16, 1995, through October 20, 1995, for the filing of applications for new ITFS stations.[15] All those eligible to file applications for new ITFS stations, including those filing pursuant to 47 CFR 74.990(a), were permitted to file during that time. Therefore, Pellegrin's concern about having a filing opportunity before the issuance of the first BTA authorization has been addressed. We, therefore, dismiss as moot Pellegrin's reconsideration petition on this issue as the relief sought was previously granted.

13. Strict application of requirements for ITFS requests for extension of time to construct. The Commission announced in the *Second Order on Reconsideration* that it would strictly scrutinize requests for extensions of time to construct ITFS and MDS stations in order to address concerns over the ''economic blackmail'' [16] that allegedly occurs when construction permittees and conditional licensees repeatedly delay station construction over substantial periods of time, while demanding protection from potential harmful electromagnetic interference caused by subsequently proposed neighboring licensees. *Second Order on Reconsideration* at 7081. The Law Firm of Schwartz, Woods & Miller (''Schwartz, Woods''), on behalf of its ITFS clients, requests reconsideration of this policy as it applies to ITFS extension applicants, suggesting that the Commission has not set out a public interest reason sufficient to justify the new strict review policy.[17] Schwartz, Woods argues that the Commission has recognized that, due to the nature of educational institutions, it generally takes ITFS construction permittees longer than it would commercial entities to raise funds for construction, thereby causing a delay in completion of construction.[18] ITFS construction

[12] WCA Opposition to Pellegrin Petition at 3.

[13] *See, e.g., MDS Report and Order* at 9604; *MDS Auction Public Notice* at 4; MDS Bidder Information Package at 21–22.

[14] *Public Notice, Notice of Limited Period to File Instructional Television Fixed Service Applications for Major Changes in Existing Facilities*, Report No. 23564A (released August 3, 1995).

[15] *Public Notice, Notice of Instructional Television Fixed Service Filing Window From October 16, 1995 Through October 20, 1995*, Report No. 23565A (released August 4, 1995).

[16] In response to the *1993 Public Notice*, WCA commented: [A] few * * * entities are abusing the ITFS interference protection rules * * * and proposing stations that appear to have no other purpose than to frustrate the ability of wireless cable systems in adjacent communities to add ITFS stations to their systems. Clearly, the word is out that the interference protection rules permit economic blackmail.* * * [T]he legitimate wireless cable operator will have to reach an accommodation if it is to continue providing a viable service to the public.

Comments of WCA to the *1993 Public Notice* at 9.

[17] Schwartz, Woods filed the petition on behalf of 26 educational institutions, many of which hold multiple ITFS station licenses.

[18] *See* Schwartz, Woods Petition at 13.

permittees rely heavily upon MDS operators for construction financing, Schwartz, Woods argues, and MDS operators frequently delay ITFS construction financing until their own MDS systems generate profit. Therefore, Schwartz, Woods asserts, ITFS construction extension applications should be routinely granted.

14. Section 73.3534(c) of the Commission's rules provides that:

> Applications for extension of time to construct * * * Instructional TV Fixed stations will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the permittee, or upon a specific and detailed showing * * * sufficient to justify an extension.

47 CFR 73.3534 (1994). As recently as February 1995, in an ITFS rulemaking order, we explained with greater particularity the type of showing an educator must make to obtain an extension of time within which to construct, including showings that: ''(1) construction is complete and testing of facilities has begun; (2) substantial progress has been made; or (3) reasons clearly beyond the applicant's control, which applicant has taken all possible steps to resolve, have prevented construction.'' *ITFS Filing Procedures Order,* 10 FCC Rcd at 2921. In denying a request to shorten the 18-month ITFS station construction period to 12 months in order to prevent speculative filings, we responded that application of our existing rules have ''operated sufficiently to prevent abuses by frequency speculators.'' *Id.* Our statement in the *Second Order on Reconsideration* that we intend to strictly apply the ITFS extension requirements merely underscores our previous statements.

15. It has long been Commission practice to consider a request for extension of time within which to construct ITFS stations ''on its merits.'' *Applications of Public Broadcasting Service,* 96 FCC 2d 555, 558 (1983). In keeping with the priorities of maximum utilization of ITFS frequencies and expeditious licensing of ITFS stations, *Amendment of Part 74 of the Commission's Rules and Regulations in regard to the Instructional Television Fixed Service,* 98 FCC 2d 925, 935 (1984), 49 FR 32590 (Aug. 15, 1984), we will continue to process or grant ITFS extension requests that meet the requirements of § 73.3534. When we stated that the requirements for ITFS extensions of time to construct would be strictly applied, we did not change our rules to heighten the requirements for extension requests. The Commission will continue to apply our extension rules fairly, including denying and dismissing those applications that do not demonstrate compliance with our rules.

16. Schwartz, Woods argues that the *Report and Order, Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service and the Private Operational Fixed Microwave Service,* 94 FCC 2d 1203 (1983), 48 FR 33873 (July 26, 1983) (''*MMDS Allocation Order*'') recognizes the Commission's responsibility to take into consideration funding complexities when reviewing extension requests. However, the Commission was actually discussing the rationale for creating a spectrum reserve for ITFS and was not discussing the reasons ITFS construction extension requests should be granted. *MMDS Allocation Order,* 94 FCC 2d at 1224–25. Nevertheless, we agree that public funding complexities are the type of circumstances, when proven by a specific and detailed showing as required by § 73.3534, that are likely to be sufficient to support grant of an extension request. Indeed, a public educational institution which is denied funding by a state legislature should provide a detailed and specific showing of the circumstances and a showing that the lack of funding is beyond its control (*e.g.,* that it submitted a budget request). In the alternative, an educator can submit a showing that it attempted to solicit funding from other sources by providing copies of grant proposals.

17. Schwartz, Woods argues that the greatest difficulty in meeting ITFS construction requirements results from financing arrangements with MDS operators. However, MDS operators are accustomed to construction requirements and extension request standards that are more stringent than the ITFS requirements.[19] Therefore, MDS operators should be cooperative in ensuring that ITFS permittees meet construction deadlines, especially if the MDS operator's lease arrangement will be impacted by denial of an ITFS extension request, which subsequently results in a cancellation of the ITFS authorization for failure to construct. As we stated in the *ITFS Filing Procedures Order,* 10 FCC Rcd at 2907, it is our intention to continue to follow our existing processing standards and methods, which complement our new wireless cable licensing scheme and related new procedures. We intend to grant ITFS requests for extension of time within which to construct ITFS stations that meet the stated standards, and deny those that do not. We, therefore, deny Schwartz, Woods' request to exempt ITFS stations from our policy of stricter application of the requirements for extension requests.

18. Other Issues and Clarification of the *MDS Report and Order.* Finally, on our own motion, we amend our rules to require service of new MDS station applications (long-form applications) filed by BTA and Partitioned Service Area authorization holders, as well as modification applications filed by incumbent MDS licensees, upon ITFS applicants with applications pending. In the *Second Order on Reconsideration,* we changed the date on which MDS long-form applications must be served upon ITFS licensees and construction permittees to on or before the date an application is filed. *Second Order on Reconsideration* at 7089–90. In the *MDS Report and Order,* we adopted a rule that prohibits BTA and Partitioned Service Area authorization holders from proposing and operating stations that would cause harmful electromagnetic interference to ITFS station sites (and these stations' protected service areas) proposed in pending ITFS applications. *See* 47 CFR 21.938(b)(3), Appendix C, *MDS Report and Order* at 9696. We did not in either order, however, require that MDS applicants prepare studies of the potential interference to facilities previously proposed in ITFS applications, or serve ITFS applicants with a copy of the long-form applications and interference studies. We take this opportunity to amend § 21.902 to require such service and to require the preparation of studies of the potential interference to the facilities proposed in pending ITFS applications by BTA and Partitioned Service Area authorization holders filing long-form applications and by incumbent MDS applicants filing modification applications. We believe that this ITFS service requirement will further our goal of providing notice to all parties potentially affected by new or modified MDS facilities. *See MDS Report and Order* at 9624 (MDS applicants required to prepare interference analyses and serve them on ''potentially affected parties'').

19. Also on our own motion, we correct 47 CFR 21.956(a) to clarify that the period within which a winning bidder in the MDS auction must file

[19] The MDS station construction period is 12 months. 47 CFR 21.43(a)(2). Lack of financing is specifically listed in the MDS rules as an unacceptable basis for a grant of a extension request. 47 CFR 21.40(b). In addition to other showings, MDS licensees must, with every extension request, submit a verified statement outlining the actions taken to construct the facility. *Id.*

either an initial long-form application or a statement of intention after being notified of its status as a winning bidder is 30 business days. Section 21.956(a) provides that the period is ''30 days'' from the time a bidder is notified of its status as a high bidder, 47 CFR 21.956(a), Appendix C, *MDS Report and Order* at 9702, whereas the text of the *MDS Report and Order* provides that the period is ''thirty business days.'' *MDS Report and Order* at 9655–56. Through this amendment, we clarify that only business days will count toward the completion of this 30-day filing period.

20. We next provide guidance regarding the filing of a ''statement of intention.'' In particular, we want to give examples of situations in which the Commission will consider a BTA so heavily encumbered that the winning bidder for that BTA would not be required to file a long-form application for a new MDS station within the prescribed 30 business day period, but rather would be permitted to file a statement of intention, describing the encumbrances and the plan to make possible the filing of a long-form application. *See* 47 CFR 21.956(a) in Appendix C, *MDS Report and Order* at 9702. In the *MDS Report and Order,* we noted that:

> [A] number of BTA service areas may be so encumbered that the winning bidder for such a BTA may be unable to file a long-form application proposing another MDS station within the BTA while meeting the Commission's interference standards as to all previously authorized or proposed MDS and ITFS facilities * * *. The winning bidder for a BTA service area so heavily encumbered that it believes it cannot file an acceptable long-form application proposing an MDS station with average transmitted power within its BTA * * *. Must file with the Commission, in lieu of a long-form application for an MDS station license, a statement of intention with regard to the BTA service area, showing the encumbered nature of the BTA, identifying the incumbents, and describing in detail its plan for obtaining the previously authorized or proposed MDS stations within the BTA.

MDS Report and Order at 9656–57. The degree to which encumbrances preclude new MDS stations in a BTA varies widely and depends on factors such as the size and shape of the BTA, proximity of accessible transmitting antenna sites to unserved communities in the BTA, and proximity to neighboring MDS and ITFS facilities in adjacent BTAs, which also must be protected. Additionally, terrain conditions are an important factor, as are the relative locations of multiple protected areas slicing through a BTA, perhaps preventing the use of antenna cross polarization as an interference abatement technique. Thus, we cannot, nor do we wish, to prescribe rigid technical criteria from which we would accept or reject statements of intention. Rather, each statement of intention will reflect the unique geographic and demographic conditions in that BTA, and the existing and proposed use of MDS and ITFS channels in that region. We will examine statements of intention on a case-by-case basis, working with auction winners to obtain any needed clarification or supporting documentation.

21. We believe it would be helpful for the Commission to offer examples of what we would normally consider to be heavily encumbered situations for which we would likely approve statements of intention. BTA auction winners for whom these situations apply need only document their applicability. This approach will simplify the showing in statements of intention, easing the burden on applicants and the Commission's MDS processing staff. We offer as an example of an encumbered BTA for which a statement of intention could be filed one that is entirely covered by the 56.33 kilometer (35 mile) service area of a previously authorized or proposed (''protected'') cochannel or adjacent channel incumbent MDS or ITFS facility, which will preclude the use of at least one of the 13 MDS channels. We will also consider a BTA to be heavily encumbered where all communities in the BTA are located: (1) Within 64.4 kilometers (40 miles) of the 56.33 kilometer (35 mile) service area of a protected MDS or ITFS facility or within 64.4 kilometers of the boundary of an adjacent BTA not held by the same BTA winner, *or* (2) within 24.4 kilometers (15 miles) of the 56.33 kilometer (35 mile) service area of a protected station operating on an adjacent D- or G-group channel; *provided further*, that there are no intervening terrain barriers that would completely shield such protected service areas or adjacent BTAs. A BTA winner may file a statement of intention if the use of at least one MDS channel is precluded by such encumbrances throughout that BTA. We note that the 64.4 kilometer distance is merely a guideline, and, as such, does not necessarily preclude the filing of statements of intention where the service areas of protected stations are further away from a BTA. We chose this distance because it is the distance to the otherwise unobstructed horizon for a transmitting antenna height of 159 meters (522 feet), an ample antenna height for serving most communities.[20] The 24.4 kilometer (15 mile) distance guideline for adjacent channels assumes line-of-sight transmissions within a protected 56.33 kilometer (35 mile) service area, copolarized antennas, and a desired-to-undesired signal strength ratio of 0 dB. These conditions would be met, for example, from an MDS station radiating 350 watts toward the protected service area and protecting a weak desired signal level of −108 dBw. Obviously, as the distance from the protected area increases beyond 24.4 kilometers, there is greater flexibility to operate an MDS facility without causing adjacent channel interference.

22. Our distance guidelines notwithstanding, there may be situations where communities in a BTA are located more than 64.4 kilometers from protected service areas, but cannot be adequately served without possibly interfering with other MDS or ITFS operations.[21] BTA auction winners may use any means to show the preclusive effects of encumbrances in such cases. A statement of intention may be supported by showing that any one of the MDS channels could not be used by a new station to serve a community in that BTA. The BTA auction winner's analysis may include desired-to-undesired signal strength calculations, using the authorized or previously proposed facilities of protected stations. A BTA winner may assume that any hypothetical station it would operate would require sufficient power and antenna height to not only serve a community, but also support an economically feasible operation. A BTA winner who is also an incumbent MDS operator in the same BTA may use the authorized parameters of the incumbent system to show that it could not add an additional channel to that system.[22] In addition to interference-related encumbrances, BTA winners (particularly for the smaller BTAs) might be able to show that no reasonable facility could be operated in conformance with the limiting signal strengths at the BTA boundaries. *See* 47 CFR 21.938, Appendix C, *MDS Report and Order* at 9696.

23. There may be situations where there are one or more communities within a BTA for which an MDS station

[20] Site location and antenna height are the major MDS station design factors that determine the line-of-sight distance to the horizon, beyond which the potential for interference is greatly reduced.

[21] A community in an area characterized by large heights above average terrain may be an example of such a situation.

[22] We note that any such additional channel would be encompassed by the BTA authorization, and the protected service area for that channel would extend to the borders of the BTA.

could be constructed and operated on all MDS channels in full compliance with the Commission's MDS interference rules (excluding channel 2 outside of the cities where its use is permitted, *see* 47 CFR 21.901), but that the winning bidder is unable to provide service for other reasons.[23] In such cases, the winning bidder's statement of intention should detail those reasons, together with factual documentation.

24. With regard to the showings in support of statements of intention, we would like to clarify that, at a minimum, specific and detailed narrative descriptions are required and must include the information and supporting documentation outlined in the *MDS Report and Order*, 10 FCC Rcd at 9657, including identification of encumbering stations or applications for all MDS channels (even though the statement of intention may be filed if only one channel is encumbered). Statements of intention that detail a winning bidder's objective to purchase previously authorized or proposed stations and/or ITFS leases within a BTA should include such information as the estimated date for conclusion of negotiations and consummation of sales, and should identify the parties with whom the winning bidders are engaged in negotiations. We encourage BTA auction winners to file maps, charts, diagrams, sketches, technical analyses or any other documents that, together with the narrative descriptions, would best explain the status of a BTA and the BTA winner's plan for initiating service in the BTA.

25. We emphasize that we do not want statements of intention to become a regulatory burden for BTA auction winners or the Commission's MDS processing staff. We will make every effort to issue BTA authorizations on the basis of factually supported statements of intention, and, as deemed necessary, we may request additional information from a BTA winner, such as a map of the BTA showing the protected circles of encumbering MDS and/or ITFS facilities. We note that the five-year build-out period for the BTA begins with the granting of the BTA authorization, whether such authorization is granted on the basis of a long-form application or a statement of intention. *See MDS Report and Order* at 9613; 47 CFR 21.930, Appendix C, *MDS Report and Order* at 9692. We believe that the running of the five-year build-out period from the date of the BTA authorization grant will encourage auction winners who obtain BTA authorizations by initially filing statements of intention to resolve encumbrances, file long-form application(s), and initiate service in their BTAs in a timely fashion.

[23] For example, any such MDS facility complying with our interference rules would be too small to serve the community effectively, or the community or other populated area might be too small to support an economically viable wireless cable system.

III. Final Regulatory Flexibility Analysis

26. Pursuant to the Regulatory Flexibility Act of 1980 (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq*. (1981)), the Commission's final analysis is as follows:

27. Need and purpose of this action: This third reconsideration order upholds the Commission's decision to make effective on September 18, 1995, revisions of the rule governing the Multipoint Distribution Service, in order to expand the area within which MDS stations will be protected from harmful electromagnetic interference, and to increase the efficiency of processing MDS applications. This action also maintains the Commission policy of strict application of the requirements for requests for extensions of time within which to construct ITFS stations. In adopting this order, the Commission's goals of promoting efficiency in the allocation, licensing and shared use of the electromagnetic spectrum are furthered.

28. Summary of the issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis: There were no comments submitted in response to the Initial Regulatory Flexibility Analysis and none in connection with this third reconsideration order.

29. Significant alternatives considered: The Commission considered all the alternatives raised by petitioners and discussed herein. In response to these petitions, we decided to maintain the September 18, 1995, effective date of the expanded protected service areas provided to MDS stations in order to enhance the potential for effective competition with traditional wireline cable systems. On reconsideration, it was also requested that we reverse our policy of strict application of the requirements for requests for extensions of time within which to construct ITFS stations. We decided to maintain our strict application policy.

30. The Secretary shall send a copy of this *Third Order on Reconsideration*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

IV. Ordering Clauses

31. In view of all the foregoing, we affirm our adoption of the *Second Order on Reconsideration*. Reconsideration of the order is not justified. Accordingly, it is ordered that pursuant to the authority contained in §§ 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and § 1.429(i) of the Commission's rules, 47 CFR 1.429(i), and for the reasons set forth above, petitioners' requests for reconsideration are hereby denied in part, and dismissed as moot in part, as discussed herein. Clarification of the *Second Order on Reconsideration*, where requested, has been provided.

32. It is further ordered that Sections 21.902(i) and 21.956(a) of the Commission's rules, 47 CFR 21.902(i) and 21.956(a), are amended, as discussed herein and as provided below.

33. It is further ordered that the rule amendments set forth below will become effective June 24, 1996, except that the new or modified paperwork requirements contained in Section 21.902(i), 47 CFR § 21.902(i), which are subject to approval by the Office of Management and Budget (''OMB''), will go into effect upon OMB approval. The Commission will issue at a later date a public notice with this effective date.

List of Subjects in 47 CFR Part 21

Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 21 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. The authority citation for Part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 410, 602; 48 Stat. 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102, as amended; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 602; 47 U.S.C. 552, 554.

2. Section 21.902 is amended by revising paragraphs (i)(1) and (i)(2) to read as follows:

§ 21.902 Frequency interference.

* * * * *

(i) (1) For each application for a new station, or amendment thereto, or modification application, or amendment thereto, proposing Multipoint Distribution Service (MDS) facilities on the E, F, or H channels, filed on October 1, 1995, or thereafter, on or before the day the application or amendment is filed, the applicant must prepare, but is not required to submit with its application or amendment, an analysis demonstrating that operation of the MDS applicant's transmitter will not cause harmful electrical interference to each registered receive site of any existing D, E, F, or G channel Instructional Television Fixed Service station licensed, with a construct permit, or proposed in a pending application on the day such MDS application is filed, with an ITFS transmitter site within 50 miles of the coordinates of the MDS station's proposed transmitter site.

* * * * *

(2) For each application described in paragraph (i)(1) of this section, the applicant must serve, by certified mail, return receipt requested, on or before the day the application or amendment described in paragraph (i)(1) of this section is initially filed with the Commission, a copy of the complete MDS application or amendment, including each exhibit and interference study, described in paragraph (i)(1) of this section, on each ITFS licensee, construction permittee, or applicant described in paragraph (i)(1) of this section.

* * * * *

3. Section 21.956 is amended by revising the introductory portion of paragraph (a)(1) to read as follows:

§ 21.956 Filing of long-form applications or statements of intention.

(a)(1) Within 30 business days of being notified of its status as a winning bidder, each winning bidder for a BTA service area will be required to submit either:

* * * * *

[FR Doc. 96–9874 Filed 4–23–96; 8:45 am]
BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 61, No. 80
Wednesday, April 24, 1996

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 52

RIN 3150–AE87; 3150–AF15

Standard Design Certification for the U.S. Advanced Boiling Water Reactor and the System 80+ Standard Designs; Proposed Rule and Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed Rule: Supplementary notice of proposed rulemaking and public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is considering approval by rulemaking of the U.S. Advanced Boiling Water Reactor (ABWR) and the System 80+ standard designs. The applicant for certification of the U.S. ABWR design is GE Nuclear Energy and for the System 80+ design is Asea Brown Boveri-Combustion Engineering. Notices of proposed rulemaking for the certification of these designs were published in the Federal Register on April 7, 1995 (60 FR 17902 and 60 FR 17924). The final design certification rules, which are under consideration by the Commission, are contained in SECY–96–077, ''Certification of Two Evolutionary Designs,'' which was prepared by the NRC staff. This SECY paper has been placed in the NRC Public Document Room and additional comments on the proposed rules, focusing specifically on staff recommended changes from the rules originally proposed, are solicited. These changes are discussed in the supplementary information section of the recommended notices of final rulemaking contained in SECY–96–077. In this regard, the NRC will also conduct a public meeting. The purpose of the meeting is to provide an opportunity for the public to ask questions on the development of the final rules and the NRC's resolution of comments received on the proposed rules.

DATES: Public meeting on Thursday, May 2, 1996, 1:00 p.m. Comments are due on or before May 24, 1996. Comments received after this date will be considered if it is practical to do so, but the Commission is only able to assure consideration for comments received on or before this date.

ADDRESSES: Submit written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Service Branch.

Comments may also be hand delivered to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays. Copies of SECY–96–077, including the Federal Register notices for both rules, and the comments received will be available for examination at the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC. The meeting will be held in the NRC auditorium, 11545 Rockville Pike, Rockville, Maryland 20852. The Auditorium is located on the underground level between the One White Flint North Building and the Two White Flint North Building. The NRC buildings are located across the street from the White Flint Metro Station. The entrance to the auditorium is located underneath the glass pyramid, near the Two White Flint Building.

FOR FURTHER INFORMATION CONTACT: Dino Scaletti, Office of Nuclear Reactor Regulation, telephone (301) 415–1104, or Jerry N. Wilson, Office of Nuclear Reactor Regulation, telephone (301) 415–3145, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 18th day of April, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–10048 Filed 4–23–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 27264]

RIN 2120–AF96

The Age 60 Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Disposition of comments and notice of agency decisions; correction.

SUMMARY: This document makes a minor correction to the disposition of comments and notice of agency decisions regarding the ''Age 60 Rule'' published on Wednesday, December 20, 1995 (60 FR 65977).

FOR FURTHER INFORMATION CONTACT: Mardi Ruth Thompson, AGC–200, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, (202) 267–3073.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 1995, the FAA issued a disposition of comments and notice of agency decisions, which explained the agency's decision not to propose to change the Age 60 Rule (14 CFR 121.383(c)). (60 FR 65977; December 20, 1995).

The Disposition also stated the agency's intention to deny numerous petitions for exemption from the Age 60 Rule. In describing the petitions for exemption, the FAA referred to reports prepared by Richard Golaszewski that petitioners had criticized, and cited reports made by Mr. Golaszewski in 1983, 1991, and 1993 (60 FR at 65979). However, the reference to the 1993 report was an editorial error, in that the 1993 report was not commented on by petitioners. Further, the 1993 report was into prepared for the FAA, and FAA did not have a copy of or rely on it in making its determinations or preparing the Disposition.

The sentence citing to the Golaszewski Reports at 60 FR 65979 should read as follows:

They state that studies used by the FAA in the past to justify the rule are flawed, including the NIH Study and the reports prepared by Richard Golaszewski

(Acumenics Research and Technology, Incorporated), *The Influence of Total Flight Time, Recent Flight Time and Age on Pilot Accident Rates, Final Report* (1983) (First Golaszewski Report); and *General Aviation Safety Studies: Preliminary Analysis of Pilot Proficiency* (1991) (Second Golaszewski Report) (section II(b)).

Correction of Publication

Accordingly, the publication on Wednesday, December 20, 1995, of the Disposition of comments and notice of agency decisions (FR Doc. 95–30546) is corrected as follows:

1. On page 65979, in the third column, line 28, the word ''and'' is inserted before the word ''General''.

2. On page 65979, lines 30 through 33, the words ''and his subsequent work, *Additional Analysis of General Aviation Pilot Proficiency* (1993)'' are removed.

Issued in Washington, DC on April 18, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 96–9991 Filed 4–19–96; 10:04 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Chapter I

Meeting of the Indian Self-Determination Negotiated Rulemaking Committee

AGENCY: Bureau of Indian Affairs, Interior; Indian Health Service, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior (DOI), Secretary of the Interior and the Secretary of Health and Human Services (DHHS) have established an Indian Self-Determination Negotiated Rulemaking committee (Committee) to negotiate and develop a proposed rule implementing the Indian Self-Determination and Education Assistance Act (ISDEAA), as amended.

The Departments have determined that the establishment of this Committee is in the public interest and will assist the agencies in developing regulations authorized under section 107 of the ISDEAA. The agenda for this meeting will include the Committee's review of public comments submitted in response to the Notice of Proposed Rule Making (NPRM), which appeared in the Federal Register on January 24, 1996. The Committee plans to submit a final report with recommendations to the Secretaries of DOI and HHS for promulgation of a final rule.

DATES: The Committee and appropriate work groups will meet on the following days beginning at approximately 8:30 a.m. and ending at approximately 5:00 p.m. each day: Monday, April 29, Tuesday, April 30, Wednesday, May 1, Thursday, May 2, and Friday, May 3.

ADDRESSES: All meetings April 29 through May 3, 1996, will be held at the: Sheraton Denver West Hotel & Conference Center, 360 Union Boulevard, Lakewood, Colorado 80228, telephone: (303) 987–2000. (Work groups will also be meeting at the same location.)

Written statements may be submitted to Mr. James J. Thomas, Chief, Division of Self-Determination Services, Bureau of Indian Affairs, 1849 C Street, NW, MS: 4627–MIB, Washington, D.C. 20240, telephone (202) 208–3708.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Thomas, Chief, Division of Self-Determination Services, Bureau of Indian Affairs, 1849 C Street NW, MS:4627–MIB, Washington, DC 20240, telephone (202) 208–3708 or Mrs. Merry L. Elrod, Program Analyst, Division of Self-Determination Services, Indian Health Service, 5600 Fishers Lane, Parklawn Building, Room 6A–05, Rockville, MD 20857, telephone (301) 443–1044.

SUPPLEMENTARY INFORMATION: This is an emergency Notice due to legislation extending authorization to promulgate rule. The meeting will be open to the public without advanced registration.

Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits and file written statements with the Committee for its consideration. Written statements should be submitted to the address listed above. Summaries of Committee meetings will be available for public inspection and copying ten days following the meeting at the same address. In addition, the material received to date during the input sessions are available for inspection and copying at the same address.

Dated: April 11, 1996.

Ada E. Deer,

Assistant Secretary-Indian Affairs.

[FR Doc. 96–10057 Filed 4–23–96; 8:45 am]

BILLING CODE 4310–02–P

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SPATS No. ND–034–FOR, State Amendment No. XXIII]

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to North Dakota's rules to reflect the new name of the U.S. Department of Agriculture's Soil Conservation Service (i.e., change it to the Natural Resource Conservation Service), revisions to clarify the required scale of annual maps, revisions to revegetation success standards for prime farmland and lands used for recreational purposes, and revisions to the time allowed for implementation of a rule previously approved by OSM as an alternative method for determining the required depth of soil respreading. The amendment is intended to revise the North Dakota program to be consistent with the corresponding Federal regulations as well as with SMCRA, incorporate the additional flexibility afforded by the revised Federal regulations and SMCRA, and provide additional safeguards, clarify ambiguities, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.d.t., May 24, 1996. If requested, a public hearing on the proposed amendment will be held on May 20, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., on May 9, 1996.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed

amendment by contacting OSM's Casper, Wyoming, Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B. Street, Federal Building, Room 2128, Casper, Wyoming 82601–1918

Edward J. Englerth, Director, Reclamation Division, North Dakota Public Service Commission, Capitol Building, Bismarck, North Dakota, Telephone: 701–328–4092

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: 307–261–6550. Internet address: GPADGETT@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program can be found in the December 15, 1980, Federal Register (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.15, 934.16 and 934.30.

II. Proposed Amendment

By letter dated March 20, 1996, North Dakota submitted a proposed amendment to its program (amendment No. XXIII, administrative record No. ND–Y–01) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment in response to a letter, dated November 22, 1995, from OSM, and the required program amendments at 30 CFR 934.16 (aa) and (bb). Described below are changes that North Dakota proposes to its rules.

Revision of the following rules to reflect the new name of the United States Soil Conservation Service, i.e., the Natural Resource Conservation Service: NDAC 69–05.2–01–02, 69–05.2–08–08, 69–05.2–08–09, 69–05.2–10–01, 69–05.2–10–03, 69–05.2.22–02, and 69–05.2–27–02.

Revision of the various rules to reflect the new name of the State Department of Health and Consolidated Laboratories, i.e., the State Department of Health: NDAC 69–05.2–13–05, 69–05.2–13–07, 69–05.2–16–02, 69–05.2–16–04, 69–05.2–16–05, and 69–05.2–19–02.

Revision of the rule at NDAC 69–05.2–09–02 to conform more closely to 30 CFR 780.14(b)(5) which relates to the disposal of noncoal wastes in the permit area, and to provide a cross-reference to the State Department of Health solid waste management rules.

Revision of the rule at NDAC 69–05.2–13–02 to change the standard for map scales with the intent of making them easier to produce as well as more manageable to use and store.

Revision of the rule at NDAC 69–05.2–15–04, which extends the effective date of the suitable plant growth material option by 2 years, to the end of 1998. North Dakota indicated that this will enable it to conduct additional research comparing the effectiveness of the option with the option of respreading all suitable plant growth material inventoried and removed.

Revision of the rule at NDAC 69–05.2–19–04 to reflect the name change to the State Department of Health, to indicate what is meant by noncoal wastes as defined by the State Department of Health rules on solid waste disposal, to address the disposal of wastes containing asbestos, and to show clearly that combustible materials must be disposed of as required by the State Department of Health.

Revision of the performance standards for prime farmland at NDAC 69–05.2–22–07 with the intent of partly satisfying 30 CFR 934.16(aa). This proposed change would require that permittees demonstrate restoration of prime farmland productivity before qualifying for third stage bond release. In addition, North Dakota proposes to add a new subsection with the intent of partly satisfying 30 CFR 934.16(bb). The new subsection addresses the stocking and plant establishment standards for woody plants in areas to be developed for recreation.

Revision of the rule at 69–05.2–26–05 to make cross-reference corrections and to add the terms, ''average annual'' and ''average'' for clarity. Also, language that North Dakota considers superfluous is proposed to be deleted.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the North Dakota program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on May 9, 1996. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specific date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778

(Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 17, 1996.

Russell F. Price,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 96–10056 Filed 4–23–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No. 950830222–6103–02; I.D. 011696D]

RIN 0648–AH89

Sea Turtle Conservation; Revisions to Sea Turtle Conservation Requirements; Restrictions to Shrimp Trawling Activities; Hearings

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

ACTION: Proposed rule; hearings; request for comments.

SUMMARY: NMFS proposes to amend the regulations protecting sea turtles to enhance their effectiveness in reducing sea turtle mortality resulting from shrimp trawling in the Atlantic and Gulf Areas in the southeastern United States. Proposed amendments to strengthen the sea turtle conservation measures are: Removal of the approval of the use of all soft turtle excluder devices (TEDs) effective December 31, 1996; requiring by December 31, 1996, the use of NMFS-approved hard TEDs in try nets with a headrope length greater than 12 ft (3.6 m) or a footrope length greater than 15 ft (4.6 m); establishing Shrimp Fishery Sea Turtle Conservation Areas (SFSTCAs) in the northwestern Gulf of Mexico consisting of the offshore waters out to 10 nautical miles (nm)(18.5 km) along the coasts of Louisiana and Texas from the Mississippi River South Pass (west of 89°08.5′ W. long.) to the U.S.-Mexican border, and in the Atlantic consisting of the inshore waters and offshore waters out to 10 nm (18.5 km) along the coasts of Georgia and South Carolina from the Georgia-Florida border to the North Carolina-South Carolina border; and, within the SFSTCAs, removing the approval of all soft TEDs, imposing the new try net restrictions, and prohibiting the use of bottom-opening hard TEDs, effective 30 days after publication of the final rule.

DATES: Comments on this proposed rule must be submitted on or before June 10, 1996.

ADDRESSES: Comments on this proposed rule and requests for a copy of the environmental assessment (EA) prepared for this proposed rule 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, 813–570–5312, or Therese A. Conant, 301–713–1401.

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 kempi*), 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 sea turtles 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 set forth at 50 CFR 227.72. The incidental taking of turtles during shrimp trawling in the Gulf and Atlantic Areas is excepted from the taking prohibition if the conservation measures specified in the sea turtle conservation regulations (50 CFR part 227, subpart D) are employed. The regulations require most shrimp trawlers operating in the Gulf of Mexico and Southeast U.S. Atlantic to have a NMFS-approved TED installed in each net rigged for fishing, year round.

1994–95 Events

Beginning in April 1994, coinciding with heavy nearshore shrimp trawling activity, unusually high numbers of dead sea turtles stranded along the coasts of Texas, Louisiana, Georgia, and northeast Florida. The strandings continued through May and occurred in highest numbers where shrimping activity was heaviest. Texas waters were closed to shrimping from May 13 through July 7, 1994. During that time, Texas strandings decreased, but again increased when Texas waters reopened. In response, NMFS increased enforcement efforts and technical assistance. Subsequently, strandings again decreased. Finally, when NMFS resumed normal enforcement efforts, high numbers of dead turtles again stranded on northern Texas beaches. As

a result of these strandings, NMFS reinitiated consultation on the shrimp fishery pursuant to section 7 of the ESA, and concluded in its November 14, 1994, Biological Opinion (Opinion) that the long-term operation of the shrimp fishery, resulting in mortality of Kemp's ridleys at levels observed in 1994, was likely to jeopardize the continued existence of the Kemp's ridley population and could prevent the recovery of the loggerhead population. The major apparent cause of the 1994 strandings was determined to be the improper use of TEDs by shrimpers in the Gulf of Mexico. Other causes identified were: (1) Certification of TEDs that are ineffective or incompatible with net types; and (2) intensive ''pulse'' fishing in areas of high sea turtle abundance during the spring and summer of 1994. The simultaneous occurrence of intensive fishing effort and Kemp's ridley sea turtles may have led to the repeated submergence of individual turtles in short time periods, which may have contributed to the high level of mortality.

The Opinion contained a reasonable and prudent alternative and Incidental Take Statement that required NMFS to develop and implement a Shrimp Fishery Emergency Response Plan (ERP) to respond to future stranding events and to ensure compliance with sea turtle conservation measures. As a general statement of policy, the ERP provided for elevated enforcement of TED regulations in two areas: The Atlantic Interim Special Management Area, which included shrimp fishery statistical Zones 30 and 31 (northeast Florida and Georgia); and the Northern Gulf Interim Special Management Area, which included statistical Zones 13 through 20 (Louisiana and Texas from the Mississippi River to North Padre Island). The ERP also identified stranding levels comprising the incidental take level required with the Opinion, and identified management measures to be implemented in the event of elevated strandings or observed noncompliance with the regulations. A detailed discussion of the ERP was first published in a notice of availability (60 FR 19885, April 21, 1995) and again when it was revised (60 FR 52121, October 5, 1995), and is not repeated here.

With the onset of nearshore shrimping in Texas in April 1995 and in Georgia in June 1995, sea turtle strandings again climbed to high levels. Temporary requirements to reduce sea turtle mortality were placed on shrimp trawling in nearshore waters along two sections of the Texas and Louisiana coast on April 30, 1995 (60 FR 21741, May 3, 1995), and on the Georgia coast on June 21, 1995 (60 FR 32121, June 20, 1995). The 30-day requirements included the prohibition of soft TEDs and bottom-opening hard TEDs, prohibition of the use of a webbing flap completely covering the escape opening on a TED, and prohibition of large try nets (over 12 ft (3.6 m) headrope length) without a NMFS-approved TED installed. Compliance with the regulatory requirements was observed to be high, and turtle strandings decreased after restrictions were implemented in both the Gulf and Atlantic. A detailed discussion of those restrictions, and reasons therefor, is provided in the preamble to those rules and is not repeated here.

Every year, offshore waters along Texas boundaries are closed to shrimp fishing out to 200 nm (370.6 km) for 6 to 8 weeks in the late spring and early summer. The Texas closure is coordinated each year by State and Federal fishery managers to allow shrimp to grow to more valuable sizes and increase profits in the fishery. The exact dates of the closing and reopening is set by the State of Texas, which monitors shrimp sizes and distributions to determine the optimum time to open the fishery. Generally, the closure begins around May 15 and ends around July 7. In 1995, the waters off Texas were closed to shrimp fishing from May 15 to July 15. The closure period is usually marked by low levels of sea turtle strandings, and is followed by very large increases in strandings when waters reopen to shrimping, with many shrimpers from Texas and other states participating. For example, during the period between 1990–94, stranding data suggest an 8–1/2 fold increase in sea turtle strandings in Texas between the reopening of the waters off Texas to shrimping and the period of the closure. A detailed discussion of the strandings and events is provided in the preamble of a proposed rule to temporarily implement additional restrictions on shrimp trawlers (60 FR 31696, June 16, 1995) and is not repeated here.

Although a repeat of the 1994 stranding levels had been possible, NMFS did not take restrictive actions before Texas waters reopened in 1995 to attempt to reduce strandings, because of several factors: (1) NMFS gear experts observed that the deployment of high-quality, properly installed TEDs in the Texas shrimp trawl fleet was greatly improved over 1994; (2) enforcement reports and contacts with shrimp industry participants indicated that a large proportion of shrimpers would voluntarily use NMFS's preferred gear for turtle escapement (top-opening hard TEDs); and (3) the 1995 reopening did not occur until July 15, the latest date in recent years. Pre-opening surveys conducted by Texas indicated that shrimp off Texas were abundant but widely distributed and shrimp trawl effort would, therefore, not likely be concentrated in small areas. Thus, the proposed rule was withdrawn (60 FR 43106, August 18, 1995).

The 1995 Texas opening produced the expected heavy level of shrimping effort but significantly fewer strandings than were documented in the week following the opening in 1994: 18 strandings were reported in 1995 compared with 49 in 1994. However, in those areas where strandings were high, law enforcement information revealed differing levels of cooperation with NMFS' request to use top-opening hard TEDs. The United States Coast Guard (USCG) District Eight Office of Law Enforcement summarized boarding information for NMFS and reported that soft TED use was much more common in those NMFS shrimp fishery statistical zones where strandings were highest. In Zones 19 and 20, soft TEDs were seen on 20 and 34.3 percent, respectively, of the shrimp trawlers boarded, while in Zones 17, 18, and 21, soft TEDs were in use on only 0.0, 1.6, and 9.7 percent, respectively, of the trawlers boarded. Aerial surveys of shrimping effort following the Texas opening conducted by LGL Ecological Research Associates showed that shrimping effort in close proximity to the beach, i.e., within 1 mile (1.6 km), was highest in Zones 19 and 20, where strandings were also highest. The low nearshore effort in Zones 18 and 21, along with the insignificant use of soft TEDs (as mentioned previously), was likely a contributor to the low turtle strandings in those zones upon reopening.

Temporary requirements were imposed in coastal waters along Georgia and the southern portion of South Carolina on August 11, 1995 (60 FR 42809, August 17, 1995). In the temporary requirements, NMFS allowed the use of bottom-opening hard grid TEDs while prohibiting the use of soft TEDs and larger try nets without hard TEDs due to comments received objecting to the imposition of multiple gear restrictions in previous actions. The commenters stated that the relative contribution of soft TEDs and bottom-opening hard TEDs to sea turtle strandings could not be distinguished and that use of bottom-opening hard TEDs should be allowed to determine their effectiveness.

In an unrelated action, a Federal District Court imposed temporary requirements upon shrimpers in a

portion of the Gulf as a result of a motion for temporary injunctive relief filed by plaintiffs in *Center for Marine Conservation* v. *Brown*, No. G–94–660 (S.D. Tx, Aug. 1, 1995). NMFS published a rule (60 FR 44780, August 24, 1995) that mirrored these restrictions, imposed along the entire Texas coast and the western portion of Louisiana effective on August 3, 1995. A description of the ruling, restrictions, and reasons therefor, is provided in the preamble to the rule and is not repeated here. However, the restrictions imposed in both the Gulf and Atlantic areas were similar in that soft TEDs were prohibited while bottom-opening hard grid TEDs were allowed.

Strandings in Texas and South Carolina were generally low while the rules prohibiting soft TEDs were in effect. In Georgia, however, strandings were elevated, with 27 sea turtles stranding on Georgia offshore beaches over the 4-week period from August 13, 1995 to September 9, 1995. This difference in effectiveness of the two rules in the two areas may be attributable to the preference of Texas shrimpers for top-opening TEDs, whereas Georgia shrimpers generally prefer bottom-opening hard TEDs.

Advance Notice of Proposed Rulemaking and the Texas Shrimp Association Petition for Rulemaking

On September 13, 1995 (60 FR 47544), NMFS published an Advance Notice of Proposed Rulemaking (ANPR), which announced that it was considering proposing regulations that would identify special sea turtle management areas in the southeastern Atlantic and Gulf of Mexico and impose additional conservation measures to protect sea turtles in those areas. The ANPR was in response to the need for such measures identified in NMFS' biological opinions on shrimp trawling, as well as the 1995 stranding and regulatory events and additional information regarding the need to more effectively protect sea turtles from incidental capture and mortality in the shrimp trawl fishery. At the same time, NMFS also announced receipt of a petition for rulemaking from the Texas Shrimp Association (TSA) to revise the current sea turtle conservation requirements for the shrimp trawl fishery in the southeastern United States. The petition was based on a report: ''Sea Turtle and Shrimp Fishery Interactions—Is a New Management Strategy Needed?'' prepared by LGL Ecological Research Associates, Inc., for TSA (LGL Report). NMFS solicited public comment on the LGL Report and information on sea turtles and shrimp trawling and the need for identification of certain areas in the southeastern United States that require special management measures, and what those measures should be.

Comments on the ANPR and the TSA Petition for Rulemaking

NMFS received over 900 responses to the request for comments on the ANPR and the petition for rulemaking based on the LGL Report (60 FR 47544, September 13, 1995). NMFS has reviewed all comments received. Comments are grouped according to general subject matter, and references are made only to some organizations or associations, and not to all of the groups or private individuals who may have made similar comments.

Soft TEDs

Comment 1: Shrimp industry associations, environmental organizations and a state agency support prohibiting the use of soft TEDs. These commenters cite problems with soft TED efficiency in excluding turtles and the inability to enforce proper installation and use of soft TEDs. However, many industry representatives supported the LGL Report, which does not specify prohibiting soft TEDs. Several other industry groups stated that, since soft TEDs are certified to exclude 97 percent of the turtles encountered and TED compliance has approached 100 percent, soft TEDs should be allowed and that shrimpers should be educated on correct installation to improve soft TED effectiveness.

Response: NMFS agrees that documented TED compliance has generally been excellent. NMFS also recognizes that some soft TEDs have performed well in certification trials and are currently approved for use. However, even though soft TEDs must be constructed exactly to the specifications in the regulations, soft TEDs are more difficult than hard TEDs to construct and install properly to achieve proper turtle exclusion. Soft TEDs are frequently installed incorrectly and are installed in certain types of trawl nets that can cause the soft TEDs to pocket or bag and, thus, entangle sea turtles. Consequently, soft TEDs that may release turtles under controlled, pristine conditions, such as the certification trials, might not release turtles in actual open-water use. Hard TEDs by comparison are less subject to variability, and therefore are more consistent in their effectiveness at turtle exclusion. For further detail see the discussion below, under the heading ''Eliminate Soft TEDs as Approved TEDs.''

Recent stranding data also indicate that soft TEDs are entangling sea turtles. Analysis of strandings and compliance rates following the July 15, 1995, opening of Texas offshore waters to shrimping indicates that strandings were highest in areas where the use of soft TEDs was prevalent. Although other factors, particularly the distribution of shrimping effort, may have contributed to the observed stranding patterns in Texas, the data suggest that prohibiting the use of soft TEDs would provide more effective protection for sea turtles.

NMFS also agrees that enforcement of requirements for soft TEDs is highly problematic. Thorough inspection of a soft TED on board a shrimp trawler at sea is virtually impossible. The inspection of large areas of soft TED webbing inside a wet, heavy, slack trawl filled with debris and bycatch in the confined area of a trawler's aft deck is difficult, and it requires a great deal of time to examine the panel completely to determine whether it is properly attached, meets regulatory specifications, and is free of holes. Even then, it is impossible for an enforcement officer to determine whether the soft TED will achieve a proper shape during actual use. Also, the long time spent inspecting a soft TED can represent significant lost fishing time for the shrimper.

Furthermore, because of the inherent complications and difficulties in installing soft TEDs, they can be improperly installed even before they are used. This may be due to misunderstandings regarding what constitutes a legal soft TED. Recently, the USCG training center in New Orleans ordered trawl nets with three types of soft TEDs from a major soft TED manufacturer to use in USCG training sessions. Upon receipt, the USCG and NMFS determined that none of the soft TEDS met the specifications set forth in the regulations.

In summary, NMFS has observed that soft TEDs are difficult to manufacture and install properly and that, even if installed properly, they stretch, bag and pocket with use, and thus entangle turtles. Accordingly, NMFS proposes to remove its approval of the use of soft TEDs in order to help alleviate shrimping-related mortality of sea turtles.

Comment 2: The South Carolina Department of Natural Resources (SCDNR) provided comments advocating the elimination of soft TEDs on the basis of the same problems cited in the response to Comment 1, but also stated that some South Carolina shrimpers prefer to use soft TEDs in the fall because of their ability to reduce

menhaden bycatch. The commenter recommended allowing the use of soft TEDs in the fall, but prohibiting their use during the rest of the year.

Response: NMFS recognizes that TEDs offer shrimpers various benefits, including the reduction of fish bycatch. The primary purpose of TEDs, however, is the exclusion of sea turtles incidentally captured in trawls. For the reasons already discussed, NMFS does not believe that soft TEDs in commercial use are sufficiently effective at turtle exclusion. Encouraging shrimpers to remove and re-install soft TEDs in their nets in different seasons would likely increase the potential for improper soft TED installations. There are other bycatch reduction devices, specifically created to eliminate finfish bycatch, that are compatible with hard TED designs.

Try Nets

Comment 3: Several commenters from the shrimp industry stated that TEDs do not exist for try nets and that most industry participants use 15–18 ft (4.6 - 5.5 m) headrope try nets. One state agency recommended limiting the size of legal try nets to 16 ft (4.9 m) in footrope length to be consistent with proposals from the South Atlantic Fishery Management Council on the use of bycatch reduction devices in try nets. Commenters from the environmental community recommended TEDs in try nets greater than 12 ft (3.6 m) headrope and one group recommended that all try nets be required to have TEDs.

Response: Although try nets 20 feet or less in headrope length have been exempted from the TED requirements because they are only intended for use in brief sampling tows not likely to result in turtle mortality, NMFS has documented that turtles are caught in try nets, and either through repeated captures or long tows, try nets contribute to the mortality of sea turtles. Takes of sea turtles in try nets, including two deaths, have been documented by NMFS, and anecdotal accounts suggest multiple sea turtle captures in try nets are occurring in Georgia waters. Law enforcement personnel stated that a fisherman reported that another individual caught 25 sea turtles in a try net with a headrope length of 20 ft (6.1 m) in 2 days of fishing. For further detail see the discussion below, under the heading ''Reduce the Size of Try Nets that are Exempt from TED Use.''

NMFS is proposing to require the installation of NMFS-approved TEDs in try nets with a headrope length greater than 12 ft (3.6 m). NMFS proposes a 15 ft (4.5 m) footrope length cut-off as the appropriate corresponding dimension for a 12 ft (3.6 m) headrope length net. Phone interviews with net shops in the northern Gulf of Mexico suggested that try nets of this size were readily available. Try nets of this size have only a small tail bag to accumulate shrimp catch, and there would be little incentive to use it longer than necessary to monitor shrimp catch rates. NMFS believes that a try net of this size is less likely to capture a sea turtle and would unlikely to be fished long enough to kill a turtle if it were captured. This size net, however, would still be large enough for shrimpers to monitor shrimp catch rates. NMFS also believes that a NMFS-approved TED can and should be installed in the larger try nets should shrimpers elect to monitor their catch rate with larger net sizes.

Shortened Webbing Flaps over TED Escape Openings

Comment 4: Shrimpers objected to the requirement to shorten webbing flaps over TED escape openings implemented by emergency restrictions in 1995, citing excessive shrimp loss. Other commenters stated that shortened webbing flaps should be required at all places and times, or in response to high levels of sea turtle strandings. SCDNR commented that requiring shortened webbing flaps would cause concern among shrimpers because of the perceived loss of large amounts of shrimp, but suggested that shortened flaps be required only on bottom-opening TEDs, if necessary.

Response: NMFS recognizes that many shrimpers are extremely concerned over shrimp loss through TEDs with shortened flaps, and some shrimpers may have experienced real shrimp losses due to shortened flaps under the temporary restrictions. Properly installed webbing flaps do not hinder turtle release, although TEDs with shortened flaps appear to allow turtles to escape more quickly. NMFS required shortened webbing flaps in response to stranding events where heavy shrimp trawling effort was present and non-compliance (i.e., sewing down full-length webbing flaps) may contributed to strandings. While shortened flaps would make it more difficult to sew closed the escape opening of a TED, instances of egregious non-compliance were not frequent. Consequently, NMFS does not believe that the TED regulations should be changed to require shortened webbing flaps on top- or bottom-opening hard TEDs. With bottom-opening TEDs, webbing flaps may be held shut if the TED rides on the bottom due to insufficient flotation or heavy loading of the cod end, but turtle escape would still be impossible with a shortened flap if the escape opening were blocked by the sea bottom.

Accelerator Funnels

Comment 5: SCDNR suggested that turtles could become entangled in accelerator funnels, which are allowable modifications to hard TEDs.

Response: NMFS has conducted exhaustive research of TEDs equipped with accelerator funnels and has not documented any turtle entanglements associated with their use in any certification testing or trials. The required dimensions for accelerator funnels are even larger than the required dimensions for hard TED escape openings. Furthermore, NMFS believes that accelerator funnels enhance shrimp retention and are a valuable option for shrimpers. NMFS does not intend to propose prohibiting the use of accelerator funnels with hard TEDs, unless other information becomes available that indicates that accelerator funnels are problematic.

The LGL Report

Almost all commenters provided comments regarding the management plan in the LGL Report. Most indicated general support, but many others rejected the management proposal in the LGL Report and its analytical basis, either in part or completely.

Comment 6: Numerous commenters asserted that the LGL Report represented the best available information on shrimp trawling-sea turtle interactions in the Gulf of Mexico and should therefore be implemented.

Response: NMFS has considered and incorporated all new information from the LGL Report and other sources in its analysis and biological opinions on the shrimp trawling-sea turtle interaction problem. The LGL report, however, does not contain any novel research data; rather, it reanalyzes previously collected data. NMFS agrees with some of the conclusions of the LGL Report, particularly that nearshore shrimp trawling is associated with sea turtle mortality and strandings. NMFS reached this same conclusion in its November 14, 1994, Biological Opinion.

Comment 7: A large number of commenters from within the shrimp industry indicated that they did not support the large area closures mandated in the LGL Report when sea turtle strandings rise. These commenters stated that shrimp fishery management needs greater stability, and areas where capture of turtles is most likely should be subject to permanent, special regulations, but not closures. Other members of the shrimp trawling

industry commented that closures should not be considered until other alternatives have been examined. Still other comments from within the shrimp industry supported closures that also shut down operation of other activities, such as oil and gas exploration, oil rig removal, boating, and other commercial and recreational fisheries.

Response: NMFS does not consider closures of the shrimp fishery to be an acceptable management measure to protect sea turtles, accept as a measure of last resort, only to be considered in the most extreme situation, when other alternatives are ineffective. No shrimp fishery closures have been implemented by NMFS to protect sea turtles, as NMFS has sought to implement sea turtle conservation measures that would allow shrimp fishing to continue while providing adequate protection for sea turtles.

NMFS believes that closures that include other, unrelated activities, are inappropriate when the other activities are not implicated as significant causes of turtle strandings. However, NMFS does review other Federal activities and applies necessary, activity-specific restrictions to protect sea turtles through the section 7 process of the ESA. As a result of section 7 consultations, seasonal restrictions are imposed on hopper dredging activities in the Atlantic, and observers are required for dredging and explosive rig removals in the Gulf of Mexico. When listed species takes are anticipated, incremental modifications to activities are required. Through the section 7 process and through research conducted or funded by NMFS, NMFS is continually striving to identify and reduce other non-shrimp-trawling sources of sea turtle mortality.

Comment 8: Several environmental organizations, numerous private individuals, and the Department of the Interior's Office of the Secretary objected to the LGL Report's proposal that TED requirements be eliminated beyond 10 km offshore in the Gulf of Mexico. Some stated reasons included: (1) The LGL Report fails to consider impacts on sea turtle species other than the Kemp's ridley; (2) Even though turtle catch rates in deep water may be lower than nearshore, shrimpers do catch turtles offshore; (3) Turtles caught in offshore waters are more likely to be large adults, which are more valuable to populations by virtue of their reproductive status; and (4) Trawl times in deep water are much longer than in nearshore waters, and mortality rates are likely much higher for captured turtles. Commenters from the shrimp industry stated that fishing should be allowed when and where turtles are not abundant without expensive and unnecessary restrictions.

Response: NMFS agrees that the LGL Report did not fully consider and discuss the impact of offshore shrimp trawling on sea turtles or biologically justify removing the TED requirements for shrimp trawlers beyond 10 km from shore. The LGL Report focused largely on the lack of correlation between deep-water trawling and sea turtle strandings as indication that no interaction was occurring. Numerous sources of data indicate that sea turtles are present in offshore waters and are captured and killed by shrimp trawling, but the carcasses of those sea turtles would be highly unlikely to float far enough to become stranded and thereby be counted by the stranding network. Instead, such mortality would likely go undetected. The LGL Report estimated that 4,653 sea turtles per year would be captured in shrimp trawls in offshore waters with no means of escape. NMFS has not verified this estimate, but believes that such a high level of take and subsequent mortality is not acceptable when reasonable measures to reduce the level of lethal take exist and are already in place.

Comment 9: Commenters from the fishing industry and the conservation community called for peer review of the Shrimp Fishery Emergency Response Plan (ERP) (60 FR 19885, April 21, 1995; 60 FR 52121, October 5, 1995), the Opinion, and the LGL Report.

Response: The Opinion itself required NMFS to assemble a team of population biologists, sea turtle scientists, and life history specialists (the Expert Working Group) to compile and examine information on the status of sea turtle species. The Expert Working Group, including scientists from government and academia as well as scientists selected by the shrimp industry and conservation community, has been convened to analyze Kemp's ridley and loggerhead sea turtle population status and dynamics. Their findings will be used to reexamine the basis for and the conclusions of the ERP, the Opinion, and the LGL Report.

Special Sea Turtle Management Areas

Comment 10: Numerous suggestions for different sea turtle special management areas were received. One industry association supported the area identified in the LGL Report (i.e. inshore and offshore waters of the Gulf of Mexico out to 10 km from shore, except for areas off of Sabine Pass and the Tortugas where the zone would extend to 18 km), but recommended that further analysis be conducted to determine whether other areas should be added or removed from the proposed sea turtle conservation zone. A sea turtle conservation organization recommended a ''turtle safe migratory swimway'' in the Gulf of Mexico from shore out to 15 fathoms depth. Two environmental organizations proposed an area which would include Statistical Zone 18 and half of Zones 17 and 19, from shore out to 15 fathoms depth. Another conservation group recommended the interim special management areas identified in the ERP be retained and expanded to include inshore and offshore waters out to 10 nm (18.4 km) in Statistical Zones 12–21, Zones 30–31, Zone 5 on the west coast of Florida, and Zones 27–28 on the east coast of Florida—with consideration given to including South Carolina because of high strandings in 1995. Smaller areas of special protection were proposed by an individual and by SCDNR for the areas immediately offshore of Sea Rim State Park, TX and Cape Island, SC to protect juvenile Kemp's ridleys and nesting female loggerheads.

Response: At this time, NMFS does not believe that Gulf of Mexico waters east of the Mississippi River South Pass need to be included in a sea turtle conservation area that addresses turtle mortality resulting from shrimp trawling.

Most of the recommended special conservation areas focused on protecting Kemp's ridley sea turtles in the nearshore waters of the Gulf of Mexico. NMFS agrees with the critical importance of this area in terms of its habitat value for juvenile Kemp's ridley turtles and the interaction of such turtles with shrimp trawl activities. At this time, NMFS does not believe, however, that all nearshore waters of the Gulf of Mexico need to be included in special conservation areas for shrimp fishery management. The nearshore waters of the eastern Gulf do provide important Kemp's ridley habitat, but there is little evidence of a shrimp trawl interaction problem there. The eastern Gulf shrimp fishery behaves quite differently and is subject to different state restrictions than the western Gulf fishery.

At this time, NMFS does believe that special conservation areas are necessary in the Atlantic, too, although relatively fewer comments were received to that effect. Shrimp trawl-related sea turtle strandings have remained a perennial problem in Georgia, South Carolina, and northeast Florida. In the Atlantic, sea turtle habitat and shrimping grounds overlap in a much more restricted area than in the Gulf, and the relatively

fewer shrimp trawlers in the Atlantic have the potential to impact sea turtles heavily there. NMFS agrees with the comment that the waters near the important loggerhead nesting beaches at Cape Romain, SC, should be included in the conservation area. NMFS believes that a shrimp fishery-sea turtle conservation area in South Carolina should include waters along the entire coast, instead of just Zone 32, in order to include waters off Cape Island. Further, inshore waters of Georgia and South Carolina should be included in a special management area. State management of shrimping in South Carolina and Georgia already prohibits shrimping in almost all the bays and sounds. The state definitions of bay and sound waters differ, however, from inshore waters defined by the COLREGS lines. During the temporary gear restrictions in Georgia and South Carolina, some parts of the bays and sounds that were open to shrimping were subject to different gear requirements, creating a confusing situation and undermining sea turtle protection efforts. At this time, NMFS believes that these small inshore areas should be included in an Atlantic conservation area to ensure uniformity of regulatory requirements over what is essentially one fishery.

NMFS, at this time, does not believe that inshore waters should be included in special conservation areas in the Gulf of Mexico, on the other hand. Although inshore waters do represent important turtle habitat in the Gulf, they do not appear to require additional management measures to address shrimp fishery interaction problems. In the Gulf of Mexico, while sea turtle interactions do occur in inshore waters, the problem does not appear to be as severe as in nearshore waters, as evidenced by the relatively few sea turtle strandings encountered in inshore waters. NMFS does not agree with the assertion of the LGL Report that a significant portion of sea turtle strandings on offshore beaches in Texas is the result of inshore shrimp fishing. Inshore waters of the western Gulf, particularly Texas bays, are separated from the open Gulf by barrier islands and connected to the Gulf in only a few narrow passes. The limited fishing areas and resulting shortened tow times in inshore waters probably mitigate problems of sea turtle interactions. In addition, intensive pulses of fishing effort, which have been a problem in nearshore areas, do not generally occur in inshore waters. Shrimp fishermen in inshore waters tend to use only restricted, local areas and normally do not migrate en masse to aggregate in limited areas. Lastly, shrimpers in Texas inshore waters are subject to restrictions on hours fished and daily catch limits and to an effort limitation program that restricts entry into the fishery and prohibits new entrants with boats greater than 60 ft (18.3 m) in length.

Comment 11: Recommendations on the measures to be taken within special management areas also varied among commenters. Proposed actions for special management areas included: Permanent closures of special areas to shrimp trawlers; closures of areas to shrimp trawlers until November 30, 1996, to allow Kemp's ridleys to recover from the 1994 mortality levels; increased enforcement efforts; prohibition of nighttime shrimp trawling; gear restrictions or area closures implemented in response to sea turtle strandings.

Response: At this time, NMFS believes that permanent closures of large areas to shrimp trawling are not necessary to achieve adequate sea turtle protection and believes that the adverse economic impacts of such actions would be unjustifiably extreme. Small area closures may be more appropriate when there is biological evidence requiring additional sea turtle protection efforts and only when effects from shrimp trawling cannot be mitigated in any other way. NMFS considers fishery closures to be a last resort response (see Comment 7).

NMFS agrees that effective and concentrated enforcement of TED requirements in special management areas is necessary. In 1995, NMFS created and deployed a TED law enforcement team that focused NMFS enforcement efforts in the interim special management areas and areas where sea turtle strandings or reported non-compliance were high. NMFS and the USCG intend to continue vigorous enforcement of TED requirements in the future and the TED law enforcement team will continue to augment existing enforcement efforts.

Prohibiting nighttime shrimping is a means to reduce shrimp trawling effort and enhance sea turtle protection, but NMFS does not believe that it should be employed at this time. In the Gulf of Mexico, the major fisheries for pink and brown shrimp are conducted mainly at night in deeper waters, when the target species are active, and nighttime closures would be incompatible with these fisheries. Trawling for white shrimp, on the other hand, is mainly done during the day in nearshore waters. Therefore, where white shrimp are the primary target species, nighttime closures may be compatible with operation of the fishery. Texas, Georgia, and South Carolina already have nighttime closures for management of shrimp stocks in some nearshore waters. A specific proposal was received, which recommended that NMFS coordinate with the States of Georgia and South Carolina to implement nighttime closures in Federal waters, concurrent with nighttime closures in State waters. Enforcement of closed areas would be greatly enhanced by cooperating Federal action. Coordinated state-Federal closures may also be a boon to local, primarily daytime shrimpers, by reducing the pressure to fish round the clock. This proposal may provide additional protection for sea turtles, and NMFS will investigate further whether closures in Federal waters offshore of Georgia and South Carolina would be consistent with State management goals and the interests of local shrimpers.

NMFS implemented special gear restrictions in response to high stranding levels several times in 1995. Emergency restrictions on gear types proved to be disruptive to the shrimp industry, with some shrimpers losing time fishing while re-gearing to comply with the new requirements. NMFS agrees with the comments (see Comment 7) that greater stability is needed in shrimp fishery management. NMFS, therefore, believes that gear types that are known to be problematic for sea turtles should be restricted through permanent measures imposed through the notice and comment rulemaking process, instead of through temporary emergency actions.

NMFS has reservations about using sea turtle strandings to trigger area closures on a long-term basis. Monitoring strandings provides the best available information on levels and sources of sea turtle mortality in a cost-effective manner. There are, however, problems inherent in using stranding information to implement specified measures in response to certain events. Under the guidance of the ERP in 1995, NMFS had to quickly review all available information to determine whether other natural or anthropogenic sources of mortality were significantly contributing to the strandings before imposing restrictions on the local shrimp fishery. Strandings represent nearshore mortality, identify the problem after it has begun, provide minimum indication of total mortality, and are contingent upon local environmental conditions and beach accessibility. Permanent rulemaking, improved industry communication, and industry cooperation are needed to provide effective, long-term protection to sea turtles without relying on

continual emergency rulemaking. Additionally, new indicated take levels (mathematical interpretations of historical stranding levels) are being developed that attempt to identify when strandings are occurring at unusual levels. The new indicated take levels are likely to include cumulative levels in addition to weekly levels. NMFS is committed to continuing to monitor closely sea turtle strandings and identify when nearshore mortality is occurring at an unusual and potentially unsupportable level. NMFS has already established a procedure for restricting shrimp trawling and other types of fishing activities if necessary to protect sea turtles. This procedure is set forth at 50 CFR 227.72(e)(6). While the ERP provided concrete triggers based on stranding levels to determine when rulemaking under this procedure should be invoked, this rule does not propose such a framework. Rather, NMFS will monitor strandings, and if necessary, invoke the procedure specified at 50 CFR 227.72(e)(6) to promulgate emergency, temporary rules to address the threat to sea turtles. Use of this authority has been upheld recently in the *Center for Marine Conservation* v. *Brown*, No. G–94–660 (S.D. Tx., Feb. 23, 1996).

Reduce Intensive Nearshore Fishing Effort

Comment 12: One environmental organization commented that overcapitalization in the Gulf of Mexico shrimp fishery causes excessive shrimp fishing effort, which exacerbates sea turtle interaction problems as well as other environmental problems. That organization and two others recommended implementing restricted entry programs in the shrimp fishery.

Response: Overcapitalization and associated overfishing have been problems in many fisheries. NMFS concurs that the Gulf of Mexico shrimp fishery is overcapitalized, with possibly as many as three times more shrimp vessels operating than necessary to harvest the same amount of shrimp annually (Ward, 1989). This situation does create heavy pressures on the natural and economic resources of Gulf shrimpers. In the state of Texas, shrimpers and resource managers have developed a limited entry program for the inshore fishery to address these problems. NMFS believes that economic considerations and economic consequences should be the driving concerns in the development of any plan that would systematically limit entry throughout the Gulf of Mexico. Any such limited entry program should, therefore, be implemented either through actions of the states or through the Gulf of Mexico Fishery Management Council. The socio-economic consequences, both beneficial and adverse, of a Gulf-wide limited entry program would be extensive. NMFS believes that use of the ESA to reduce overcapitalization of the shrimp industry is inappropriate without compelling biological considerations that outweigh the socio-economic considerations. Even then, effort reduction measures should be targeted at problem areas where additional sea turtle protection is required, and not necessarily applied generally.

Comment 13: A shrimp industry association and an environmental conservation organization commented that the relocation of shrimping effort from other states into Texas waters caused by the Texas Closure is detrimental to sea turtles. The shrimp industry association proposed discontinuing the Texas Closure to avoid this problem. Both groups proposed the alternative of expanding the Texas Closure Gulf-wide. A Gulf-wide closure would relieve the shrimp fishing effort in Texas upon reopening, because most shrimpers would likely stay in their home state waters to take advantage of high shrimp catches there. SCDNR stated that a coordination of opening dates for shrimping in state waters between Georgia and South Carolina would reduce intensive pulses of fishing that occur in nearshore waters off those states when each state's waters open.

Response: NMFS agrees that intense shrimping effort before and after the Texas Closure poses a threat to sea turtles, and both of the proposed measures likely would reduce effort in Texas before and after the Closure. The Texas Closure period does, however, provide a complete removal of shrimping effort for a limited period and greatly decreases turtle strandings. A Gulf-wide closure would provide complete protection for sea turtles from shrimp trawling during the closure and would also reduce the pulse of intense shrimping that occurs in Texas after the current Texas Closure ends. Of course, shrimping effort would spike simultaneously throughout the Gulf, not just in Texas, following the end of a Gulf-wide closure. However, the spike may not be as severe, since effort would be dispersed throughout the Gulf rather than concentrated exclusively in Texas.

The rationale for the current Texas Closure is the management of shrimp stocks to increase harvest of larger, more valuable shrimp off Texas, not sea turtle protection considerations. NMFS has been encouraging the other Gulf states to examine the benefits and feasibility of implementing Gulf waters closures that could be coordinated with the timing of the Texas Closure. In addition, the Government of Mexico implemented a Gulf-wide closure of its waters to shrimp trawling in 1995, in concert with the Texas Closure. At this time, however, NMFS prefers not to pursue changes to the established shrimp management regime in the Gulf of Mexico, such as the Texas Closure, and instead has evaluated alternative measures to reduce nearshore shrimping effort (see Comment 14 below). Furthermore, for reasons described in the response to comment 12, such action should occur through the Magnuson Act or state laws.

NMFS agrees with the comment received from SCDNR. Currently, South Carolina opens most of its State waters to shrimping in mid-May, while Georgia State waters do not open until June. Consequently, many trawlers from each state take advantage of both openings and effort becomes highly concentrated. In both Georgia and South Carolina during 1995, the level of trawling activity as determined by aerial surveys was 2–3 times higher during the first week after each state's opening than during any other week of the season. A coordinated opening date would allow local shrimpers to stay in their home state waters to take advantage of the local opening. Concentration of effort in nearshore waters would be greatly reduced, and impacts to sea turtles would also likely be substantially reduced. NMFS is encouraging the appropriate resource management agencies in each state and the local shrimp industry to move forward with coordinated opening dates, as this action is within state authority to achieve. The benefits of the resulting reduced fishing effort upon openings may be significant for sea turtles and could mitigate concerns over the adverse effects on sea turtles of repeat captures.

Comment 14: The LGL Report and TSA petition presented a specific proposal incorporating varying gear requirements and maximum net sizes designed to reduce nearshore shrimping effort. LGL has proposed a revision to its plan, subsequent to the TSA petition, which further specifies that vessels with a length greater than 60 ft (18.3 m) would also be excluded from fishing in the nearshore waters of the entire Gulf. Most commenters indicated general support for efforts to reduce nearshore shrimping effort either throughout the Gulf of Mexico or in waters off Texas, but SCDNR expressed skepticism that efforts to reduce the number of shrimp

vessels could be reasonably implemented. As addressed previously (see Comments 7 and 8), commenters disagreed on other aspects of the LGL plan, such as the use of closures and the removal of TED requirements in most offshore waters.

Response: The Opinion found that intensive pulses of nearshore shrimp trawling effort contributed to the high level of sea turtle strandings and mortality in 1994, and strandings in 1995 again demonstrated this relationship when strandings in Georgia, South Carolina, and Texas jumped sharply upwards immediately following the opening of nearshore state waters to shrimp trawling. Consequently, reduction of nearshore shrimping effort could provide additional protection for sea turtles. In general, however, management attempts to reduce effort in fisheries by restrictive gear requirements have not been successful when unaccompanied by other means to limit entry or allocate catch. NMFS has examined various plans intended to reduce intensive levels of nearshore shrimping effort that occur in the Gulf of Mexico to determine their possible effectiveness, including plans that make only gear requirement changes and plans that also have vessel-size requirements.

The effects of the various proposals on shrimping effort were evaluated using the General Bioeconomic Fishery Simulation Model (GBFSM) developed by Dr. Wade Griffin at Texas A&M University. This computer model describes the behavior of the Gulf shrimp fleet in response to economic and biological factors in the fishery. The plans evaluated included absence of any TED requirements, the status quo sea turtle conservation regulations, the TSA petition/LGL plan, the LGL plan as subsequently modified by LGL to exclude boats greater than 60 ft (18.3 m) in length from nearshore waters, and the modified LGL plan reduced in scope to be effective only in nearshore Texas waters for a time period approximately 3 weeks prior to and 3 weeks after the Texas Gulf shrimp fishery closure and with offshore TED requirements maintained. The GBFSM predicted the following: The LGL plan would increase nearshore shrimping effort slightly; the modified LGL plan would reduce nearshore shrimping effort by approximately 65 percent throughout Texas and Louisiana; and the reduced scope, modified LGL plan would reduce nearshore shrimping effort off of Texas by approximately 60 percent only in the period shortly before and after the Texas Closure. A more thorough discussion of these evaluations can be found in the EA for this proposed rule. While NMFS has evaluated the potential for effort changes in the various proposals, the extent of effects on turtles have not been determined. These effort reduction proposals have generated significant controversy within the shrimping industry. NMFS will continue to evaluate the feasibility and benefits of various means to reduce intense nearshore shrimping effort, but does not believe that current information on biological benefits and socio-economic impacts is sufficient to justify implementing these effort reduction measures at this time.

Other Measures

Comment 15: A shrimp industry association stated that NMFS needs to continue research on the size of Kemp's ridley sea turtle populations. Results of this research should be made available to the shrimping industry and the general public.

Response: NMFS agrees. The Expert Working Group is tasked with evaluating existing information to provide the best possible estimates of the Kemp's ridley population and rates of population decline or recovery. The Expert Working Group is making some recommendations for better sea turtle population assessments. NMFS considers continued and improved stock assessment a priority in its sea turtle research program.

The results of NMFS research are public information. This comment, however, underscores the need for improved communications between NMFS and those affected by the sea turtle conservation regulations. NMFS has an extensive industry outreach program that focusses on the critical issues of proper TED use and maximization of gear efficiency. NMFS must consider whether this forum is appropriate for dissemination of sea turtle population status information or whether other communication avenues should be explored.

Comment 16: A conservation group commented that gill netting should be banned in sea turtle special management areas in order to remove an unnecessary threat to sea turtle recovery.

Response: Gill nets can and do entangle and kill sea turtles. Several Gulf of Mexico states have taken action to address gill net bycatch problems—which include not only sea turtles, but many species of finfish. Florida and Texas currently ban the use of gill nets in their State waters, which extend out to 9 nm (16.7 km) in the Gulf of Mexico. Louisiana has recently developed a partial ban on gill nets, and there are anti-gill net initiatives underway in Mississippi. Because of these existing gill net restrictions, NMFS does not believe that a gill net ban imposed by NMFS for the protection of sea turtles is presently warranted in waters generally subject to the jurisdiction of the states, although NMFS will continue to evaluate impacts to sea turtles from state-regulated fisheries. For federally-managed marine fisheries, NMFS is required to conduct consultations in accordance with section 7 of the ESA. Through the consultation process, NMFS can evaluate and restrict, as necessary, federally-managed fisheries and their fishing gear that impact sea turtles. Additional permanent NMFS regulations restricting gill netting do not appear necessary at this time.

Comment 17: A conservation group commented that user fees of $100 to $200 should be required annually from shrimp trawlers that operate in the exclusive economic zone (EEZ). Additionally, recreational fishermen in the EEZ should be required to pay a $30 annual user fee. Funds raised from these user fees would be applied for education and conservation efforts.

Response: NMFS does not believe that this proposal is feasible or advisable at this time. Although the concept of user fees supporting the management and conservation of public resources has been the subject of recent Congressional interest and debate, NMFS does not believe the ESA authorizes the assessment of user fees as proposed by this commenter.

Comment 18: Two environmental organizations commented that NMFS should implement a vessel registration system for shrimp trawlers in the Gulf of Mexico and the southeastern U.S. Atlantic. A vessel registration system would help determine the number of vessels participating in the fishery and would help facilitate emergency restrictions and enforcement against repeat offenders.

Response: Development of a vessel registration system for shrimp trawlers is a requirement of the November 14, 1994 Opinion, and NMFS is developing a proposed rule to implement shrimp trawler registration in 1996. A vessel registration system would provide NMFS with invaluable information on the number and characteristics of shrimp vessels operating in the southeastern United States. This information would substantially increase NMFS' ability to manage the sea turtle-shrimp trawl interaction problem with the greatest effectiveness and the least impact to shrimpers. Vessel registration would also allow NMFS to contact all shrimpers to inform

them of any changes in regulations. Shrimpers have stated repeatedly in the past that they did not feel they had received sufficient notice of regulation changes and that compliance with sea turtle conservation requirements was therefore difficult. Additionally, vessel registration would provide NMFS a means to penalize offenders for multiple or flagrant ESA violations. Lastly, registration of participants in the shrimp fishery would facilitate selection of individuals who could serve as representatives for their peers to advise NMFS on technical and policy issues relating to the shrimp industry and the sea turtle conservation regulations (see the discussion under the heading ''Shrimp Industry Advisory Panel''). The use of a registration system to improve communications between NMFS and the shrimp industry may be the single-most important benefit of such a system.

Comment 19: A shrimp industry association called on NMFS to continue to develop better communication ''among all user groups and all concerned parties,'' and another industry group recommended that conservation measures be developed in consultation with all stakeholders.

Response: NMFS agrees that good communication is critical to resolving many of the problems affecting sea turtle recovery. NMFS works with numerous agencies and concerned parties in the evaluation and management of a variety of threats to sea turtles, and NMFS recognizes that the need for better communication is most extreme in the shrimp fishery. A large number of individuals are involved in the shrimp fishery, and their diverse, multilingual backgrounds, their demanding work schedules, and their mobility throughout the southeastern U.S. shrimping grounds complicate communications. NMFS believes that industry feedback and contribution can improve the regulatory process relating to TEDs and sea turtle conservation. (See the discussion under the heading ''Shrimp Industry Advisory Panel'')

Comment 20: An industry group called for a revision to the November 14, 1994, Opinion pursuant to the requirement for reinitiation of consultation found at 50 CFR 402.16.

Response: NMFS has reinitiated consultation several times during the 1995 shrimp fishing season to address takings exceeding the incidental take statement and new information revealing a change in impacts to the listed species from actions not previously considered. Much of the November 14, 1994 Opinion has been revised by the Opinion accompanying this action (see **ADDRESSES**) and has incorporated all new available scientific and commercial data.

In addition to the comments addressed above, NMFS received some comments that were not germane to the request for comments on the ANPR and the petition for rulemaking based on the LGL Report. Those comments have been noted by NMFS but are not responded to here.

Provisions of the Proposed Rule

NMFS intended the ERP to guide its actions and to ensure compliance with sea turtle conservation regulations when strandings approached or exceeded the identified incidental take levels. In addition, the November 14, 1994, Opinion requires that NMFS identify areas requiring special sea turtle management consideration, due to high sea turtle abundance or important nesting or foraging habitats and that NMFS propose permanent management measures to mitigate the impacts of intensive nearshore shrimping and of repeated incidental capture of individual turtles. Thus, NMFS proposes the following measures to replace the guidance provided by the ERP.

Eliminate Soft TEDs as Approved TEDs and Eliminate the Provision of the Regulations Allowing Soft TEDs to be Approved

NMFS proposes that all soft TEDs be removed from the list of approved TEDs, effective December 31, 1996. This delayed effective date should ensure no adverse impact to shrimpers using soft TEDs. Since soft TEDs generally must be replaced annually, shrimpers will have ample notice to replace their soft TEDs with hard TEDs prior to December 31, 1996, without significantly shortening the usage they may get out of their existing soft TEDs.

Even though soft TEDs have been certified and approved for use, pursuant to the testing protocols, they have been identified as ineffective at releasing sea turtles under normal fishing conditions, even when new and professionally installed. The use of soft TEDs by the shrimping fleet has been associated with elevated sea turtle strandings following the Texas Closure to shrimp fishing. Because of the inherent properties of synthetic webbing, soft TEDs are difficult to install properly. Installation procedures for soft TEDs must be changed for every type and size of trawl net, and some soft TEDs cannot be installed properly in some nets without major modifications requiring underwater observations. Once installed, their actual in-water configuration, shape, and performance cannot be determined even by professional net makers. Furthermore, changes made by a trawler captain to the fishing configuration of a net to match fishing conditions—such as changing door sizes or angles, adding flotation to the headrope, or adjusting center bridle tension on tongue or bib trawls—and the accumulation of catch and debris in the trawl will all affect the shape of the soft TED and thus its effectiveness at releasing turtles. In actual use, soft TEDs are easily damaged by bottom debris and bycatch, particularly sharks and dogfish. Broken meshes in the soft TED excluder panel can entangle a turtle or even allow a turtle to pass directly through the TED and be captured in the cod end of the net.

NMFS has developed two certification protocols for the approval of TED designs. These protocols were published on June 29, 1987 (52 FR 24244) and on October 9, 1990 (55 FR 41092), along with detailed descriptions of the testing and evaluation criteria. Both protocols target a 97 percent turtle exclusion rate. The process through which most soft TEDs were certified removed most of the confounding conditions mentioned above, as testing was conducted under ideal conditions necessary for net observation, but not reflective of commercial trawling conditions. The certification process also fails to simulate actual field performance because design sponsors have the opportunity to fine-tune and adjust their installations with the assistance of NMFS gear experts and underwater videotapes of soft TED deployment. From the 1994 evaluation of various commercially available soft TEDs, it is clear that some installations of the same soft TED design will entangle turtles, indicating that the fine-tuning made during certification, but not necessarily included in the regulatory specifications, may have been critical to their passing testing. Because of these problems, NMFS is evaluating possible changes to the certification protocols which would better determine and account for actual commercial trawling conditions, and would eliminate the fine-tuning that takes place in the certification process but may not necessarily be reflected in the TED specifications. Such fine-tuning may improve the apparent performance of poor candidate TEDs under testing conditions. Although NMFS is reviewing the certification and approval process for new TED designs, currently there is ample evidence that indicates that soft TEDs do not exclude turtles

under actual trawling conditions despite their certification and previous approval. On the basis of this evidence, NMFS is proposing with this rule, to prohibit the use of soft TEDs currently approved and rescind their approvals, while undertaking a review of its general certification protocols.

In addition, soft TEDs have high shrimp loss rates. NMFS has determined, both through in-house and outside testing, that all soft TED designs lose significant amounts of shrimp. The high shrimp loss rates of soft TEDs may be posing a problem for sea turtles. While the shrimp loss rates of well-tuned hard TEDs are only about 1 percent (Renaud *et al*., 1991), shrimp loss rates for approved soft TEDs are much higher. The approval of TEDs that lose shrimp, however, may have worked to the detriment of shrimpers and turtles. Shrimpers may not have the resources to make their own comparisons of TED effectiveness and may lack the information needed to make a change to more efficient TED types. Some shrimpers may respond to the high loss of shrimp experienced with soft TEDs by disabling or modifying their soft TED. By limiting NMFS approval to only hard TEDs—those types that have the highest rates of shrimp retention—the incentive for shrimpers not to fully comply with the TED requirements should be reduced.

A perceived advantage of soft TEDs over hard TEDs is their lower cost. An installed soft TED at a net shop typically costs $50–$100. A hard TED fully installed in webbing typically costs $250–$300; uninstalled hard TEDs may be as inexpensive as $75. NMFS estimates, however, that soft TEDs require replacement on an annual basis, whereas hard TEDs last 2–3 years or more. In addition, the high shrimp retention rates of hard TEDs compared to soft TEDs likely will make up any cost difference through better shrimp catches.

Morrison Soft TED

The Morrison TED is the soft TED of choice in the Atlantic shrimp fishery.

Gear specialists observed that some Morrison TEDs have shortened escape openings that could prevent the release of a turtle. Other TEDs had escape openings that were of the proper size, but twine or rope was laced through the webbing along the sides of the exit hole cut. Since the escape opening of a Morrison TED consists of a single slit that requires the flow of water to push the loose webbing on the sides of the cut apart to form an escape opening, reinforcing the edges of the cut would prevent the webbing from opening wide enough to allow a turtle to escape. On several Morrison TEDs, the webbing of the excluder panel was cut or broken so that a turtle might pass directly through the TED into the tailbag of the net. Other Morrison TEDs had large openings at the sides of the panel where the panel was improperly sewn to the trawl net or the attachment between the TED and the trawl was worn away and not repaired. These holes might also allow a turtle to pass directly through the TED, or cause it to become entangled in loose webbing. Lastly, on some TEDs that appeared to be in good condition, gear experts noticed that the excluder panel had slack areas. When water flows through the excluder panel, excess webbing can form pockets instead of a smooth, taut ramp of webbing, that could entangle turtles. Statements made to gear specialists by shrimpers confirmed that turtles were in fact becoming entangled in pockets in soft TED excluder panels.

A particular concern regarding soft TEDs was the variability of their construction and installation and that, even with proper construction according to regulations, commercially available soft TEDs were not effectively releasing turtles because of incompatibilities of the TED design with various net sizes and designs. In order to examine this concern, NMFS purchased seven trawl nets equipped with Morrison soft TEDs installed by five primary suppliers from the southeastern United States Three different trawl types were studied: The mongoose trawl, the straight wing flat trawl, and the tapered wing flat trawl. These nets were observed and video-taped underwater by NOAA divers as the nets were fished in various configurations. This diver evaluation revealed that pockets could form in legally installed Morrison soft TEDs. This tendency was especially noticeable in mongoose and straight-wing flat trawls.

These distortions in TED shape would lead to turtle capture, as was discovered in further testing. Experimental trawling in the Cape Canaveral ship channel was conducted to evaluate turtle exclusion for the soft TEDs. A straight-wing flat net captured five sea turtles—three through entanglement in the TED panel— in 21 experimental tows of 1 hour or less. A straight wing flat net and two mongoose nets were tested and did not capture turtles. A turtle was observed remaining in one of the mongoose net tows, but it escaped as the trawl was retrieved. In later tests at Panama City, FL, in October 1994, a total of 24 small turtles were introduced by divers into three of the test nets: eight were captured, for an average escape rate of only 66 percent from trawls with commercially available and legally installed soft TEDs.

Prior to certification of the Morrison TED, the University of Georgia Sea Grant Program evaluated the Morrison TED for shrimp retention. In testing under commercial fishing conditions against a trawl not equipped with a TED, the Morrison TED was shown to have a shrimp loss rate of 17 percent. NMFS observers aboard commercial trawlers in South Carolina documented a 7 percent loss rate from Morrison TEDs.

Parrish Soft TED

The Parrish soft TED was approved for use in 1987 following successful certification trials at the Cape Canaveral ship channel. The Parrish TED passed the certification trials based on turtle exclusion rates, but the Parrish TED-equipped net had a reduction in shrimp catch compared to the control net ranging from 26 percent to 79.5 percent. The Parrish TED never became widely accepted in the shrimp industry. The developer and only manufacturer of the Parrish TED has ceased sales and production of the design. NMFS does not believe that any Parrish TEDs are currently in use.

Andrews Soft TED

The Andrews TED is the primary bottom-opening soft TED in use today and is the most popular soft TED in the southwest Florida shrimp fishery. Some shrimp industry members have stated that the bottom-opening, Andrews soft TED is the optimum TED for the Sanibel-Tortugas fishing grounds of southwest Florida because of its ability to exclude the large loggerhead sponges that occur there.

The Andrews TED's 5–inch (12.7–cm) mesh size is the smallest mesh excluder panel of the soft TEDs. In response to shrimpers who stated that they needed a bottom-opening soft TED with a larger mesh size for better shrimp retention, NMFS conducted certification testing on 8–inch (20.3–cm), 7–inch (17.8–cm), 6–inch (15.2–cm), and mixed mesh sizes. None of these designs passed the TED certification standards. Nonetheless, enforcement efforts have found many instances of Andrews style TEDs illegally constructed of large-mesh webbing. Some shrimpers using these illegal TEDs stated that the TEDs were legal Parrish TEDs, which have an 8–inch (20.3–cm) mesh, but the TEDs met none of the criteria of a Parrish TED. It appears that there is some confusion among shrimpers and misrepresentation by manufacturers as to the legal

dimensions of the Parrish and Andrews TEDs. The use of a TED with illegal dimensions would adversely affect turtles by increasing the possibility of entanglement. Also, if the Andrews TED funnel is excessively long, slack webbing and pockets would appear that would have the potential for trapping turtles.

The Andrews TED 5–inch (12.7–cm), when compared to a bottom-opening hard TED, had a shrimp loss of 23 percent. The larger mesh sizes, despite not passing TED certification standards, were tested for shrimp loss. Rates in those comparisons ranged from 5 to 12.25 percent shrimp loss in Andrews soft TEDs versus nets without TEDs.

Taylor Soft TED

NMFS believes that the Taylor TED has only very limited use in the shrimp fishery.

The Taylor TED is a top-opening soft TED with a 6–inch (15.2–cm) mesh excluder panel. The minimum length of the Taylor TED is 10 ft (3 m) to allow its installation in small trawls. The Taylor TED design was certified in a 30–foot (9.1–m) headrope semi-balloon trawl net and became an officially approved TED in May 1993. Because the Taylor TED is a relatively recent design, NMFS gear specialists have not encountered many examples of the Taylor TED in use or documented installation problems specific to the Taylor TED. It is, however, a similar design to the Morrison TED in that it is a sloping, top-opening, single-panel TED and would be likely to have the same problems of pocketing and loose webbing if installed improperly.

Taylor TEDs in actual use in the commercial shrimp fleet have in fact been found to be ineffective at sea turtle exclusion. In 1,174 hours of observed trawling with Taylor TED-equipped nets, 3 sea turtle captures have been documented. This rate of sea turtle capture with the Taylor TED exceeds the sea turtle capture rate calculated by Henwood and Stuntz (1987) for shrimp trawlers in the Gulf of Mexico operating without any TEDs.

NMFS has little data on shrimp retention rates of the Taylor TED; in limited testing of the Taylor TED and another TED with a similar apex design, the University of Georgia Sea Grant program reported an overall shrimp loss of about 16 percent.

Reduce the Size of Try Nets that are Exempt from TED Use

NMFS proposes to reduce the size of try nets that are exempt from the TED-use requirement, effective December 31, 1996. Instead of the present exemption for try nets 20 ft (6.1 m) (50 CFR 227.72(e)(2)(ii)(*1*)) or less in headrope length, only try nets 12 ft (3.6 m) or less in headrope length and 15 ft (4.6 m) or less in footrope length would be exempt.

Try nets are small nets that are deployed by shrimp trawlers before and during tows with the main nets to determine the presence and catch rates of shrimp, bycatch, and debris. Shrimpers use try nets to help decide the location and duration of tows with the main nets. Try net tows of 15–30 minutes appear sufficient to determine fishing conditions and catch rates.

NMFS has been collecting information that challenges the assumption that try nets up to 20 ft (6.1 m) do not pose a threat to sea turtles because of their small size and short tow duration. Specifically, the larger try nets do capture turtles. Recent analysis of observed commercial trawling in the Gulf of Mexico indicates that catch rates (per foot of headrope) of turtles in large try nets (approx. 20 ft (6.1 m) headrope length) are approximately the same as those calculated in the 1987 report (Henwood & Stuntz), a figure that the National Academy of Sciences used in their 1990 report recommending the required use of TEDs in shrimp trawls. Further, in the regional bycatch observer program from 1992 through 1995, try nets accounted for 43 percent of the observed turtle captures. The assumption that try nets are only towed for short periods of time also may be invalid. In addition to numerous anecdotal reports from shrimpers to this effect, NMFS gear specialists have observed shrimpers regularly towing try nets for periods well over an hour. Since long try net tows defeat their purpose of assessing catch rates, the apparent intention of these long tows is to use the try nets as auxiliary nets to increase the overall shrimp capture, using a TED-less net. Such use of try nets may be seriously contributing to turtle capture, mortality, and strandings.

While the large try nets (up to 20 ft (6.1 m)) currently exempted from TED requirements pose a threat to sea turtles, NMFS believes that small try nets likely do not. In experimental trawling at the Cape Canaveral ship channel, conducted in September 1994, the capture of sea turtles in try nets of two different sizes was assessed. One loggerhead was captured in a 15 ft (4.0 m) (originally reported as 13 ft) headrope length try net in 59 tows, while nine loggerheads were captured in a 20 ft (6.1 m) headrope length try net in 57 tows. The try nets used in these trials were tongue trawls, meaning that the net is towed via a third towing bridle (in addition to those attached to the doors) attached to a triangle of webbing in the center of the headrope. The headrope length measurement includes the length along this additional triangle of webbing; thus, a 15 ft tongue trawl try net is approximately the same as a 13 ft standard trawl in door-to-door distance. In order to clarify the applicability of the 1994 study regarding try net headrope length, NMFS intends to repeat a similar study during the comment period for this proposed rule. Information gathered in that study may result in a modification to the try net headrope length exemption adopted in the final rule. Nonetheless, these results suggest that small try nets have a much lower sea turtle catch rate, even when adjusted for headrope length, than large try nets and primary shrimp trawls. In the May 18, 1995 (60 FR 26691) modification to the emergency restrictions to shrimp trawling in some areas of the Gulf of Mexico, NMFS determined that the use of try nets with headrope lengths of 12 ft (3.6 m) or less and footrope lengths of 15 ft (4.6 m) or less did not pose a serious risk to sea turtles, even in areas where shrimp trawler-related mortality of Kemp's ridley sea turtles was high.

Installation of TEDs in try nets with headrope lengths of 12 ft (3.6 m) or less and footrope lengths of 15 ft (4.6 m) or less appears to be impracticable. The proposed delayed effective date should provide the necessary time for shrimpers to acquire hard TEDs and install them in the larger try nets or to adjust to estimating catch rates with smaller try nets.

Establish Shrimp Fishery Sea Turtle Conservation Areas (SFSTCAs)

NMFS proposes to establish two permanent Shrimp Fishery-Sea Turtle Conservation Areas (SFSTCAs) with special conservation requirements to reduce the mortality and subsequent strandings of sea turtles associated with intensive shrimp trawling in nearshore waters.

As mentioned previously, the November 14, 1994, Opinion contained a reasonable and prudent alternative that required action to mitigate the impacts of intensive nearshore shrimping effort on sea turtles, including the identification of areas requiring special sea turtle management considerations. The ERP identified interim special management areas, based on nearshore habitat for endangered Kemp's ridleys, in which NMFS specified a policy of heightened TED law enforcement efforts and management response to elevated sea turtle mortality.

The SFSTCA in the northwestern Gulf of Mexico would consist of the offshore waters out to 10 nm (18.5 km) along the coasts of Louisiana and Texas from the Mississippi River South Pass (west of 89°08.5′ W. long.) to the U.S.-Mexican border. The Atlantic SFSTCA would consist of the inshore waters and offshore waters out to 10 nm (18.5 km) along the coasts of Georgia and South Carolina from the Georgia-Florida border to the North Carolina-South Carolina border. The Gulf SFSTCA would be similar to the Gulf interim special management area of the ERP, but it would add waters off statistical Zone 21 in south Texas. Strandings of Kemp's ridleys in Zone 21 tend to include adult and large sub-adult individuals compared to the primarily juvenile and sub-adult animals in northern Texas, and the extreme importance of adults, particularly reproductive females, to the recovery of Kemp's ridleys appear to warrant the inclusion of Zone 21 in the SFSTCA.

The Atlantic SFSTCA was identified based on the distributions of sea turtle strandings and the shrimp trawl fleets. The proposed Atlantic SFSTCA would differ from the Atlantic interim special management area by excluding northern Florida and including nearshore waters of South Carolina and by adding waters inshore of the COLREGS lines. In 1995, NMFS did not determine that shrimp trawler related mortality and strandings in northeast Florida were excessive and required emergency action. The State of Florida prohibited the fishing by large shrimp trawlers within 1 nm (1.9 km) of the beach on the east coast of Florida, effective July 1, 1995. Sea turtle strandings in Zone 30 in Florida declined progressively from June through August, possibly as a result of the State restrictions on trawling. NMFS believes that the State restrictions on net fishing in northeast Florida represent existing measures mitigating the impacts of nearshore shrimping, and that inclusion of northeast Florida in the SFSTCA is not warranted at this time. Sea turtle strandings in 1995 did, however, necessitate emergency gear restrictions twice along the Georgia coast and once in Zone 32 in South Carolina. South Carolina waters opened to shrimping on May 16, 1995, and Georgia waters opened on June 1, 1995. In the week following the opening, significant spikes in sea turtle strandings occurred in both States. In Georgia, statewide strandings increased from 6 the week prior to the opening to 21 in the week following the opening. In Zone 32 in South Carolina, strandings increased from 0 in the week prior to the opening to 6 in the first week of the opening. The continued association of nearshore shrimp effort with sea turtle strandings in these states demonstrates the need for additional measures to mitigate adverse impacts to turtles. The proposed SFSTCA would also add the northern portion of South Carolina, even though strandings there did not result in emergency actions. The northern border of Zone 32 in South Carolina occurs at Cape Romain—the largest loggerhead sea turtle nesting beach north of Cape Canaveral. Therefore, restriction of the SFSTCA to only Zone 32 could concentrate shrimp effort near Cape Romain and increase the potential for adverse impacts to nesting female sea turtles. By including the entire coast of South Carolina, the borders of the SFSTCA would be simpler and clearer, the Cape Romain area would be included, and relatively few additional shrimpers would be affected, since South Carolina's primary shrimping grounds are in the south and central portion of the state. The proposed Atlantic SFSTCA would also include inshore waters as well as nearshore waters along the Georgia and South Carolina coast. The specification in the ERP that management measures be restricted to offshore waters was not appropriate for that region. The Georgia-South Carolina Low Country is characterized by numerous broad sounds and extremely high tidal ranges. Tidal flow can have a powerful influence on the movement of turtles, their prey, and turtle carcasses. In the 2 months following the opening of Georgia state waters to shrimping on June 1, 1995, 21 sea turtles stranded in inshore areas. In addition, state regulations permit shrimp trawling under the same license inside the COLREGS lines in Georgia and South Carolina, and the fishery is therefore not functionally divided between offshore and inshore components. Extension of conservation measures into inshore waters in Georgia and South Carolina appears necessary to provide protection to turtles wherever they may be vulnerable to capture in shrimp trawls and to ensure even enforceability of the measures near the mouths of the sounds.

Enhance TED Effectiveness in the SFSTCAs

NMFS proposes to implement the elimination of the approval of the use of soft TEDs, the reduction in TED-exempt try net size, and the prohibition on the use of bottom-opening hard TEDs in the proposed SFSTCAs on an accelerated schedule to provide additional protection to sea turtles during the 1996 shrimp season.

The proposed SFSTCAs represent areas that require special management to mitigate the effects of intensive nearshore shrimping effort on sea turtles. These areas have exhibited very high nearshore shrimping activity and high levels of sea turtle strandings. The continuing sea turtle mortality has been determined by NMFS to result from the improper use of TEDs and the use of ineffective TEDs by shrimp trawlers. Therefore, NMFS believes that there is a heightened need to implement measures to improve TED effectiveness in the SFSTCAs.

In addition to the elimination of the approval of soft TED use and the reduction of TED-exempt try net size, NMFS believes that bottom-opening hard TEDs should be prohibited in the SFSTCAs to protect sea turtles from forced submergence.

NMFS gear specialists joined enforcement agents to determine whether problems with TEDs were a factor in the increased levels of strandings that occurred in 1994. Two problems encountered with hard TEDs were TEDs installed at illegally steep angles and bottom-opening hard TEDs without flotation. The lack of flotation on bottom-opening hard TEDs, although then allowed under the existing regulations, caused the TED to drag on the sea floor, holding the turtle escape opening closed. A review of past gear trials with bottom-opening TEDs supported this finding. As a result, NMFS concluded that the lack of flotation on bottom-opening hard TEDs could be a major contributor to sea turtle mortality and amended the regulations to require flotation on bottom-opening single-grid hard TEDs (59 FR 33447, June 29, 1994; 60 FR 15512, March 24, 1995).

In spite of the flotation requirement for bottom-opening hard TEDs, NMFS remains concerned that bottom-opening hard TEDs in commercial use still capture and drown turtles, particularly small turtles, such as juvenile Kemp's ridleys. The amounts of flotation required do not always correctly offset the weight of the TED itself, and the effective buoyancy of closed-cell foam floats, which are the most popular floats in use by the shrimp industry, is reduced with increasing water depths. Furthermore, the accumulation of shrimp catch, bycatch, mud, and debris in the trawl can weigh down the attached flotation and cause the exit of a bottom-opening hard TED to be obstructed by the bottom. Observations by gear specialists of wear and chafing on webbing on the bottom of bottom-

opening TEDs in the shrimp fleet are indicators that the TEDs do periodically ride hard on the bottom. NMFS has received and responded to requests from the shrimp industry to allow modifications to bottom-opening TEDs, such as webbing chafing gear and rollers, to reduce wear and damage to gear caused by contact with the bottom, even with the current flotation requirements.

NMFS gear experts have also found that top-opening TEDs are more efficient at releasing turtles than bottom-opening TEDs, even under ideal conditions. In-water testing of hard-grid TEDs in May 1995 revealed that small turtles require almost twice as long to escape from a bottom-opening TED versus a top-opening TED (an average of 125.6 seconds versus an average of 68.8 seconds). This difference would likely be exaggerated under commercial trawling conditions. Gear experts attribute much of this difference in escape times to the air-breathing turtles' natural tendency to explore the top of the trawl for an escape-opening as they attempt to resurface for air. Small turtles that have been observed entrapped in trawls do spend the majority of their time at the top of the trawl. Physiological studies on small sea turtles of the effects of capture in trawls on stress levels show that high stress levels are developed during short-duration forced submergences and that the turtles may require 7 to 9 hours to recover from the stress effects of submergences no longer than 7.3 minutes (Stabenau *et al*., 1991). Repeat captures and forced submergences in shrimp trawls, compounded by longer release times from bottom-opening TEDs, could be producing stress and blood acidosis levels that are contributing to the mortality of sea turtles, particularly small juveniles and sub-adults.

The implementation of these gear requirement changes in the SFSTCAs is proposed to occur on a more rapid schedule than the requirements outside the SFSTCA because of the more critical need to better protect sea turtles and manage shrimp trawl-sea turtle interactions in these areas. The impact of this faster schedule on the shrimp trawl fleet is expected to be small, though. The proposed SFSTCAs in the Gulf and Atlantic include areas that were either included in the ERP's interim special management areas as potentially subject to gear restrictions or were actually included in gear restrictions implemented during 1995 in response to sea turtle mortality emergencies. Shrimp trawlers subject to any gear restrictions in 1995 will already have been required to purchase hard TEDs and either reduce the size of their try nets or install hard TEDs in their try nets. No additional burden would be imposed on those shrimpers to acquire new gear. In the Gulf SFSTCA, Zones 13–16 were not subject to gear restrictions, but shrimpers in that area were notified of potential additional gear requirements as specified in the ERP. Nearshore shrimpers in Louisiana, however, are reportedly already using primarily hard TEDs and the elimination of the approval of soft TED use should affect only a small proportion of shrimpers. Finally, there is no significant financial burden associated with requiring the use of top-opening TEDs instead of bottom-opening TEDs. Most shrimpers can convert existing bottom-opening hard TEDs to top-opening easily.

Shrimp Industry Advisory Panel

NMFS wishes to establish a shrimp industry panel to provide individualized advice to the agency on all management aspects of the TED regulations, although NMFS does not have sufficient information to make a specific proposal at this time. Such a panel would convene periodically to bring concerns of the industry and particular problems with regulations to the attention of the agency. It would provide a forum for NMFS to discuss matters such as revisions to gear types, new TED designs, and improvements to the TED regulations. NMFS does attempt to seek input from fishermen regarding its management actions through comment periods, public hearings, TED technology transfer workshops, and informal contacts; however, these means are not optimal for overcoming serious communication barriers between NMFS and shrimpers. Several problems contribute to this communications barrier including distrust on the part of shrimpers that their input is honestly heard, the conflict of shrimpers' work demands with their full participation in a dialogue with fishery managers, and the absence of a forum where open discussions about problems and plans to overcome them can be held. Another difficulty is the large number of participants in the shrimp fishery, and the fact that relatively few of them belong to industry associations that can represent their collective views.

NMFS intends to pursue the creation of a shrimp industry advisory panel, but must first clarify the exact means of doing so. In addition to comments on this proposed rule, NMFS is also seeking comments on implementation of a shrimp industry panel and specifically on methods to identify and select shrimp industry representatives to serve on the panel that would fairly reflect the interests of the various diverse sections of the shrimp trawling fleets. If a feasible way to select membership for the panel can be developed, NMFS will attempt to identify and obtain necessary funding to implement the panel.

Request for Comments

NMFS will accept written comments (see **ADDRESSES**) on this proposed rule and on the proposed shrimp industry advisory panel until June 10, 1996. In addition, NMFS will conduct ten public hearings on this action.

The hearings are scheduled as follows:

1. May 10, 1996, at 7 p.m., St. Petersburg, FL
2. May 14, 1996, at 7 p.m., Cameron, LA
3. May 15, 1996, at 6 p.m., Thibodaux, LA
4. May 16, 1996, at 6 p.m., Mobile, AL
5. May 21, 1996, at 6 p.m., Port Isabel, TX
6. May 22, 1996, at 6 p.m., Corpus Christi, TX
7. May 22, 1996, at 7 p.m., Bolivia, NC
8. May 23, 1996, at 6 p.m., Galveston, TX
9. May 23, 1996, at 6:30 p.m., Charleston, SC
10. May 24, 1996, at 6:30 p.m., Brunswick, GA

The hearings will be held at the following locations:

1. University of South Florida, Davis Hall, Room 130, 140 7th Avenue South, St. Petersburg, FL 33701
2. Cameron Elementary School, Auditorium, 510 Marshall Street, Cameron, LA 70631
3. Thibodaux Civic Center, Plantation Room, 310 North Canal Boulevard, Thibodaux, LA 70301
4. Mobile Civic Center, Meeting Room 16, 401 Civic Center Drive, Mobile, AL 36601
5. Port Isabel Community Center, Conference Room, 213 Yturria Street, Port Isabel, TX 78578
6. Texas A&M University Agricultural Research & Extention Center, Route 2, Box 589 (Highway 44, 5 miles west of airport), Corpus Christi, TX 78406
7. North Carolina Cooperative Extension Service, Brunswick County Government Center, Agriculture Building, (Foods Lab), 10 Referendum Drive, Bolivia, NC 28422
8. Texas-Galveston County Court House, (Jury assembly room, 1st floor), 722 Moody, Galveston, TX 77550
9. South Carolina Marine Resources Research Institute, (Auditorium), 217

Fort Johnson Road, Charleston, SC 29412

10. University of Georgia Marine Extension Service Office, (Conference room), 715 Bay Street, Brunswick, GA 31520

References Cited

Henwood, T.A. and W.E. Stuntz. 1987. Analysis of Sea Turtle Captures and Mortalities during Commercial Shrimp Trawling. Fishery Bulletin: Vol. 85, No.4, pp. 813–817.

Renaud, M., G. Gitschlag, E. Klima, A. Shah, D. Koi, and J. Nance. 1991. Evaluation of the Impacts of Turtle Excluder Devices (TEDs) on Shrimp Catch Rates in Coastal Waters of the United States Along the Gulf of Mexico and Atlantic, September 1989 through August 1990. NOAA Technical Memorandum, NMFS-SEFC–288.

Ward, J.M. 1989. Modeling Fleet Size in the Gulf of Mexico Shrimp Fishery 1966–1979. NOAA Technical Memorandum NMFS-SEFC–229, 8p.

Stabenau, E.K., T.A. Heming, and J.F. Mitchell. 1991. Respiratory, acid-base, and ionic status of Kemp's ridley sea turtles *(Lepidochelys kempi*) subjected to trawling. Comparative Biochemistry and Physiology A 99:107–111.

Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule would not have significant economic impact on a substantial number of small entities, because the provisions of the proposed rule would impose only a minor economic burden on shrimpers. The Assistant Administrator for Fisheries, NOAA, (AA) prepared an EA for this proposed rule and copies are available (see **ADDRESSES**).

List of Subjects

50 CFR Part 217

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

50 CFR Part 227

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

Dated: April 19, 1996.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 217 and 227 are proposed to be amended as follows:

PART 217—GENERAL PROVISIONS

1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1531–1544; and 16 U.S.C. 742a *et seq.*, unless otherwise noted.

2. In § 217.12, the definitions for ''Atlantic Shrimp Fishery-Sea Turtle Conservation Area'' and ''Gulf Shrimp Fishery-Sea Turtle Conservation Area'' are added, in alphabetical order, and the definition of ''Approved TED'' is revised, to read as follows:

§ 217.12 Definitions.

* * * * *

Approved TED means:

(1) A hard TED that complies with the generic design criteria set forth in 50 CFR 227.72(e)(4)(i). (A hard TED may be modified as specifically authorized by 50 CFR 227.72(e)(4)(iv)); or

(2) A special hard TED that complies with the provisions of 50 CFR 227.72(e)(4)(ii); or

(3) Prior to December 31, 1996, a soft TED that complies with the provisions set forth in 50 CFR 227.72(e)(4)(iii).

* * * * *

Atlantic Shrimp Fishery-Sea Turtle Conservation Area (Atlantic SFSTCA) means the inshore and offshore waters along the coast of the States of Georgia and South Carolina from the Georgia-Florida border to the North Carolina-South Carolina border extending to 10 nautical miles (18.5 km) offshore.

* * * * *

Gulf Shrimp Fishery-Sea Turtle Conservation Area (Gulf SFSTCA) means the offshore waters along the coast of the States of Texas and Louisiana from the South Pass of the Mississippi River to the U.S.-Mexican border extending to 10 nautical miles (18.5 km) offshore.

* * * * *

PART 227—THREATENED FISH AND WILDLIFE

3. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

4. In § 227.72, paragraphs (e)(2)(ii)(B)(*1*), (e)(4)(i)(F), (e)(4)(iii) introductory text, (e)(5) heading and (e)(5)(i) are revised to read as follows:

§ 227.72 Exceptions to prohibitions.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(B) * * *

(*1*) (*i*) Effective December 31, 1996, a single test net (try net) with a headrope length of 12 ft (3.6 m) or less and with a footrope length of 15 ft (4.6 m) or less, if it is either pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net;

(*ii*) Prior to December 31, 1996, in the Gulf SFSTCA or the Atlantic SFSTCA, a single test net (try net) with a headrope length of 12 ft (3.6 m) or less and with a footrope length of 15 ft (4.6 m) or less, if it is either pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net;

(*iii*) Prior to December 31, 1996, in areas other than the Gulf SFSTCA or the Atlantic SFSTCA, a single test net (try net) with a headrope length of 20 ft (6.1 m) or less, if it is either pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net;

* * * * *

(4) * * *

(i) * * *

(F) *Position of escape opening.* (*1*) In areas other than the Gulf SFSTCA or the Atlantic SFSTCA, the entire width of the escape opening from the trawl must be centered on and immediately forward of the frame at either the top or bottom of the net when the net is in its deployed position. The escape opening must be at the top of the net when the slope of the deflector bars from forward to aft is upward, and must be at the bottom when such slope is downward. For a single-grid TED, the escape opening must be cut horizontally along the same plane as the TED, and may not be cut in a fore-and-aft direction.

(*2*) In the Gulf SFSTCA and the Atlantic SFSTCA, the entire width of the escape opening from the trawl must be centered on and immediately forward of the frame at the top of the net when the net is in its deployed position. The slope of the deflector bars from forward to aft must be upward. For a single-grid TED, the escape opening must be cut horizontally along the same plane as the TED, and may not be cut in a fore-and-aft direction.

* * * * *

(iii) *Soft TEDs (applicable until December 31, 1996).* Soft TEDs are TEDs

with deflector panels made from polypropylene or polyethylene netting. In the Gulf SFSTCA and the Atlantic SFSTCA, soft TEDs are not approved TEDs. Prior to December 31, 1996, in areas other than the Gulf SFSTCA and Atlantic SFSTCA, the following soft TEDs are approved TEDs:

* * * * *

(5) *Revision of generic design criteria, allowable modification of hard TEDs, additional special hard TEDs.*

(i) The Assistant Administrator may revise the generic design criteria for hard TEDs set forth in paragraph (e)(4)(i) of this section, may approve special hard TEDs in addition to those listed in paragraph (e)(4)(ii) of this section, or may approve allowable modifications to hard TEDs in addition to those authorized in paragraph (e)(4)(iv) of this section, by a regulatory amendment, if, according to a NMFS-approved scientific protocol, the TEDs demonstrate a sea turtle exclusion rate of 97 percent or greater (or an equivalent exclusion rate). Testing under the protocol must be conducted under the supervision of the Assistant Administrator, and shall be subject to all such conditions and restrictions as the Assistant Administrator deems appropriate. Any person wishing to participate in such testing should contact the Director, Southeast Fisheries Science Center, NMFS.

* * * * *

[FR Doc. 96–10087 Filed 4–19–96; 4:16 pm]

BILLING CODE 3510–22–F

---

50 CFR Parts 672 and 676

[Docket No. 960401095–6095–01; I.D. 032596A]

RIN 0648–AH61

Groundfish of the Gulf of Alaska; Limited Access Management of Federal Fisheries In and Off of Alaska; Improve IFQ Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to amend portions of the regulations implementing the Individual Fishing Quota (IFQ) Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska. This proposed rule also would eliminate a prohibition pertaining to IFQ sablefish in the regulations governing the groundfish fisheries in the Gulf of Alaska (GOA). After the first year of the IFQ Program's operation, the North Pacific Fishery Management Council (Council) and NMFS recognize aspects of the program that need further refinement. This action is necessary to make those refinements and is intended to improve the ability of NMFS to manage the Pacific halibut and sablefish fixed gear fisheries.

DATES: Comments must be received by May 24, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; Attn: Lori J. Gravel, or deliver to Room 453, 709 W. 9th Street, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Regulations codified at 50 CFR part 676 implement the IFQ Program, a limited access system for management of the Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in and off of Alaska, under the authority of the Northern Pacific Halibut Act with respect to halibut and the Magnuson Fishery Conservation and Management Act with respect to sablefish. Further information on the rationale for and implementation of the IFQ Program is contained in the preamble to the final rule implementing that program published in the Federal Register, November 9, 1993 (58 FR 59375), and in the preambles to subsequent rules amending those regulations.

This action would amend various portions of the regulations implementing the IFQ Program and eliminate a prohibition in the GOA groundfish regulations that pertains to IFQ sablefish. These changes are intended to improve the ability of fishermen to conduct fishing operations under the IFQ Program, to refine NMFS' ability to administer the program effectively, and to make the program more responsive to conservation and management goals for Pacific halibut and sablefish fisheries.

Elimination of the 72–hour ''Fair Start'' Provision

Section 672.7(k) would be repealed to eliminate the prohibition against deploying fixed gear during the 72–hour period preceding the opening of fixed gear sablefish fishing seasons. Currently, fishermen with hook-and-line gear legally deployed in other GOA fisheries during the 72–hour period immediately before the opening of sablefish seasons are prohibited from participating in those seasons. Under open access, this prohibition was designed to prevent such fishermen from gaining an advantage over fishermen who could not legally deploy hook-and-line gear until the opening of the sablefish season. The regulation, written in conformity with a similar restriction in the Pacific halibut fishery regulations (50 CFR part 301), was necessary under an open access system to ensure that all fishermen in fixed gear sablefish fisheries would have equitable opportunities for harvest during extremely brief fishing seasons. NMFS has determined that this prohibition is no longer necessary. Under the IFQ Program, which lengthened GOA fixed gear sablefish seasons, the race for fish and the preemption of grounds are no longer problems. The regulation at § 672.7(k) would therefore be removed.

Revision of the Owner-aboard Restriction

Section 676.13(f)(1) would be revised to allow fishermen to leave their vessels during the time between their arrival in port and the beginning of landing operations. Current IFQ regulations require IFQ holders to be aboard vessels used to harvest IFQ fish during all fishing operations. The Council intended this requirement to ensure that the catcher vessel fleet remain primarily an owner-operator fleet and that the IFQ Program not profoundly change the socio-economic character of the fixed gear fishing fleet or the coastal Alaskan communities where this fleet is based. To this end, § 676.13(f)(1) requires IFQ holders to remain onboard vessels containing IFQ harvest until all IFQ species have been offloaded. A provision at § 676.22(d) permits waiving of the owner-aboard restriction in the event of extreme personal emergency.

While continuing to require that IFQ holders be aboard during harvest and landing of IFQ fish, except as allowed by the emergency waiver provision, the Council recognizes that less urgent occasions may oblige an IFQ holder to leave his or her vessel while in port but before offloading of IFQ fish has commenced. Section 676.14(b)(1) allows IFQ landings only between the hours of 0600 and 1800, Alaska local time (A.l.t.). A fisherman who arrives in port after 1800 hours (hrs), A.l.t., must remain on his or her vessel overnight until IFQ landings may commence the following day. Such inconveniences are not necessary to preserve the intent of the Council.

Accordingly, the Council requested that NMFS remove the restriction. This action would amend regulations at § 676.13(f)(1) to relieve the restriction that IFQ fishermen remain aboard in the interim between arriving in port and unloading IFQ harvests.

Delivery of IFQ Halibut Bycatch by Salmon Fishermen

Exceptions to two landing requirements at § 676.14 are proposed to encourage salmon fishermen with halibut IFQ to land incidental catches of halibut. A provision would be added at § 676.14(a) to relieve salmon trollers of the IFQ Program's 6–hour prior notice of landing requirement for the purpose of delivering small amounts of IFQ halibut bycatch concurrently with legal salmon landings. Salmon troll fishermen who possess sufficient halibut IFQ are required to keep halibut bycatch. Under current regulations, such fishermen are prohibited from unloading IFQ species along with salmon harvests unless they have given NMFS the 6–hour prior notice of landing required of all IFQ landings.

Salmon troll fishermen have requested some relief from the prior-notice reporting requirement to manage small amounts of halibut bycatch taken incidental to salmon harvests. No prior notice of landing is required for salmon landings, and the fishermen wishing to unload salmon but who had not provided sufficient prior notice cannot offload IFQ halibut bycatch at the same time.

Also, a provision would be added at § 676.14(b) to relieve salmon fishermen of the restriction that IFQ landings be made between the hours of 0600 and 1800, A.l.t., only. This 12–hour landing window and the 6–hour prior notice requirement are integral aspects of the IFQ Program, providing NMFS with means by which to ensure compliance with program regulations. Nevertheless, NMFS recognizes that these requirements may contribute to the illegal discard of IFQ halibut bycatch in the salmon fishery. Therefore, NMFS would exempt fishermen from the 6–hour prior notice requirement and the 12–hour landing window for the sole purpose of landing 500 lb (0.227 metric tons (mt)) or less of IFQ halibut bycatch concurrently with legal salmon landings. IFQ landing reports for such landings would still be required as currently prescribed. NMFS reasons that 500 lbs (0.227 mt) is large enough to cover halibut bycatches in the salmon troll fishery but not so large as to jeopardize the effective monitoring of IFQ landings.

Revision of Shipment Report Requirement

This action would revise § 676.14(c)(2) to modify IFQ Shipment Report requirements. The IFQ Program contains a number of enforcement checks designed to discourage and detect illegal transactions and marketing of IFQ harvests. By requiring that a Shipment Report accompany the transportation of IFQ species beyond the landing point, NMFS has the ability to detect the shipment or marketing of IFQ species illegally harvested or landed. Current regulations at § 676.14(c)(1) require a Shipment Report to be submitted to NMFS before a shipment commences. Regulations at § 676.14(c)(2) further require that a Shipment Report or a bill of lading containing the same information accompany a shipment of IFQ fish to all points of sale within Alaska and to the first point of sale outside of Alaska. After the first year of the IFQ Program's operation, NMFS believes the current requirement to be unnecessary to monitor and enforce the IFQ Program effectively. The proposed regulation would modify the current regulation to require that the Shipment Report be filled out prior to shipment and submitted to NMFS within 1 week after the date on which the shipment occurred. The proposed regulation also would require that the Shipment Report or a bill of lading accompany a shipment of IFQ species to the first destination beyond the landing point only. These changes would relieve a reporting requirement on shipments of IFQ fish by allowing Shipment Reports to be submitted up to 1 week after the shipment occurred. In addition, a registered buyer would be relieved of the requirement to produce multiple copies of the Shipment Report.

Revision of Transshipment Requirements

Section 676.14(e) would be revised to clarify requirements governing transshipment of IFQ species. The current regulation may be misinterpreted to mean that 24–hour prior notice of a transshipment is sufficient to ''authorize'' a transshipment. Authorization of transshipments allows NMFS the opportunity to monitor the movement of IFQ harvests and thus ensure compliance with program regulations. Unless such requests are approved by NMFS 24 hours in advance and apprise NMFS of the specific location where a transshipment would occur, the enforcement rationale underlying the requirement would be lost. The proposed amendment would specify that authorization from a clearing officer to transship IFQ species must itself be obtained by the prospective transshipper 24 hours before the proposed transshipment could occur. The amendment would further require that the request for authorization specify the date and location of the proposed transshipment.

Tagged Halibut and Sablefish

A new section would be added to part 676 to allow tagged halibut and sablefish to be landed without being debited to a person's IFQ halibut or IFQ sablefish quota. The International Pacific Halibut Commission (IPHC) has requested that IFQ regulations be amended to encourage the landing of tagged halibut in support of the IPHC's biological research on halibut. The recapture of tagged fish yields important scientific data on growth and migration. The IPHC is concerned that such data could be lost if the landing and reporting of tagged halibut would place a fisherman in violation of IFQ regulations. Accordingly, NMFS would add to IFQ regulations a provision that tagged halibut landed pursuant to § 301.18 of Pacific Halibut Fisheries Regulations not be counted against an IFQ holder's annual Pacific halibut quota. This provision would also apply to the capture of tagged sablefish to promote NMFS' fisheries research.

Elimination of Certified Mail Requirements

Sections 676.20(f)(3) and 676.21(c)(3) would be amended to eliminate certified mail requirements. The regulations implementing the IFQ Program require NMFS to send IFQ permits and notification of eligibility for quota share (QS) transfer by certified mail. The purpose of this requirement was to ensure timely receipt of such permits and notices. In practice, this requirement has been ineffective, since certified mail ensures timely delivery but not timely receipt; a substantial number of certified mailings remained uncollected in post office boxes, thus defeating the purpose of the requirements and providing no substantial benefit to participants in the program. To make the IFQ Program more cost-effective, NMFS would eliminate certified mail requirements but retain the right to use certified mailings on a discretionary basis.

Revisions to the Transfer Process

The transfer process for QS and IFQ would be revised to address two issues identified by NMFS and the fishing industry during the first year of fishing

under the IFQ Program. First, the provision for leasing QS at § 676.21(g) would be revised to allow leasing of IFQ under the same conditions. Under the current regulations, persons are prohibited from leasing more than 10 percent of their QS assigned to vessel categories B, C, or D. The Council intended to allow all persons holding QS assigned to vessel categories B, C, or D to lease up to 10 percent of that QS for a period of 3 years. This intent was partially thwarted by Amendment 31 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 35 to the Fishery Management Plan for Groundfish of the Gulf of Alaska, more commonly known as the Modified Block Provision to the IFQ Program. The Modified Block Provision prohibited the transfer of any QS block except as an undivided whole. Because leasing is considered a transfer of QS, this prevented a person from leasing blocked QS, unless the blocked QS to be leased was less than or equal to 10 percent of the QS held by that person for an IFQ species in an IFQ regulatory area. NMFS determined that allowing the lease of IFQ separate from QS would restore the full benefit of the Council's intent. This would allow a person to transfer up to 10 percent of their annual allocation of IFQ for an IFQ species in an IFQ regulatory area, whether the QS from which the IFQ was derived is blocked or unblocked, because only QS, and not IFQ, is blocked. Regulations at § 676.21(a), (f)(1), and (f)(2) also would be revised to reflect this change.

Second, new paragraphs § 676.21(i)(1) and (2) would be added to provide for the transfer of all QS and IFQ to the surviving spouse of a deceased individual holder of QS or IFQ by right of survivorship, unless contrary intent was expressed by the deceased holder of QS or IFQ in a probated will. This provision also would allow the surviving spouse, first, to transfer any current year's IFQ for the duration of the allocation year and, second, to transfer annual allocations of IFQ resulting from the total QS transferred by right of survivorship for 3 calendar years from the date of the death of the deceased holder of QS or IFQ. The transfer of QS and IFQ to the surviving spouse is proposed in response to requests to NMFS from the industry and is consistent with the Council's intent for the IFQ program as evidenced by the FMP sections cited above. This action also would benefit surviving spouses who were not initially issued QS or who are not IFQ crew members because without meeting those criteria the surviving spouse would not be eligible to harvest IFQ species. The new provision would allow a surviving spouse to transfer the total IFQ resulting from QS for a period of 3 years and thereby obtain pecuniary benefit from the QS for that period. NMFS determined that 3 years would provide the surviving spouse with adequate time to resolve permanently any issues that may arise due to receiving QS or IFQ by right of survivorship, including subsequent transfers. An Application for Transfer of QS or IFQ to the surviving spouse would be approved by the Director, Alaska Region, NMFS, when sufficient evidence, such as a death certificate, has been provided to verify the death of the holder of QS or IFQ. If the deceased provided for distribution of the QS or IFQ in a will that is probated, then the QS or IFQ would be transferred under the provisions for transfer as a result of court order or operation of law set out in § 676.21(e) and other transfer provisions of § 676.21.

Classification

This proposed rule would not require the collection of information not already approved by the Office of Management and Budget (OMB). The collection of information originally authorized for the IFQ Program included in the request for transshipment authorization information regarding the primary port location of the proposed transshipment. The requirement that transshipments take place in primary ports only was subsequently removed from regulations implementing the IFQ Program. However, the information required remains accounted for and approved by OMB (OMB control number 0648–0272) regarding IFQs for Pacific halibut and sablefish. This proposed action simply reinstates the requirement that requests for transshipment authorization include notice of the location of the proposed transshipment, although that location no longer need be a primary port. The estimated response time for the transshipment notice is 6 minutes. The proposed action also restates existing requirements for prior notices of landing, shipment reports, and applications for transfer of IFQs, all also approved under OMB control number 0648–0272. The respective estimated response times for these requirements are 12 minutes, 12 minutes, and 2 hours. No additional burden is required of the public for information not already projected for IFQ recordkeeping and reporting requirements. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The changes contained in this action would: (1) Relax restrictions and eliminate prohibitions that have proven unnecessary during the IFQ Program's first year of operation that would provide fishermen greater freedom to conduct operations in a manner more personally and economically convenient; (2) reduce NMFS' administrative costs by eliminating the certified mail requirements of the IFQ Program that would make administration of the IFQ Program more cost-effective, with no reduction of services and at no expense to IFQ Program participants or related businesses; (3) clarify a reporting requirement that may be ambiguous by simply reinstating the requirement that requests for authorization include notice of the location, although that location no longer need be a primary port; and (4) provide additional benefits to IFQ cardholders and their families by revising the transfer process to allow QS and IFQ to be used by spouses of deceased IFQ cardholders and allow IFQ to be transferred similarly to QS. This action comprises regulatory and administrative adjustments meant to improve the IFQ Program's benefits to fishermen and remove inhibitions on the ability of small businesses to compete within the IFQ Program. None of these changes would impose any additional cost or burden on small entities participating in or affected by the IFQ Program, nor would these changes require any additional effort or information from IFQ fishermen. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects

50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 676

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 17, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 676 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

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

2. In § 672.7, paragraph (k) is removed and reserved.

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

3. The authority citation for part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

4. In § 676.13, paragraph (f)(1) is revised to read as follows:

§ 676.13 Permits.

* * * * *

(f) *Inspection.* (1) A legible copy of any IFQ permit issued under this section must be carried on board the vessel used by the permitted person to harvest IFQ halibut or IFQ sablefish at all times that such fish are retained on board. Except as specified in § 676.22(d), an individual that is issued an IFQ card must remain aboard the vessel used to harvest IFQ halibut or IFQ sablefish with that card during all fishing operations until arrival at the point of landing and during all IFQ landings. The IFQ cardholder must present a copy of the IFQ permit and the original IFQ card for inspection on request of any authorized officer, clearing officer, or registered buyer purchasing IFQ species. Nothing in this paragraph would prevent an individual that is issued an IFQ card from being absent from the vessel used to harvest IFQ halibut or IFQ sablefish between the time the vessel arrives at the point of landing until the commencement of landing.

* * * * *

5. In § 676.14, paragraphs (a), (b)(1), (c), and (e) are revised to read as follows:

§ 676.14 Recordkeeping and reporting.

* * * * *

(a) *Prior notice of landing.* Except as provided in paragraph (a)(2) of this section, the operator of any vessel making an IFQ landing must notify the Alaska Region, NMFS, no later than 6 hours before landing IFQ halibut or IFQ sablefish, unless permission to commence an IFQ landing within 6 hours of notification is granted by a clearing officer.

(1) Prior notice of landings required by this section must be made to the toll-free telephone number specified on the IFQ permit between the hours of 0600 and 2400, Alaska local time. The notification must include the name and location of the registered buyer(s) to whom the IFQ halibut or IFQ sablefish will be landed, the vessel identification, the estimated weight of the IFQ halibut or IFQ sablefish that will be landed and the identification number(s) of the IFQ card(s) that will be used to land the IFQ halibut or IFQ sablefish, and the anticipated date and time of landing.

(2) The operator of a category ''B,'' ''C,'' or ''D'' vessel, as defined at § 676.20(a)(2), making an IFQ landing of IFQ halibut of 500 lb (0.227 mt) or less of weight determined pursuant to § 676.22(c)(3)(ii) and concurrent with a legal landing of salmon is exempt from the prior notice of landing required by this section.

(b) * * *

(1) IFQ landings may commence only between the hours of 0600 and 1800 Alaska local time unless:

(i) Permission to land at a different time is granted in advance by a clearing officer; or

(ii) IFQ halibut of 500 lb (0.227 mt) or less of weight determined pursuant to § 676.22(c)(3)(ii) is landed concurrently with a legal landing of salmon by a category ''B,'' ''C,'' or ''D'' vessel, as defined at § 676.20(a)(2).

* * * * *

(c) *Shipment Report.* All registered buyers, other than those conducting dockside sales, must report their shipments or transfers of IFQ halibut and IFQ sablefish. A Shipment Report must be submitted for any shipment or transfer of IFQ halibut or IFQ sablefish to any location other than the location of the IFQ landing. Shipment Reports must specify the species and product type being shipped, the number of shipping units, fish product weight, the name of the shipper and receiver, the name and address of the consignee and consignor, the mode of transportation, and the intended route.

(1) A registered buyer must complete a Shipment Report for each shipment or transfer from that registered buyer within 12 hours of its commencement and ensure that the Shipment Report is submitted to, and received by, the Alaska Region, NMFS, within 7 days of the date shipment or transfer commenced.

(2) A registered buyer must ensure that a copy of the Shipment Report or a bill of lading that contains the same information accompanies the shipment to its first destination.

(3) A registered buyer must submit a revised Shipment Report if any information on the original Shipment Report changes prior to the first destination of the shipment. A revised Shipment Report must be clearly labeled ''Revised Shipment Report,'' and must be received by the Alaska Region, NMFS, within 7 days of the change.

* * * * *

(e) *Transshipment.* No person may transship processed IFQ halibut or IFQ sablefish between vessels without authorization by a clearing officer. Authorization from a clearing officer must be obtained for each instance of transshipment at least 24 hours before the transshipment is intended to commence. Requests for authorization must specify the date and location of the transshipment.

* * * * *

6. Section 676.19 is added to Subpart B to read as follows:

§ 676.19 Tagged halibut and sablefish.

(a) Nothing contained in this part shall prohibit any person at any time from retaining and landing a Pacific halibut or sablefish that bears at the time of capture a research tag from any state, Federal, or international agency, provided that the halibut or sablefish is:

(1) A Pacific halibut landed pursuant to 50 CFR 301.18; or

(2) A sablefish landed in accordance with the Tagged Groundfish Research Program.

(b) Tagged halibut or sablefish landed pursuant to paragraphs (a)(1) and (a)(2) of this section shall not be calculated as part of an individual's IFQ harvest or be debited against an individual's halibut or sablefish IFQ.

7. In § 676.20, paragraph (f)(3) is revised to read as follows:

§ 676.20 Individual allocations.

* * * * *

(f) * * *

(3) The Regional Director shall issue to each QS holder, pursuant to § 676.13, an IFQ permit accompanied by a statement specifying the maximum amount of halibut and sablefish that may be harvested with fixed gear in a specified IFQ regulatory area and vessel category as of January 31 of that year. Such IFQ permits will be mailed to each QS holder at the address on record for that person after the beginning of each fishing year but prior to the start of the annual IFQ fishing season.

* * * * *

8. In § 676.21, paragraphs (a), (c)(3), (f)(1), (f)(2), and (g) are revised, and paragraph (i) is added to read as follows:

§ 676.21 Transfer of QS and IFQ.

* * * * *

(a) *Transfer procedure.* An Application for Transfer of QS/IFQ (Application for Transfer) must be approved by the Regional Director before a person may use IFQ to harvest IFQ halibut or IFQ sablefish, whether the IFQ was the result of a direct transfer or the result of a QS transfer. An Application for Transfer will not be approved until the Regional Director has reviewed and approved the transfer agreement signed by the parties to the transaction. The Regional Director shall provide an Application for Transfer form to any person on request. Persons who submit an Application for Transfer to the Regional Director for approval will receive notification of the Regional Director's decision to approve or disapprove the Application for Transfer, and, if applicable, the reason(s) for disapproval, by mail posted on the date of that decision, unless another communication mode is requested on the Application for Transfer. QS or IFQ accounts affected by an approved Application for Transfer will change on the date of approval. New QS certificates and IFQ permits, as necessary, will be sent with the notice of the Regional Director's decision.

* * * * *

(c) * * *

(3) Applicants will be notified by mail of the Regional Director's approval of an application for eligibility.

* * * * *

(f) *Transfer restrictions.* (1) Except as provided in paragraph (e) or paragraph (f)(2) of this section, only persons who are IFQ crew members or who were initially issued QS assigned to vessel categories B, C, or D, and meet the other requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it.

(2) Except as provided in paragraph (f)(3) of this section, only persons who are IFQ crew members, and meet the other requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it, in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish.

* * * * *

(g) *Transfer of IFQ.* (1) Pursuant to paragraph (a) of this section, an Application for Transfer must be approved by the Regional Director before a person may use any IFQ that results from a direct transfer to harvest halibut or sablefish. After approving the Application for Transfer, the Regional Director will change any IFQ accounts affected by the approved transfer and issue all necessary IFQ permits.

(2) (Applicable until January 2, 1998). A person may transfer no more than 10 percent of the total IFQ resulting from QS held by that person and assigned to vessel categories B, C, or D for any IFQ species in any IFQ regulatory area to one or more persons for any fishing year.

* * * * *

(i) *Transfer to the surviving spouse.* (1) On the death of an individual who holds QS or IFQ, the surviving spouse receives all QS and IFQ held by the decedent by right of survivorship unless a contrary intent was expressed by the decedent in a will which is probated. The Regional Director will approve an Application for Transfer to the surviving spouse when sufficient evidence has been provided to verify the death of the individual.

(2) The Regional Director will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the surviving spouse to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ in paragraph (g)(2) of this section.

[FR Doc. 96–9907 Filed 4–23–96; 8:45 am]
BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 80
Wednesday, April 24, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Extension of Currently Approved Information Collection for Wilderness Administration

AGENCY: Forest Service, USDA.

ACTION: Notice of intent; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to request an extension of a currently approved information collection, under OMB Number 0596–0019, for the agency's wilderness management program. Respondents are National Forest System visitors, who are asked to describe their intended use of the land and estimated duration of use. The data is collected through direct visitor contact by agency personnel during issuance of Visitor Permit Form FS–2300–30 and at unstaffed locations, such as trailheads, by visitors completing Visitor Registration Form FS–2300–32. The information is used by the agency to ensure that use of lands managed by the Forest Service is in the public interest and is compatible with the mission of the agency. Data gathered in this information collection is not available from other sources.

DATES: Comments must be received in writing on or before June 24, 1996.

ADDRESSES: All comments should be addressed to: Director, Recreation, Heritage & Wilderness Resources (2320), Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

FOR FURTHER INFORMATION CONTACT: Gerald Stokes, Recreation Heritage and Wilderness Resources Staff, (202) 205–0925.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

The following describes the information collection to be extended:

Title: Wilderness Administration.

OMB Number: 0596–0019.

Expiration Date of Approval: July 31, 1996.

Type of Request: Extension of a previously approved information collection.

Estimate of Burden: The information requirements for visitors during the application for a visitor permit or for registration to use National Forest System lands varies according to the intended use and expected duration of the use. Two forms have been established to collect the information. The estimated average for each specific form is as follows:

Form FS–2300–30—Visitor Permit: .10 hours.

Form FS–2300–32—Visitor Registration: .05 hour.

Type of Respondents: Individuals and groups requesting use of National Forest System lands.

Estimated Number of Respondents:

Form FS–2300–30: 75,000 respondents.

Form FS–2300–32: 210,000 respondents.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents:

Form FS–2300–30: 7,500 hours.

Form FS–2300–32: 10,500 hours.

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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; (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, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: April 18, 1996.

Sterling J. Wilcox,

Acting Deputy Chief, National Forest System.

[FR Doc. 96–10073 Filed 4–23–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Initiation of Process to Revoke Export Trade Certificate of Review No. 94–00005.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to William E. Elliott (d/b/a Export Exchange). Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to William E. Elliott (d/b/a Export Exchange).

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''the Act'') [15 U.S.C. 4011–21] authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III [''the Regulations''] are found at 15 CFR part 325. Pursuant to this authority, a certificate of review was issued on November 10, 1994 to William E. Elliott (d/b/a Export Exchange).

A certificate holder is required by law (Section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review [Sections 325.14 (a) and (b) of the Regulations]. Failure to submit a complete annual report may be the basis for revocation. [Sections 325.10(a) and 325.14(c) of the Regulations].

The Department of Commerce sent to William E. Elliott (d/b/a Export

Exchange) on October 31, 1995, a letter containing annual report questions with a reminder that its annual report was due on December 25, 1995. Additional reminders were sent on February 9, 1996, and on March 4, 1996. The Department has received no written response to any of these letters.

On April 18, 1996, and in accordance with Section 325.10 (c)[1] of the Regulations, a letter was sent by certified mail to notify William E. Elliott (d/b/a Export Exchange) that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because of the certificate holder's failure to file an annual report.

In accordance with Section 325.10(c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the Federal Register. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (Section 325.10(c)[2] of the Regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (Section 325.10(c)[3] of the Regulations).

The Department shall publish a notice in the Federal Register of the revocation or modification or a decision not to revoke or modify (Section 325.10(c)[4] of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the Federal Register (Sections 325.10(c)(4) and 325.11 of the Regulations).

Dated: April 18, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–10028 Filed 4–23–96; 8:45 am]

BILLING CODE 3510–DR–P

Antidumping Duties; Countervailing Duties

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

ACTION: Extension of deadline to file public comments on proposed antidumping and countervailing duty regulations and announcement of public hearing.

SUMMARY: The Department of Commerce (the Department) is extending the deadline to file public comments on the proposed antidumping and countervailing duties regulations containing changes resulting from the Uruguay Round Agreements Act (the URAA). The deadline for filing comments on the proposed regulations is now May 15, 1996. A public hearing will be held on June 7, 1996.

SUPPLEMENTAL INFORMATION: On February 27, 1996, the Department published proposed antidumping and countervailing duty regulations (61 FR 7308). We requested written comments from the public, to be submitted by April 29, 1996. We have now extended the deadline for filing written comments to May 15, 1996.

PROPOSED REGULATIONS: The proposed regulations are available on the Internet at the following address:

HTTP://WWW.ITA.DOC.GOV/IMPORT__ADMIN/RECORDS/

In addition, the proposed regulations are available to the public on 3.5″ diskettes, with specific instructions for accessing compressed data, at cost, and paper copies available for reading and photocopying in Room B–099 of the Central Records Unit. Any questions concerning file formatting, document conversion, access on Internet, or other file requirements should be addressed to Andrew Lee Beller, Director of Central Records, (202) 482–1248.

FORMAT AND NUMBER OF COPIES: To simplify the processing and distribution of the public comments pertaining to the Department's proposed regulations, parties are encouraged to submit documents in electronic form accompanied by an original and three paper copies. All documents filed in electronic form must be on DOS formatted 3.5″ diskettes, and must be prepared in either WordPerfect format or a format that the WordPerfect program can convert and import into WordPerfect. If possible, the Department would appreciate the documents being filed in either ASCII format or WordPerfect 5.1, and containing generic codes. The Department would also appreciate the use of descriptive file names.

HEARING: A public hearing on the proposed regulations will be held at 10:00 on June 7, 1996, in Room 4830 of the Herbert C. Hoover Building at Pennsylvania Avenue and 14th Street, N.W., Washington, D.C. In order to participate in the hearing, parties must submit a written request to the Department no later than May 17, 1996. Written requests should detail the topics parties wish to discuss at the hearing. The Department will accommodate as many requesting parties as time permits.

ADDRESSES: Address written comments and requests to participate in the public hearing to Susan G. Esserman, Assistant Secretary for Import Administration, Central Records Unit, Room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, D.C. 20230. Comments on the proposed regulations should be addressed: Attention: Proposed Regulations Comments. Each person submitting a comment should include his or her name, address, and give reasons for any recommendation. Requests to participate in the hearing should be addressed: Attention: Request to participate in hearing on proposed regulations. Each person submitting a request should include his or her name, address, and phone number.

FOR FURTHER INFORMATION CONTACT: Penelope Naas at (202) 482–3534.

Dated: April 18, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–10009 Filed 4–23–96; 8:45 am]

BILLING CODE 3510–DS–P

COMMISSION ON IMMIGRATION REFORM

Public Hearing in Houston, Texas

AGENCY: U.S. Commission on Immigration Reform.

ACTION: Announcement of Commission public hearing.

This notice announces a public hearing to be held by the U.S. Commission on Immigration Reform in Houston, Texas on May 2, 1996. The Commission, created by Section 141 of the Immigration Act of 1990, is

mandated to review the implementation and impact of U.S. immigration policy and report its findings to Congress. Interim reports, *U.S. Immigration Policy: Restoring Credibility, and U.S. Immigration Policy: Setting Priorities,* were issued on September 30, 1994 and August 25, 1995 respectively; the Commission's final report is due at the end of fiscal year 1997.

The public hearing participants will include the Commissioners, researchers, government officials, representatives of local organizations, and other experts. The public hearing will focus on the impact, adaption and integration of immigrants in the Houston community. Participants are asked to make recommendations to the Commission on how to improve the impacts and integration of immigrants and how any negative impacts may be mitigated.

Thursday, May 2, 1996

8:30 a.m.–12:00 p.m.—Public Hearing on the Effects of Immigration in the Houston Metropolitan Area HISD School Board Auditorium, Level 1 West, The Hattie Mae White Administrative Building, 3830 Richmond Avenue, Houston, TX.

FOR FURTHER INFORMATION CONTACT: Paul Donnelly (202) 776–8642.

Dated: April 18, 1996.

Susan Martin,

Executive Director.

[FR Doc. 96–10063 Filed 4–23–96; 8:45 am]

BILLING CODE 6820–97–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Manual for Courts-Martial

AGENCY: Joint Service Committee on Military Justice (JSC).

ACTION: Revised notice of proposed amendments.

SUMMARY: The Department of Defense is considering recommending changes to the Manual for Courts-Martial, United States (1995 Edition). On 4 April 1996, the 1996 draft annual review, as required by the Manual for Courts-Martial and DoD Directive 5500.17, ''Review of the Manual for Courts-Martial,'' January 23, 1985, was published in the Federal Register, 61 Fed. Reg. 15044–53 (1996). That publication inadvertently published some of the text out of order. This publication is intended to supplement that earlier publication and to extend the public comment period to 25 June 1996.

The full text of the effected sections follows:

R.C.M. 908(a) is amended to read as follows:

(a) *In general.* In a trial by a court-martial over which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal an order or ruling that terminates the proceedings with respect to a charge or specification, or excludes evidence that is substantial proof of a fact material in the proceedings, or directs the disclosure of classified information, or that imposes sanctions for nondisclosure of classified information. The United States may also appeal a refusal by the military judge to issue a protective order sought by the United States to prevent the disclosure of classified information or to enforce such an order that has previously been issued by the appropriate authority. However, the United States may not appeal an order or ruling that is, or amounts to, a finding of not guilty with respect to the charge or specification.

The analysis accompanying R.C.M. 908 is amended by inserting the following at the end thereof:

1996 Amendment: This change resulted from Congress' amendment to Article 621 in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996). It permits interlocutory appeal of rulings disclosing classified information.

R.C.M. 909 is amended to read as follows:

(a) *In general.* No person may be brought to trial by court-martial if that person is presently suffering from a mental disease or defect rendering him or her mentally incompetent to the extent that he or she is unable to understand the nature of the proceedings against that person or to conduct or cooperate intelligently in the defense of the case.

(b) *Presumption of capacity.* A person is presumed to have the capacity to stand trial unless the contrary is established.

(c) *Determination before referral.* If an inquiry pursuant to R.C.M. 706 conducted before referral concludes that an accused is suffering from a mental disease or defect that renders him or her mentally incompetent to stand trial, and the general court-martial convening authority concurs with that conclusion, that accused shall be committed by the general court-martial convening authority to the custody of the U.S. Attorney General. If the general court-martial convening authority does not concur, that authority may refer the charges to trial.

(d) *Determination after referral.* After referral, the military judge may conduct a hearing to determine the mental capacity of the accused. If an inquiry pursuant to R.C.M. 706 conducted after referral but before trial concludes that an accused is suffering from a mental disease or defect that renders him or her mentally incompetent to stand trial, the military judge shall conduct a hearing to determine the mental capacity of the accused. Any such hearing shall be conducted in accordance with paragraph (e) of this rule.

(e) *Incompetency determination hearing.*

(1) *Nature of issue.* The mental capacity of the accused is an interlocutory question of fact.

(2) *Standard.* Trial may proceed unless it is established by a preponderance of the evidence that the accused is presently suffering from a mental disease or defect rendering him or her mentally incompetent to the extent that he or she is unable to understand the nature of the proceedings against the accused or to conduct or cooperate intelligently in the defense of the case. In making this determination, the military judge is not bound by the rules of evidence except with respect to privileges.

(3) If the military judge finds the accused is incompetent to stand trial, the judge shall report this finding to the general court-martial convening authority, who shall commit the accused to the custody of the Attorney General.

(f) *Hospitalization of the accused.* An accused who is found incompetent to stand trial under this rule shall be hospitalized by the Attorney General as provided in section 4241(d) of title 18, United States Code. If notified that the accused has recovered to such an extent that he or she is able to understand the nature of the proceedings and to conduct or cooperate intelligently in the defense of the case, then the general court-martial convening authority shall promptly take custody of the accused. If, at the end of the period of hospitalization, the accused's mental condition has not so improved, action shall be taken in accordance with section 4246 of title 18.

(g) *Excludable delay.* All periods of commitment shall be excluded as provided by R.C.M. 707(c). The 120-day time period under R.C.M. 707 shall begin anew on the date the general court-martial convening authority takes custody of the accused at the end of any period of commitment.

The discussion following R.C.M. 909(f) is amended by adding the following:

Under section 4241(d) of title 18, the initial period of hospitalization for an incompetent accused shall not exceed four months. However, in determining whether there is a substantial probability the accused will attain the capacity to permit the trial to proceed in the foreseeable future, the accused may be hospitalized for an additional reasonable period of time.

This additional period of time ends either when the accused's mental condition is improved so that trial may proceed, or when the pending charges against the accused are dismissed. If charges are dismissed solely due to the accused's mental condition, the accused is subject to hospitalization as provided in section 4241 of title 18.

The analysis accompanying R.C.M. 909 is amended by inserting the following at the end thereof:

1996 Amendment: The rule was changed to provide for the hospitalization of an incompetent accused after the enactment of Article 76b, UCMJ, in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996).

ADDRESSES: Comments on the proposed changes should be sent to Maj. Paul Holden, Office of the Judge Advocate General, Criminal Law Division, 2200 Army Pentagon, Washington, D.C. 20310–2200.

DATES: Comments on the proposed changes must be received no later than 25 June 1996 for consideration by the Joint Service Committee on Military Justice.

FOR FURTHER INFORMATION CONTACT: LT J. Russell McFarlane, JAGC, UNSR, Executive Secretary, Joint Service Committee on Military Justice, Office of the Judge Advocate General, Criminal Law Division, Building 111, Washington Navy Yard, Washington, D.C. 20374–1111; (202) 433–5895.

Dated: April 18, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–9993 Filed 4–23–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Corps of Engineers

Available Surplus Real Property at the Seivers Sandberg U.S. Army Reserve Center (Camp Pedricktown), Located at Pedricktown, Salem County, New Jersey

AGENCY: U.S. Army Corps of Engineers, New York District.

ACTION: Correction notice.

SUMMARY: This document contains a correction to a previous notice that was published Friday, April 5, 1996, (FR Vol. 60, No. 67, pages 15225–15226). In the referenced notice in the **SUPPLEMENTARY INFORMATION** section, an incorrect acreage was stated. The correct acreage that has been surplused is 46 acres.

FOR FURTHER INFORMATION CONTACT: Randy Williams, Army Corps of Engineers, 26 Federal Plaza, Room 2007, New York, NY 10278–0090 (telephone 212–264–6122, fax 212–264–0230; or Mrs. Jean Johnson, Directorate of Public Works, ATTN: AFZT–EHP, Real Property Office, 5318 Delaware Avenue, Fort Dix, New Jersey 08640–5505 (telephone 609–562–3253)).

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–9989 Filed 4–23–96; 8:45 am]

BILLING CODE 3710–06–M

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Protective Monoclonal Antibody Against Botulinum Neurotoxin Serotype F

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of U.S. Patent Application SN 08/504,969, entitled ''Protective Monoclonal Antibody Against Botulinum Neurotoxin Serotype F,'' and filed July 20, 1995, for licensing. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, Fort Detrick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, 301–619–7807 or telefax 301–619–7714.

SUPPLEMENTARY INFORMATION: This invention is related to the production and use of novel neutralizing monoclonal antibodies against botulinum neurotoxin serotype F (BNT/F) which are completely protective in vivo against BNT/F, and hybridomas which produce monoclonal antibodies against BNT/F. The invention is directed to the antibodies, to processes of preparing the antibodies, to diagnostic, prophylactic, and therapeutic methods and compositions employing the antibodies, and to investigational, pharmaceutical, and other methods and compositions employing the antibodies.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–9990 Filed 4–23–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Group, 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 May 24, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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 Director of the

Information Resources Group publishes this 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 at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: April 18, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Even Start Family Literacy Program Women's Prison Project.

Frequency: One Time.

Affected Public: Business or other for-profit; Not-for-profit institutions, State, local or Tribal Gov't, SEAs and LEAs.

Annual Reporting and Recordkeeping Burden:

Responses: 100.

Burden Hours: 1,500.

Abstract: The Even Start Family Literacy Program Women's Prison Project is designed such that the grantee will operate a family literacy project in a prison that houses women and their preschool-aged children.

[FR Doc. 96–10042 Filed 4–23–96;8:45 am]

BILLING CODE 4000–01–P

[CFDA No.: 84.314A]

Even Start Statewide Family Literacy Initiative Grants; Notice Extending the Application Deadline Date for New Even Start Statewide Family Literacy Initiative Grant Awards With Fiscal Year (FY) 1995 Funds

SUMMARY: The Secretary extends the deadline date for the submission of applications for new Even Start Statewide Family Literacy Initiative grant awards with FY 1995 funds to May 31, 1996. A notice was published in the Federal Register on March 26, 1996 (61 FR 13358) specifying that the application deadline for these awards was May 10, 1996. In response to requests from the public for a longer period to prepare applications, the Department has decided to extend the application deadline.

FOR APPLICATIONS OR INFORMATION CONTACT: Patricia McKee, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, S.W. (4400, Portals), Washington, DC 20202–6132. Telephone (202) 260–0991. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 6362(c).

Dated: April 18, 1996.

Gerald N. Tirozzi,

Assistant Secretary, Elementary and Secondary Education.

[FR Doc. 96–10010 Filed 4–23–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CW–004]

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of General Electric Appliances From the DOE Clothes Washer Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice grants an Interim Waiver to General Electric Appliances (GEA) and publishes GEA's Petition for Waiver from the existing Department of Energy (DOE or Department) clothes washer test procedure regarding wash temperature selections and automatic water fill capability for its clothes washer model WZSE5310 (Monogram brand).

GEA seeks a waiver because its clothes washer model WZSE5310 has the following design features that differ from those covered by the existing DOE clothes washer test procedures: five wash temperatures (a cold, three warms and a hot) in a primary mode (factory preset), 34 wash temperatures in a secondary programming mode (i.e., a customizing feature), and a consumer selectable manual or automatic water fill capability. GEA seeks to test wash temperature selections by averaging the three warm wash temperatures (warm-hot/cold, warm/cold and warm-cold/cold) in the primary mode and then applying the existing test procedure Temperature Use Factors (TUFs) for a three temperature machine (hot/cold, warm/cold and cold/cold). In regard to consumer selectable water fill capability, GEA proposes to use the existing test procedure manual fill provision. DOE is soliciting comments and information regarding the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than May 24, 1996.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Case No. CW–004, Mail Stop EE–431, Room 1J–018, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, 20585–0121 (202) 586–7140.

FOR FURTHER INFORMATION CONTACT:

P. Marc LaFrance, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 586–8423

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103, (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, as amended (EPCA), 42 USC 6291 et seq., which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including clothes washers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at Title 10 CFR Part 430, Subpart B.

DOE amended the test procedure rules to provide for a waiver process by adding § 430.27 to Title 10, CFR Part 430. (45 FR 64108, September 26, 1980). Thereafter, DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver from such prescribed test procedures. (51 FR 42823, November 26, 1986).

The waiver process allows the Assistant Secretary to temporarily waive the test procedures for a particular basic

model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On October 9, 1995, GEA filed a Petition for Waiver and an Application for Interim Waiver regarding its clothes washer model WZSE5310. The design features that differ from those covered by the existing clothes washer test procedure are: Five wash temperatures (a cold, three warms and a hot) in a factory preset primary mode, 34 wash temperature selections in a secondary programming mode which may be substituted for the factory preset temperatures, and a consumer activated choice of a manual or automatic water fill capability.

GEA proposed testing either the higher of the factory preset temperature selection or the mean of the adjustable range of the secondary programming mode temperature selections. This results in GEA seeking to test the wash temperature selections by averaging the warm wash temperatures in the primary (factory preset) mode and then applying the Temperature Use Factors (TUFs) for a three temperature machine (hot/cold, warm/cold and cold/cold) found in the existing test procedure at Section 5.3 of Appendix J to Subpart B. In regard to consumer selectable water fill capability, GEA proposes to use the existing test procedure manual fill provision.

Discussion of Comments

Wash Temperature Selections

The Department received comments about the GEA Interim Waiver Application and Petition for Waiver request from Asko Inc. (ASKO), Maytag and Admiral Products (Maytag), Speed Queen Company (Speed Queen), Whirlpool Corporation (Whirlpool) and White Consolidated Industries, Inc. (White Consolidated).[1] All commenters opposed GEA's proposed method to test the higher of the factory preset or the mean of the secondary programming mode temperature selection range. All commenters believed that the hottest setting available in the secondary programming mode (126 °F) should be tested in lieu of the hottest setting available at the factory preset (120 °F) for hot.

Some commenters proposed various methods on how to test the GEA clothes washer. Maytag believed the hottest settings available in the secondary programming mode should be tested and the warm wash temperatures averaged. Speed Queen believed that the clothes washer should be tested in the factory preset mode and in the secondary programming mode (hottest settings available), and then new TUFs should be applied to the two modes. Whirlpool believed that the Association of Home Appliance Manufacturers (AHAM) proposed test procedure[2] should be directly applied to the secondary programming mode, thus the hottest setting available and coldest setting available would be tested, along with the testing and averaging of all warm wash (intermediate) temperatures. White Consolidated believed that the AHAM test procedure should not be applied, that the hottest hot, hottest cold and either hottest middle warm or hottest higher warm of the secondary programming mode should be tested (it was unclear to the Department which one was being recommended).

GEA provided a rebuttal comment that the current test procedure requires the testing of the ''hottest setting available'' and states that ''the only 'setting' on the new Monogram machine is the main temperature selection pads on the control panel. This use of the term 'setting' is its normal and conventional meaning.'' GEA believed that there is no basis to test in the secondary programming mode and that Australian survey data indicates that the secondary programming mode is used only six percent of the time. GEA continued to say that its original proposal is preferable, but if the AHAM test procedure were to be applied to the secondary programming mode, then it believes new TUFs should be allowed.

The Department believes that the ''hottest setting available'' refers to available on the clothes washer and not any particular mode of a clothes washer because the rule language (Section 3.2.2.2) clearly states ''For automatic clothes washers set the wash/rinse temperature selector to the hottest setting available (hot/warm).'' Based on the information and comments available, if the existing test procedure is applied to the GEA clothes washer, the Department believes that the hottest setting available on the clothes washer should be tested for the hot setting. Furthermore, the Department believes this philosophy should be extended to the warm and cold wash temperature settings because this is the industry's basic interpretation[3] of the test procedure.

Concerning GEA's two intermediate warm temperatures [one warm temperature which is equally hotter than the median warm (warm-hot/cold) and one which is equally colder than the median warm (warm-cold/cold)], the Department believes that these temperature selections do not have to be tested. The Department believes that consumers are just as likely to choose the hotter warm (warm-hot/cold) as they are to choose the cooler warm (warm-cold/cold). This position has been supported by White Consolidated. Furthermore, on November 24, 1992, the Department rejected a Petition for Waiver from Maytag which had a clothes washer with intermediate warm temperatures (half hot and half warm; and half warm and half cold) and indicated that it ''could be tested using the existing test procedure by neglecting the intermediate temperature settings.'' The Department also acknowledges that

[1] Comments are available upon request at the address provided at the beginning of today's notice.

[2] On March 23, 1995, DOE published a proposed rule to amend the clothes washer test procedure. (56 FR 15330). In response to the Department's Proposed Rule, AHAM proposed a new test procedure to become effective concurrently with the anticipated future clothes washer standards. The Department supports AHAM's effort in developing a new test procedure and will address issues regarding that test procedure under the appropriate rulemaking (Docket No. EE-RM–94–230). Although a number of comments reference the proposed AHAM test procedures, the Department does not believe that it can be used to establish testing procedures for issues covered by the existing test procedures. If the issues are not covered by the existing test procedure, then the AHAM proposed test procedure may have merit.

[3] Manufacturers have voluntarily made this interpretation for temperature selections other than hot. The Department is aware of at least one manufacturer who has tested the hottest of a similarly labeled temperature selection (i.e. auto cold/cold 70/80 °F was tested in lieu of cold/cold 60 °F).

this approach will be equivalent to averaging all three warm wash temperature selections, but it will reduce the test burden. Therefore, today's Interim Waiver being granted to GEA requires that the hottest setting available of the hot/cold (126 °F), warm/cold (101 °F) and cold/cold (66 °F) temperature selections be tested in the secondary programming mode. The Department requests comments about the test method provided to GEA in the Interim Waiver and recommendations for alternatives, if appropriate, considering today's publication.

Automatic Water Fill Capability

GEA did not request a waiver from the existing test procedure to test its automatic water fill capability feature. However, Asko, Maytag, Speed Queen and Whirlpool had concerns about this feature. Maytag believed that testing in the manual mode is acceptable, as long as all rinse cycles are cold because due to the clothes washer sensing capability, additional rinse water may be added. Asko, Speed Queen and Whirlpool believed that the automatic water fill capability should be tested primarily because they believe that GEA will market the energy saving potential of the automatic water fill capability. In addition, Asko indicated that the automatic water fill feature may use more energy than the manual fill mode. Speed Queen and Whirlpool believed that the AHAM proposed test procedure should be used for the testing.

GEA rebutted that the existing test procedure requires the minimum and maximum fill settings be tested and that its machine can be tested in the manual mode with the minimum and maximum settings and a waiver was not required.

The Department agrees with GEA that its clothes washer can be tested with the existing test procedure regarding water fill. However, a second requirement for a Waiver is whether a test procedure evaluates a basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Therefore, the issues regarding GEA's clothes washer raised by the commenters have merit. GEA has stated to the Department that when applying the existing test procedure test loads and minimum and maximum usage fill factors its clothes washer uses less energy when the automatic water fill mode (as preset from the factory) is used versus the manual mode. However, the ''sensitivity'' or relative fill amounts of the automatic water fill mode can be reprogrammed in the secondary programming mode, thus resulting in an increase in energy consumption above the manual mode result.

The Department believes that the GEA clothes washer should be tested to capture both the automatic water fill mode and the manual water fill mode since both options are available to the consumer. This can be achieved by testing and averaging the two. This is consistent with the Department's historical position when actual consumer usage habits have not been known.[4] However, the programmability of the automatic water fill capability presents some difficulties. First, the Department believes that the most energy intensive mode of the automatic fill capability should be tested because this option is available to the consumer through secondary programming. However, on the other hand, to only test the most energy intensive mode of automatic fill capability which is more energy intensive than the factory preset, does not appear to be entirely fair because the consumer may also choose to set the automatic water fill mode to a lower, or less energy intensive mode than the factory preset. Therefore, on an interim basis until additional comments and hopefully statistically significant data can be provided, the Department believes that averaging of the least energy intensive and most energy intensive modes for automatic water fill capability is the best method to use to determine the energy use in the automatic water fill mode. This result shall then be averaged with the test result from the primary manual water fill mode. The Department requests comments on this test method and submission of statistically significant consumer usage data, if available.

Test Loads/Usage Factors

With regard to activating the automatic water fill capability, Whirlpool stated that GEA should use the test loads specified in the AHAM proposed test procedure. The AHAM proposed test procedure specifies larger test loads which more accurately reflects actual consumer usage habits and requires additional testing for ''average'' size loads. The Department does not agree with Whirlpool because presently one manufacturer, Asko, has been granted a Waiver (59 FR 15719, April 4, 1994) for its clothes washers with automatic water fill capability that uses the existing test procedure test loads to activate the maximum and minimum fills and uses the existing test procedure usage fill factors. Imposing larger test loads on GEA and requiring additional testing would put GEA at a competitive disadvantage because its competitors are allowed to use the requirements of the existing test procedure. Therefore, the Interim Waiver granted to GEA today uses a 3 pound test load to activate the minimum fill test with the current 0.28 usage fill factor, and a 7 pound test load to activate the maximum fill test with the current 0.72 usage fill factor. In addition, the Department has used the AHAM proposed rule language, where warranted. For example, the term ''adaptive water fill control system'' was used in lieu of ''automatic water fill capability.''

Warm Rinses

Maytag and Speed Queen expressed concerns about the GEA machine possibly having warm rinses. Speed Queen indicated that although GEA stated that the normal cycle did not have a warm rinse, it was concerned about other cycles possibly having warm rinses. Speed Queen referenced the Department's rulemaking regarding normal cycle temperature selection lockouts (Energy Conservation Program for Consumer Products, Docket No. EE-RM–93–701) and indicated that if a warm rinse was available, then it should be handled similarly to that rulemaking. Maytag was concerned about possible additional hot water use for a warm rinse during an automatic water fill function. The Department has learned that GEA's clothes washer does have a warm rinse in the wool cycle. Presently, the test procedure does not allow for testing of temperature selections in non-normal cycles, so GEA is not required to test it. However, when the rulemaking for the normal cycle temperature selection lockout (Docket No. EE-RM–93–701) is finalized, it is likely that the requirements of that rule will require GEA and other manufacturers to test warm rinses in cycles other than the normal cycle.

Justification

(a) Economic Hardship

GEA stated that it currently did not have a Monogram brand product in its home laundry line. GEA indicated that delay of the introduction of its clothes washer would also impact the introduction of its Monogram dryer.

Asko, Whirlpool and White Consolidated all provided comments about the justification GEA provided to support its Application for Interim Waiver. In regard to economic hardship, they all basically provided comments that GEA did not demonstrate economic

[4] For example, the dishwasher test procedure uses a 50 percent usage factor for unheated dry option. (42 FR 15423, March 17, 1977).

hardship. GEA rebutted indicating that the requirements of 10 CFR, Part 430, § 430.27(g) state that an Interim Waiver be granted if the applicant will experience economic hardship, or if it appears likely that the waiver will be granted, or if the waiver is desirable for public policy reasons. GEA did not provide specific rebuttal relative to economic hardship.

The Department agrees with Asko, Whirlpool and White Consolidated that GEA did not demonstrate economic hardship. The failure to sell a particular clothes washer and/or clothes dryer for a corporation the size of GEA would most likely not result in economic hardship. However, if this were to be considered further, GEA would have to provide specific data to justify that failure to sell its clothes washer would demonstrate economic hardship.

(b) Likely Approval of the Petition for Waiver

GEA indicated that the Petition for Waiver was likely to be granted because the GEA proposed test procedure conforms, as much as possible, with the industry supported AHAM proposed test procedure. Asko disagreed with GEA's assertion that its petition conforms with the AHAM proposed test procedure. Asko believed that GEA should conduct field testing per the provisions of the proposed AHAM test procedure.

The Department believes that it is likely that the Petition for Waiver (with possible modification) will be granted to GEA because its clothes washer has features that cannot be tested per the existing test procedure. Furthermore, if the features of the GEA clothes washer were not tested, then the test results of the GEA clothes washer may be materially unrepresentative of its true energy consumption. The availability of 34 wash temperature selections is different than traditional clothes washers, although the basic technology is not novel; an acceptable test procedure can be developed for it. The Department has addressed the technical issues, i.e., wash temperature selections, automatic water fill capability, test loads, and warm rinse, raised by commenters in the Interim Waiver being granted to GEA today.

Also, the Department has previously granted a Waiver to another manufacturer (Asko, as indicated above) regarding automatic water fill capability. Thus, it is likely that the Petition for Waiver will be granted to GEA. Although the Department has concerns about the secondary programming mode for automatic water fill capability, the Department is requiring testing of the most and least energy intensive condition until data and/or additional comment is received.

With regard to field testing, presently no requirement exists. However, the Department would support that effort, if it resulted in the gathering of statistically significant usage data for automatic water fill capability and the use of the secondary programming mode. The Department does acknowledge that if, in the future, a Waiver is granted to GEA, it could be changed significantly from today's Interim Waiver based on public comment or statistically significant consumer usage data, if submitted.

(c) Public Policy

GEA indicated that its clothes washer was equipped with high spin speed, up to 1000 revolutions per minute (RPM), which results in significant energy savings in the dryer. GEA also indicated that its clothes washer has automatic water fill capability which is anticipated to save energy in a consumer's home.

Asko stated that the GEA product is not revolutionary. Asko also stated that GEA's claim in its Petition is inconsistent with the GEA position presented publicly to DOE. (DOE hearing on July 12, 1995, for Docket No. EE–RM–94–230). Asko's concern is that GEA argued to DOE that remaining moisture content (RMC) should have no bearing on energy use or energy credits. Whirlpool believed GEA failed to provide a basis that its clothes washer will save energy. Furthermore, Whirlpool believed that until such time the test procedure and standards address reduced RMC, it should not be considered for granting the Petition.

GEA provided rebuttal, and stated that although it ''argued that a clothes washer energy efficiency standard based on a mandatory RMC requirement is inappropriate, it has consistently supported the energy savings benefits of reduced RMC.'' (GEA rebuttal comment of November 9, 1995, page 4). GEA also indicated that its clothes washer will achieve RMC levels of less than 40 percent which would result in approximately $20/year savings versus a clothes washer with 62 percent RMC.

The Department believes that the GEA clothes washer offers technology that has the possibility of saving significant amounts of energy. The Administration is committed to promoting energy efficient technologies, such as, clothes washers with automatic water fill capability and high spin speed. The Department has estimated that a clothes washer with 40 percent RMC will save approximately $15/year for consumers (weighted between gas and electric dryers) or approximately 40 percent of the cost to run their dryers versus a clothes washer with 62 percent RMC.[5] Although RMC provisions are not reflected in the current test procedure,[6] the Department promotes energy efficiency improvements for consumer products. In addition, the GEA clothes washer is a vertical-axis clothes washer which has a RMC level below 40 percent. The Department is not aware of any vertical-axis clothes washer with that low level of RMC. With regard to automatic water fill capability, the laundry industry has submitted shipment weighted average data to the Department indicating that the automatic water fill feature would save approximately 11 percent of the energy consumed in a clothes washer.[7]

Whirlpool expressed a concern that the GEA clothes washer may not meet the minimum energy conservation standard.[8] GEA rebutted that if its clothes washer were tested per its submitted Application, then it would exceed the minimum energy conservation standard. GEA is required to certify with the Department that its clothes washer meets the standard before it distributes the machine in commerce.

Therefore, based on the likely approval of the Petition for Waiver and for public policy reasons, the Department grants GEA an Interim Waiver from the DOE test procedures for its clothes washer model WZSE5310. GEA shall be permitted to test its clothes washer on the basis of the test procedures specified in 10 CFR Part 430, Subpart B, Appendix J, with the following modifications:

(i) Add new sections, 1.19 through 1.21 in Appendix J to read as follows:

1.19 *''Adaptive water fill control system''* refers to a clothes washer water fill control system which is capable of automatically adjusting the water fill level based on the size or weight of the test load placed in the clothes container, without allowing or requiring consumer intervention and/or actions.

1.20 *''Manual water fill control system''* refers to a clothes washer water

[5] See the Department's preliminary Engineering Analysis, comment 40 on Docket No. EE–RM–94–403. Also, 62 percent RMC represents the current industry shipment weighted average for clothes washers.

[6] The Department has proposed this, see Docket No. EE–RM–94–230.

[7] See AHAM comment No. 38, Docket No. EE–RM–94–403.

[8] The Department has imposed minimum energy conservation standards for consumer products (see 10 CFR, Part 430, Section 430.32). The Department is also presently reviewing the clothes washers standards to determine if they need to be more stringent (see Docket No. EE–RM–94–403).

fill control system which requires the consumer to determine or select the water fill level.

1.21 ''Secondary programming mode'' means an auxiliary function used to adjust temperature, water level, rinse options or other characteristics of the machine. The user must not be able to access these adjustments from the normal operating mode of the machine, and access to the secondary mode must not be necessary to operate the machine.

(ii) Section 2.8 through 2.8.2.2 in Appendix J shall be deleted and replaced with the following:

2.8 Use of test loads.

2.8.1 Top-loader-vertical-axis clothes. The top-loader clothes washer shall be tested without a test load, except for clothes washers equipped with an adaptive water fill control system. Clothes washers equipped with an adaptive water fill control system shall use a test load per section 2.8.2.

2.8.2 Front-loader and top-loader-vertical-axis with an adaptive water fill control system, clothes washers.

2.8.2.1 Standard size clothes washer. When the maximum water fill level is being tested, the test load shall be seven pounds as described in section 2.7.1. When the minimum water fill level is being tested, the test load shall be three pounds as described in section 2.7.2.

2.8.2.2 Compact size clothes washer. When either the maximum or minimum water fill levels are being tested, the test load shall be as described in section 2.7.2.

(iii) Section 3.2 in Appendix J shall be deleted and replaced with the following:

3.2 Test cycle. Establish the test conditions set forth in 2 of this Appendix. For clothes washers with both an adaptive water fill control system and a manual water fill control system, test both the manual and adaptive modes. Additionally, for clothes washers equipped with more than one adaptive water fill control selection, including clothes washers with secondary programming modes, test the selection that will result in the maximum energy consumption and the selection that will result in the minimum energy consumption.

(iv) Section 3.2.2.2 in Appendix J shall be deleted and replaced with the following:

3.2.2.2 For automatic clothes washers, set the wash/rinse temperature selector to the hottest setting available (hot/warm), including a secondary programming mode.

(v) Section 3.2.2.6 in Appendix J shall be deleted and replaced with the following:

3.2.2.6 For automatic clothes washers repeat sections 3.2.2.3, 3.2.2.4, and 3.2.2.5 for each of the other wash/rinse temperature selections available that use hot water, including a secondary programming mode. For clothes washers with multiple warm wash temperature selections, test only the median warm wash setting at the hottest temperature available. For clothes washers that have a cold wash which uses hot water, test using the hottest temperature available.

(vi) Section 4.1 in Appendix J shall be deleted and replaced with the following:

4.1 Per-cycle temperature-weighted hot water consumption for maximum and minimum water fill levels. For the manual water fill and the adaptive water fill (the maximum energy consumption adaptive water fill and the minimum energy consumption adaptive water fill, if needed), calculate for the cycle under test the per-cycle temperature weighted hot water consumption for the maximum water fill level, V_{max}, and for the minimum water fill level, V_{min}, expressed in gallons per cycle and defined as:

$$\left(V_{max}\right)_{manual} = X_1 \sum_{i=1}^{n}\left[V_i \times TUF_i\right] + X_2\left[TUF_W \times Sh_H\right] \quad \text{for manual water fill}$$

$$\left(V_{max}\right)_{adaptive} = X_1 \sum_{i=1}^{n}\left[V_i \times TUF_i\right] + X_2\left[TUF_W \times Sh_H\right] \quad \text{for adaptive water fill}$$

where:

V_i=reported hot water consumption in gallons per cycle at maximum fill for each wash/rinse TUF combination setting, as provided in section 3.2.2.

TUF_i=applicable temperature use factor in section 5 or 6.

n=number of wash/rinse TUF combination setting available to the user for the clothes washer under test.

TUF_w=temperature use factor for warm wash setting.

For clothes washers equipped with the suds-saver feature:

X_1=frequency of use without the suds-saver feature=0.86.

X_2=frequency of use with the suds-saver feature=0.14.

Sh_H=fresh make-up water measured during suds-return cycle at maximum water fill level.

For clothes washers not equipped with the suds-saver feature:

X_1=1.0

X_2=0.0

and

$$\left(V_{min}\right)_{manual} = X_1 \sum_{j=1}^{n}\left[V_j \times TUF_j\right] + X_2\left[TUF_W \times Sh_L\right] \quad \text{for manual water fill}$$

$$\left(V_{min}\right)_{adaptive} = X_1 \sum_{j=1}^{n}\left[V_j \times TUF_j\right] + X_2\left[TUF_W \times Sh_L\right] \quad \text{for adaptive water fill}$$

where:

V_j=reported hot water consumption in gallons per cycle at minimum fill for each wash/rinse TUF combination setting, as provided in section 3.3.3.

TUF_j=applicable temperature use factor in section 5 or 6.

Sh_L=fresh hot make-up water measured during suds-return cycle at minimum water fill level.
n=as defined above.
TUF_w=as defined above.
X_1=as defined above.
X_2=as defined above.

For clothes washers that have more than one adaptive water fill control selection, the $(V_{max})_{adaptive}$ (s) and $(V_{min})_{adaptive}$ (s) calculated for the maximum and the minimum energy consumption tests shall be averaged respectively, to report a single $(V_{max})_{adaptive}$ and $(V_{min})_{adaptive}$ to be used in 4.2 for additional calculations.

(vii) Section 4.2 in Appendix J shall be deleted and replaced with the following:

4.2 Total per-cycle hot water energy consumption for maximum and minimum water fill levels. Calculate the total per-cycle hot water energy consumption for the maximum water fill level, E_{max}, and for the minimum water level, E_{min}, for both the manual and adaptive fills, expressed in kilowatt-hours per cycle, as follows:

$$E_{max} = 0.5 \times \left[\left[(V_{max})_{manual} \times T \times K \times MF \right] + \left[(V_{max})_{adaptive} \times T \times K \times MF \right] \right]$$

where,
MF=Multiplying factor to account for the absence of a test load=0.94 for top-loader clothes washers that are sensor filled, 1.0 for top loader clothes washers that are time-filled, 1.0 for all front-loader clothes washers, and 1.0 for adaptive fill tests.
T=Temperature rise=90°F.
K=Water specific heat in kilowatt-hours per gallon degree F=0.0024.
$(V_{max})_{manual}$, $(V_{max})_{adaptive}$=As defined in section 4.1.

$$E_{min} = 0.5 \times \left[\left[(V_{min})_{manual} \times T \times K \times MF \right] + \left[(V_{min})_{adaptive} \times T \times K \times MF \right] \right]$$

and
where,
MF=As defined above.
T=As defined above.
K=As defined above.
$(V_{min})_{manual}$, $(V_{min})_{adaptive}$=As defined in section 4.1.

(viii) Section 4.4 in Appendix J shall be deleted and replaced with the following:

4.4 Per-cycle machine electrical energy consumption. The values recorded in section 3.3.1 are the per-cycle machine electrical energy consumptions; $M_{E\ manual}$, for a manual water fill control system; $M_{E\ adaptive}$, for an adaptive water fill control system; expressed in kilowatt-hours per cycle. The following equation shall be used to calculate the per-cycle machine electrical energy consumption, M_E, expressed in kilowatt-hours per cycle:

$$M_E = 0.5 \times \left[M_{E_{manual}} + M_{E_{adaptive}} \right]$$

For clothes washers that have more than one adaptive water fill control selection, the $M_{E\ adaptive}$ (s) reported for the maximum and the minimum energy consumption tests shall be averaged to report a single $M_{E\ adaptive}$ for the above equation.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by GEA Appliances Inc. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days, or until the Department acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Pursuant to paragraph (b) of Title 10 CFR 430.27, DOE is hereby publishing the ''Petition for Waiver'' in its entirety. The Petition contains no confidential information. DOE would appreciate comments, data and other information regarding the Petition, discussed above.

Issued in Washington, DC April 4, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

October 9, 1995.

Assistant Secretary,
Conservation and Renewable Energy, United States Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585

RE: Application for Interim Waiver and Petition for Waiver, Appendix J, Subpart B CFR part 430, Test Method for Clothes Washers with no Applicable Temperature Usage Factor

Dear Assistant Secretary: This Application for Interim Waiver and Petition for Waiver is submitted pursuant to 10 CFR 430.27, which provides for a modification of the required test method because of design characteristics preventing testing or producing data unrepresentative of a covered product's true energy consumption characteristics.

GE Appliances (GEA) is sourcing its top of the line, Monogram Brand, washer from Fisher & Paykel Industries Limited, New Zealand. The model number is WZSE5310. This product has innovative design characteristics which prevent testing it in strict accordance to the existing Appendix J test method. These design characteristics are:

—Five temperature selections in the primary wash mode including hot, warm-hot, warm, warm-cold and cold wash—all with a cold rinse. This product does not have water heating capability and achieves the five temperatures by adjustment of the hot/cold mix ratio. A warm rinse option is not available in the normal cycle.
—A secondary programming mode which the consumer can access to adjust the factory preset temperatures of the five settings in the primary wash mode. In all, the consumer has a choice of 34 wash temperatures.

<-----(COLDER) SECONDARY PROGRAMMING MODE (HOTTER)--> ADJUSTMENT TEMPERATURES (F)

Wash temp. setting					Factory Pre-set (except cold setting)			
Hot	112	114	116	118	120	122	124	126
Warm-hot	97	99	101	103	105	107	109	111
Warm	87	89	91	93	95	97	99	101
Warm-cold	77	79	81	83	85	87	89	91
Cold:								
Cold water only*		54	56	58	60	62	64	66

*Factory Preset for COLD setting.

This request for waiver is submitted because (1) The combination of five pre-set temperature selections—all with a cold water rinse—are incompatible with any of the TUF tables in Section 4 of the regulations; and (2) the requirement of section 3.2.2.6 that we test all temperature selections that use hot water is unduly burdensome. Instead, we propose modified regulations that will allow for a conservative testing protocol appropriate to this product that is also in accordance with the negotiated AHAM proposed rule.

GEA proposes an Interim Waiver and Waiver to allow testing of the machine per Appendix J with the following modifications:

Add the following definition to the test procedure:

1.19 ''Secondary programming mode'' means an auxiliary function used to adjust temperature, water level, rinse options or other characteristics of the machine. The user must not be able to access these adjustments from the normal operating mode of the machine, and access to the secondary mode must not be necessary to operate the machine.

Change section 3.2.2.6 of the test procedure as follows:

3.2.2.6 For automatic clothes washers repeat 3.2.2.3, 3.2.2.4, and 3.2.2.5 for each of the other wash/rinse temperature selections available that use hot water except: 1) if wash temperature selections are uniformly distributed, by temperature, between ''hot wash'' and ''cold wash'', the reportable values to be used for the warm water wash setting shall be the arithmetic average of hot and cold selections measurements of 2) if wash temperature selections are non-uniformly distributed, by temperature, between ''hot wash'' and ''cold wash'', test all intermediate wash temperature selections and average the results to obtain the reportable warm wash values. For semi-automatic clothes washers. . .

For model WZSE5310 this would mean using Alternate II from the three temperature selection TUF table, section 5.3 of Appendix J Hot/Cold, Warm/Cold, Cold/Cold, and using the average of the three warm settings on the machine for Warm/Cold. This also conforms with the new test procedure proposed by AHAM section 3.5.1. (The warm setting is the default wash temperature for all cycles.)

Change section 3.5 of the test procedure as follows:

3.5.2.1 If the wash temperature offered in the normal operating mode of the machine can be further adjusted in a secondary programming mode, the higher of the factory preset temperature or the mean of the adjustable range shall be used for testing.

For model WZSE5310 this means using the factory preset temperatures for the Hot and Warm settings and 60F for the Cold setting for testing.

The table above shows the possible temperature settings for the machine (approximate bath water temperatures). To achieve the temperatures to the right and left of the factory preset temperatures on the table, the user must read the owners' guide to learn how to enter a secondary programming mode and make a special effort to enter this mode and change the temperatures. We feel strongly that this secondary programming mode will be used very infrequently because an Australia consumer survey of 202 users showed that only about 6% of those consumers ever entered this mode to adjust temperatures. There is no U.S. consumer data showing how many consumers will enter the secondary programming mode and the frequency that the consumers will adjust the temperatures. Lacking this data, it is logical to assume that if consumers make the effort to enter the secondary mode, it is equally or more likely that the consumer will adjust the temperature down, saving energy, as it is that the consumer will raise the temperature. This is especially true since there are 4 downward adjustments and only 3 upward adjustments possible. The owners' guide will also inform the consumer that adjusting the temperature downward will save energy. Thus, we believe that the most representative wash temperatures are the factory preset temperatures.

GEA requests immediate relief by grant of the proposed Interim Waiver, justified by the following reasons:

Economic Hardship—GEA currently has no Monogram brand product in its home laundry product line. Delay of introduction of the this product will not allow GE to complete its product line. Since a Monogram dryer will be introduced with this product, its introduction would also be delayed.

Likely Approval of Waiver—The Petition for Waiver is likely to be granted because the test procedure proposed conforms as much as possible with the new test procedure supported by AHAM. This new AHAM test procedure is likely to be adopted.

Public Policy Merits-GE's Monogram washers are designed to efficiently extract more water from wet clothes by a high speed spin cycle, up to 1000 RPM. Such water extraction is many times more energy efficient than drying the same amount of water. This innovation in clothes washer design does not affect the test method for clothes washers, but does result in increased total energy savings. GE's new washer is also factory preset to an auto water fill level. The machine senses the clothes load and uses only the amount of water necessary to clean the clothes. Because a manual High/Medium/Low water fill level is also available, we will test the machine using the manual water levels per the test procedure. However, the auto water fill feature is expected to show actual energy savings for the consumer.

Thank you for considering this petition.

Lee Bishop,

Senior Counsel Product Safety/Regulatory.

Jane Ransdell,

Energy Standards Engineer.

[FR Doc. 96–9950 Filed 4–23–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP96–320–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

April 18, 1996.

Take notice that on April 15, 1996, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia, 25325–1273, filed in Docket No. CP96–320–000 a request pursuant to Sections 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for approval to abandon in place approximately 0.7 mile of its 20-inch transmission line, Line KA, and five points of delivery to Mountaineer Gas Company (Mountaineer) for service to mainline customers, under the blanket certificate issued in Docket No. CP83–76–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia States that the facilities for which it seeks abandonment were

transferred to low pressure service in order to maintain service to five mainline tap customers in Docket No. CP95–240–000. Columbia indicates that the transfer was necessary due to the relocation of a pipeline corridor in deteriorating Line KA. It is indicated that the proposed abandonment will not result in any loss of service to any customer because they are currently being provided service by Wyoming Natural Gas, a local distribution company. It is further indicated that Mountaineer and the customers agree to the proposed abandonment.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205),a protest to the request. If no protest is filed within the time allowed therefore, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–10030 Filed 4–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–270–000]

Mid Continent Market Center, Inc., Complainant v. Panhandle Eastern Pipe Line Company, Respondent; Notice of Complaint

April 18, 1996.

Take notice that on March 21, 1996, Mid Continent Market Center, Inc. (Mid Continent), P.O. Box 889, 818 Kansas Avenue, Topeka, Kansas 66601, filed a complaint in Docket No. CP96–270–000, pursuant to Section 385.206 of the Commission's Rules of Practice and Procedure. Mid Continent charges Panhandle Eastern Pipe Line Company (Panhandle) with undue discrimination and anticompetitive behavior for its failure to timely agree to modify a delivery point and provide natural gas transportation service. The details of Mid Continent's allegations are more fully set forth in the complaint which is on file with the Commission and open to public inspection.

Mid Continent is a wholly owned subsidiary of Western Resources, Inc., a combination electric and gas utility with operations in Kansas and Oklahoma. Western Resources, Inc. was authorized by the Kansas Corporation Commission to transfer certain transmission, storage and gathering facilities to Mid Continent in June 1995. Mid Continent is interconnected with four interstate and four intrastate pipelines and provides firm and interruptible natural gas transportation service as well as short-term storage and balancing services. In Docket No. CP95–684–000, the Commission granted Mid Continent a Hinshaw exemption and a Part 284 Blanket Certificate to transport, sell, and assign gas in interstate commerce (72 FERC ¶ 62,274 (1995)).

Mid Continent alleges that Panhandle has exercised undue discrimination and anticompetitive behavior by delaying and/or refusing to modify interconnect facilities with a pipeline that Mid Continent has contracted to purchase from KN Interstate Gas Transmission Company. The proposed interconnects would be in the vicinity of Panhandle's Haven, Kansas compressor station in Reno County, Kansas. The interconnects would allow Mid Continent to deliver up to 100,000 MMBtu per day into Panhandle's market area on an interruptible basis. Mid Continent also says that gas delivered to Panhandle could move via released capacity or under firm contracts held on Panhandle by Mid Continent's customers.

Mid Continent asks the Commission to order Panhandle to cease its discriminatory and anticompetitive behavior and allow modification of the interconnects, at Mid Continent's expense. According to Mid Continent, Panhandle has built interconnections for other similarly situated interruptible shippers, Kansas Pipeline Partnership (KPP) and National Steel Corporation, but has rejected other like requests. One such rejected request, made jointly by Missouri Gas Energy (MGE) and KPP, is the subject of the pending complaint by MGE in Docket No. CP95–755–000.

Mid Continent urges the Commission to stop Panhandle from preferentially providing new interruptible interconnects to certain shippers while denying interconnects to competing systems such as Mid Continent. Mid Continent says that Panhandle is restraining competition and keeping its customers captive by denying those customers access to competitive options.

Mid Continent says that Panhandle's tariff requires only that a party seeking service reimburse Panhandle or cause Panhandle to be reimbursed for the costs associated with construction or modification of the receipt and delivery facilities to be used. Mid Continent says that it is committed to reimburse Panhandle for such costs.

Mid Continent also alleges Panhandle's actions violate the pro-competitive policies underlying antitrust laws, which the Commission is bound to apply. Mid Continent says that it needs expeditious action by the Commission so that it can construct its own related facilities in time for an opportunity to compete with Panhandle for service to Panhandle's customers as their current firm contracts expire this year. Absent relief, Mid Continent seeks a full evidentiary hearing on an expedited basis.

Any person desiring to be heard or to make protest with reference to this complaint should on or before May 3, 1996, file with the Federal Energy Regulatory Commission, Washington, DC 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). 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. Answers to the complaint shall be due on or before May 3, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96–10029 Filed 4–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–4–002]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 18, 1996.

Take notice that on April 16, 1996, Mid Louisiana Gas Company (Mid Louisiana), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Substitute Second Revised Sheet No. 131

Mid Louisiana states that the purpose of the filing of the Revised Tariff Sheets is to comply with the Commission's directive in order Accepting and Dismissing Tariff Sheets dated April 12, 1996, by including personnel names in the update to the listing of shared personnel and facilities.

Pursuant to Section 154.7(a)(7) of the Commission's Regulations, Mid Louisiana respectfully requests waiver

of Section 154.207, Notice requirements, as well as any other requirement of the Regulations in order to permit the tendered tariff sheets to become effective January 25, 1996, as submitted.

Mid Louisiana states that, in compliance with Section 154.208, paper copies of the Revised Tariff Pages and this filing are being served upon its jurisdictional customers and appropriate state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 254.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this compliance filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–10032 Filed 4–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–322–000]

Northern Natural Gas Company; Notice of Application

April 18, 1996.

Take notice that on April 15, 1996, Northern Natural Gas Company (Northern), 111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP96–322–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon and remove the Sterling Co. No. 1 compressor station in Sterling County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northern states that the Sterling Co. No. 1 compressor station, which consists of one 1,000 horsepower unit, is no longer being utilized due to changes in operating conditions which have eliminated the need for this station. Northern further states that the volumes produced upstream of this station are split connected and currently flow to other pipelines, therefore, Northern requests authorization to abandon the Sterling Co. No. 1 compressor station in its entirety with the exception of two 8-inch above-ground valves with appurtenances and an extended stem connected to the existing 8-inch below-ground block valve which will remain at the site.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 9, 1996, file with the Federal Energy Regulatory Commission, Washington, DC 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 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 permission and approval for the proposed 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 Northern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–10031 Filed 4–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–210–000]

Paiute Pipeline Company; Notice of Report of Interruptible Transportation Revenue Credit

April 18, 1996.

Take notice that on April 15, 1996, Paiute Pipeline Company (Paiute), tendered for filing its report of certain revenues which Paiute recently credited to each of its firm transportation (FT) shippers.

Paiute states that credited revenues relate to amounts collected by Paiute for interruptible transportation (IT) services rendered during the period from November 1, 1994 through October 31, 1995.

Paiute states that pursuant to its tariff, Paiute recently credited to each of its FT shipper revenues collected from IT services rendered during the period from November 1, 1994 through October 31, 1995. Paiute assert that during this period, it collected $547,601.51 from IT services. The annual amount of costs allocated to IT service in the settlement of Paiute's rate case in Docket No. RP93–6 was $318,001.

Paiute states that during the annual period beginning November 1, 1994, it collected IT revenues that exceeded the $318,001 ''threshold'' amount of revenues in August 1995. Paiute states that of the $229,600.51 of revenues collected above the threshold amount during the remainder of the annual period, Paiute retained 10%, or $22,960.06. Paiute further states that it credited to its FT shippers the remaining 90% of the revenues, $206,640.45, plus interest totalling $8,521.23, for a total revenue credit of $215,161.68. Paiute states that the revenue credits were provided to each of Paiute's FT shippers on their monthly invoices which were sent on or about March 15, 1996.

Paiute states that copies of the filing are being served upon all of Paitue's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 25, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–10034 Filed 4–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–197–010]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

April 18, 1996.

Take notice that on April 15, 1996, Transcontinental Gas Pipe Line Corporation (Transco), tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 which tariff sheets are enumerated in Appendix A attached to the filing. The referenced tariff sheets are proposed to be effective June 1, 1996.

Transco states that the purpose of the instant filing is to comply with the Commission's Order issued March 15, 1996, in Docket No. RP95–197–009. The March 15 Order, inter alia, directed Transco to file, within 30 days of such order, revised tariff provisions to its FT Rate Schedule and to the General Terms and Conditions of its Volume No. 1 Tariff to specifically incorporate the Commission's requirements regarding flexible secondary receipt points. In compliance with that directive, Transco is submitting for filing revised provisions to its Rate Schedules FT, FT–R, FTN, FTN–R, FT–G, and its General Terms and Conditions. The general nature of the revised tariff provisions is to provide shippers access to mainline secondary receipt points in zones in which they pay a reservation rate and to address the priority to be accorded such secondary receipt point transactions.

Transco states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–10033 Filed 4–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–211–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 18, 1996.

Take notice on April 15, 1996, Transcontinental Gas Pipe Line Corporation (Transco), tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 which tariff sheets are enumerated in Appendix A attached to the filing. The proposed effective date is June 1, 1996.

Transco states that the purpose of the instant filing is for the limited purpose of eliminating the requirement that a shipper schedule a separate transaction in order to utilize, on a secondary basis, flexible delivery points located upstream or downstream of such shipper's traditional delivery point(s).

Transco states that it is serving copies of the instant filing to customers, State Commissions and other interested parties.

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, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies for this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–10035 Filed 4–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–979–001, et al.]

Illinova Power Marketing, Inc. et al.; Electric Rate and Corporate Regulation Filings

April 17, 1996.

Take notice that the following filings have been made with the Commission:

1. Illinova Power Marketing, Inc.

Docket No. ER96–979–001

Take notice that on April 11, 1996, Illinova Power Marketing, Inc. tendered for filing revisions to its FERC Tariff No. 1 and its Code of Conduct, in compliance with the Commission's order issued on March 27, 1996 in this docket.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Southern Company Services, Inc.

Docket No. ER96–1254–000

Take notice that on April 3, 1996, Southern Company Services, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Western Resources, Inc.

Docket No. ER96–1467–000

Take notice that on April 11, 1996, Western Resources, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp

Docket No. ER96–1522–000

Take notice that on April 8, 1996, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, various Service Agreements with customers under, PacifiCorp's FERC Electric Tariff, Second Revised Volume No. 3, Service Schedule PPL–3.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: April 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Cinergy Services, Inc.

Docket No. ER96–1523–000

Take notice that on April 8, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated March 1, 1996 between Cinergy, CG&E, PSI and Global Petroleum Corp. (Global).

The Interchange Agreement provides for the following service between Cinergy and Global:

1. Exhibit A—Power Sales by Global
2. Exhibit B—Power Sales by Cinergy

Cinergy and Global have requested an effective date of April 15, 1996.

Copies of the filing were served on Global Petroleum Corp., the Massachusetts Department of Public Utilities, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: April 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Company

Docket No. ER96–1524–000

Take notice that on April 9, 1996, Portland General Electric Company (PGE), tendered for filing a Revision No. 2 to Exhibit C of the Exchange Agreement between the Bonneville Power Administration and PGE, Contract No. 14–03–37017, (Portland General Electric Rate Schedule FERC No. 108).

The BPA and PGE mutually agree to revise Exhibit C to the Exchange Agreement to delete the Grand Ronde Point of Delivery from Exhibit C.

Copies of the filing have been served on the Bonneville Power Administration.

Pursuant to 18 CFR 35.11, PGE respectfully requests that the Commission grant waiver of the notice requirements of 18 CFR 35.3 to allow Revision No. 2 to Exhibit C of the Exchange Agreement to become effective as of December 31, 1995.

Comment date: April 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

Docket No. ER96–1525–000

Take notice that on April 9, 1996, Entergy Services, Inc. (Entergy Services), on behalf of Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. (Entergy Operating Companies), tendered for filing a Transmission Service Agreement (TSA) between Energy Services, Inc. and Cajun Electric Power Cooperative, Inc. Entergy Services states that the TSA sets out the transmission arrangements under which the Energy Operating Companies provide non-firm transmission service under their Transmission Service Tariff.

Comment date: April 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power & Light Company

Docket No. ER96–1526–000

Take notice that on April 9, 1996, Florida Power & Light Company (FPL), tendered for filing proposed Service Agreements with the Florida Municipal Power Agency for transmission service under FPL's Transmission Tariff Nos. 2 and 3.

FPL requests that the proposed Service Agreements be permitted to become effective on April 1, 1996, or as soon thereafter as practicable.

FPL states that this filing is in accordance with Part 35 of the Commission's regulations.

Comment date: April 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

Docket No. ER96–1527–000

Take notice that on April 9, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated January 1, 1996 between Cinergy, CG&E, PSI and PanEnergy Power Services, Inc. (PanEnergy).

The Interchange Agreement provides for the following service between Cinergy and PanEnergy:

1. Exhibit A—Power Sales by PanEnergy
2. Exhibit B—Power Sales by Cinergy

Cinergy and PanEnergy have requested an effective date of April 15, 1996.

Copies of the filing were served on PanEnergy Power Services, Inc., The Texas Public Utility Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Public Service Company

Docket No. ER96–1528–000

Take notice that on April 9, 1996, Central Illinois Public Service Company (CIPS), submitted a Service Agreement, dated March 31, 1996, establishing Eastex Power Marketing, Inc. (Eastex) as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of March 31, 1996, for the service agreement with Eastex. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Eastex and the Illinois Commerce Commission.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Duke Power Company

Docket No. ER96–1529–000

Take notice that on March 28, 1996, Duke Power Company (Duke), tendered for filing Schedule MR Transaction Sheet under the Service Agreement for Market Rate (Schedule MR) Sales between Duke and PECO Energy Company.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Duke Power Company

Docket No. ER96–1530–000

Take notice that on March 28, 1996, Duke Power Company (Duke), tendered for filing a Schedule MR Transaction Sheet under the Service Agreement for Market Rate (Schedule MR) Sales between Duke and Koch Power Services, Inc.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Duke Power Company

Docket No. ER96–1531–000

Take notice that on March 29, 1996, Duke Power Company (Duke), tendered for filing a Schedule MR Transaction Sheet under the Service Agreement for Market Rate (Schedule MR) Sales between Duke and PECO Energy Company.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Duke Power Company

Docket No. ER96–1532–000

Take notice that on March 29, 1996, Duke Power Company (Duke), tendered for filing a Schedule MR Transaction Sheet under the Service Agreement for Market Rate (Schedule MR) Sales between Duke and Koch Power Services, Inc.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Duke Power Company

Docket No. ER96–1533–000

Take notice that on April 2, 1996, Duke Power Company (Duke), tendered for filing Schedule MR Transaction Sheets under the Service Agreement for Market Rate (Schedule MR) Sales between Duke and Koch Power Services, Inc.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Public Service Corporation

Docket No. ER96–1534–000

Take notice that on April 2, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Wisconsin Power & Light Company. The Agreement provides for transmission service under the Comparable Transmission Service Tariff, FERC Original Volume No. 7.

WPSC asks that the agreement become effective retroactively to March 22, 1996.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power))

Docket No. ER96–1535–000

Take notice that on April 9, 1996, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 9 to add four (4) new Customers to the Standard Generation Service Rate Schedule under which Allegheny Power offers standard generation and emergency service on an hourly, daily, weekly, monthly or yearly basis. Allegheny Power requests a waiver of notice requirements to make service available as of April 1, 1996, to InterCoast Power Marketing, New York State Electric & Gas Corporation, NorAm Energy Services, Inc., and PowerNet Corporation.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

Docket No. ER96–1536–000

Take notice that on April 9, 1996, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Service Agreements to add Commonwealth Edison Company, Engelhard Power Marketing, Inc., and LG&E Power Marketing Inc. as Customers under Allegheny Power's Point-to-Point Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission. Allegheny Power proposes to make service available to LG&E Power Marketing Inc. as of March 10, 1996, and to Commonwealth Edison Company and Engelhard Power Marketing, Inc. as of March 15, 1996.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: May 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Kansas City Power & Light Company

Docket No. ES96–22–000

Take notice that on April 15, 1996, Kansas City Power & Light Company filed an application, under § 204 of the Federal Power Act, seeking authorization to issue, from time to time, up to $300 million of short-term debt during the period July 1, 1996 through June 30, 1998, with final maturities not later than June 30, 1999.

Comment date: May 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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

Lois D. Cashell,

Secretary.

[FR Doc. 96–10053 Filed 4–23–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5462–7]

Agency Information Collection Activities Under OMB Review; NSPS Subpart H, Sulfuric Acid Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D).), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart H, Sulfuric Acid Plants, OMB number 2060–0041, EPA ICR No. 1057.07 expires 06/31/96. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 24, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1057.07 and OMB No. 2060–0041.

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart H, Sulfuric Acid Plants (OMB Control No. 2060–0041; EPA ICR No. 1057.07) expiring 06/31/96. This is a request for extension of a currently approved collection.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR Part 60.80, Subpart H, New Source Performance Standards for Sulfuric Acid Plants. This information notifies the Agency when a source becomes subject to the regulations, and informs the Agency that the source is in compliance when it begins operation. The Agency is informed of the sources' compliance status by semiannual reports. The calibration and maintenance requirements aid in a source remaining in compliance.

In the Administrator's judgment, SO_2 and acid mist emissions from the manufacture of sulfuric acid cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of SO_2 and acid mist requires not only the installation of properly designed equipment, but also

the proper operation and maintenance of that equipment. Sulfur dioxide and acid mist emissions from sulfuric acid plants result from the burning of sulfur or sulfur-bearing feedstocks to form SO_2, catalytic oxidation of SO_2 to SO_3, and absorption of SO_2 in a strong acid stream. These standards rely on the capture of SO_2 and acid mist by venting to a control device.

Owners or operators of Sulfuric Acid Plants subject to NSPS are required to make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of demonstration of the continuous emission monitoring system (CEMS); notification of the date of the initial performance test; and the results of the initial performance test. After the initial recordkeeping and reporting requirements, semiannual reports are required if there has been an exceedance of control device operating parameters.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notification, reports and records are required, in general, of all sources subject to NSPS.

Four new facilities are estimated to become subject to NSPS Subpart H annually.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 12/08/95 (60FR63039); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 595.80 hours per new facility, and 220 hours per existing facility. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transit or otherwise disclose the information.

Respondents/Affected Entities: 4 new facilities per year, 100 existing facilities.

Estimated Number of Respondents: 106.

Frequency of Response: 2.

Estimated Total Annual Hour Burden: 24,823 hours.

Estimated Total Annualized Cost Burden: $1,094,703.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1057.07 and OMB Control No. 2060–0041 in any correspondence.

Ms. Sandy Farmer,
U.S. Environmental Protection Agency,
OPPE Regulatory Information Division (2137),
401 M Street, SW,
Washington, DC 20460
and
Office of Information and Regulatory Affairs,
Office of Management and Budget,
Attention: Desk Officer for EPA
725 17th Street, NW,
Washington, DC 20503

Dated: April 18, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–10093 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5462–S]

Agency Information Collection Activities: Proposed Collection; Comment Request; Revision of the Information Collection Request for the National Pretreatment Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Information Collection Request for the National Pretreatment Program (40 CFR Part 403), OMB Control Number 2040–009, EPA ICR Number 0002.08 (expires October 31, 1999). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 24, 1996.

ADDRESSES: Interested persons may obtain a copy of this ICR without charge by contacting John Hopkins, Office of Wastewater Management (4203), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (202) 260–9527.

FOR FURTHER INFORMATION CONTACT: John Hopkins at (202) 260–9527; facsimile (202) 260–1460.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those subject to the regulations under 40 CFR Part 403, including private industries, State, local and Federal governments.

Title: Revision of the Information Collection Request for the National Pretreatment Program (40 CFR Part 403). OMB Control Number 2040–009. Expiration date October 31, 1999.

Abstract: This Information Collection Request (ICR) calculates the burden and costs associated with managing the National Pretreatment Program mandated by Sections 402(a) and (b) and 307(b) of the Clean Water Act. This ICR is a renewal of the Revision of the Information Collection Request for the National Pretreatment Program (OMB Control No. 2040–0009, ICR No. 0002.07).

Management of the pretreatment program is the responsibility of the Office of Wastewater Management (OWM) in the Office of Water (OW), Environmental Protection Agency (EPA). The Clean Water Act requires EPA to develop national pretreatment standards to control discharges from Industrial Users (IUs) into sewage systems, or Publicly Owned Treatment Works (POTWs). These standards limit the level of certain pollutants in IU wastewaters. EPA administers the pretreatment program through the National Pollutant Discharge Elimination System (NPDES) permit program. Under the NPDES permit program, EPA may approve State or individual POTW implementation of the pretreatment standards at their respective levels. OWM uses the data collected under the pretreatment program to monitor and enforce compliance with the regulations, as well as to authorize program administration at the State or local (POTW) level. The

data collected from IUs includes the mass, frequency, and content of their discharges, their schedules for installing pretreatment equipment, and actual or anticipated discharges of wastes that violate pretreatment standards, have the potential to cause problems at the POTW, or are considered hazardous under the Resource Conservation and Recovery Act (RCRA). States and POTWs applying for approval of pretreatment programs submit data concerning their legal, procedural, and administrative bases for establishing such programs. This information may include surveys of IUs, local limits for pollutant concentration, and schedules for completion of major project requirements. IUs and POTWs submit written reports. These data may then be entered into the NPDES databases by the approved State or EPA.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The information collection will involve an estimated 33,526 respondents at an annual cost of $91,332,981 to those respondents. The total annual cost to both respondents and government (excluding Federal government) is estimated at $95,859,696. The annual number of responses will be 203,518 or 6.07 responses per respondent. The time required for a response ranges from 15 minutes to 400 hours, with an average response time of 6.600 hours. An estimated 33,526 respondents are required to keep records at an average annual burden of 6.853 hours per record keeper. The pretreatment program will entail 229,741 hours of record keeping and 1,343,215 hours of reporting for a total of 1,572,957 burden hours. The pretreatment program will also entail 218,168 burden hours for municipal and State governments as users of the data.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 5, 1996.

Michael B. Cook,

Director, Office of Wastewater Management.

[FR Doc. 96–10090 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5463–2]

Technical Workshop on Monte Carlo Analysis in Exposure Assessment

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: Responding to broad Agency interest in Monte Carlo analysis, the EPA's Risk Assessment Forum is organizing a workshop on the use of this methodology in exposure assessments for human health risk assessment. A panel consisting of experts from industry and academia as well as practitioners from state and federal agencies will discuss general principles related to this application of Monte Carlo analysis. The workshop will be open to members of the public as observers. The plans for this workshop will be finalized only after the EPA's FY96 funding situation is clarified either through another continuing resolution or receipt of an appropriation.

DATES: The meeting will begin on Tuesday, May 14, 1996, at 8:00 a.m. and end on Thursday, May 16, at 1:00 p.m.

ADDRESSES: The meeting will be held at the EPA Region II Headquarters offices, 290 Broadway, New York, NY 10007. Eastern Research Group, Inc., an EPA contractor, is providing logistical support for the workshop. To attend the workshop as an observer, contact Eastern Research Group, Inc., Tel: (617) 674–7374 by May 7, 1996. Space is limited so please register early.

FOR FURTHER INFORMATION CONTACT:

For further information concerning the Monte Carlo analysis workshop, please contact Marina Olsen, U.S. EPA Region II, 290 Broadway, New York, NY 10007, Telephone (212) 637–4313 or Steven Knott, U.S. EPA Office of Research and Development (8103), 401 M St. SW., Washington, D.C. 20460, Telephone (202) 260–2231.

SUPPLEMENTARY INFORMATION: Monte Carlo analysis can be applied to improve risk characterization through analysis of variability and uncertainty as recommended by the National Academy of Science and other advisory bodies. Increasingly, EPA program and regional risk assessors must make decisions concerning the use of probabilistic techniques in exposure assessment. However, guidance for agency risk assessors on the use of techniques such as Monte Carlo analysis has been lacking. The May workshop is being organized in response to this need.

Many of the technical issues that arise during the application or review of Monte Carlo analyses occur during the following steps in the exposure assessment process: Selecting input data/distributions for model parameters; evaluating variability and uncertainty; presenting results. These issues will be the focal points for the discussion during the May workshop. A panel consisting of experts from industry and academia as well as experts and practitioners from EPA, state agencies, and other federal agencies will lead discussions on the application of Monte Carlo techniques. Case studies will be used to illustrate the issues and to provide possible solutions for technical problems. The goal of the Workshop is to develop recommendations to assist assessors in the preparation and/or evaluation of Monte Carlo analyses. The workshop will also serve as the foundation for later Agency guidance on the use of Monte Carlo analysis in exposure assessment.

Dated: April 17, 1996.

Joseph K. Alexander,

Deputy Assistant Administrator for Science, Office of Research and Development.

[FR Doc. 96–10103 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5462–6]

National Drinking Water Advisory Council; Notice of Open Meetings

Under Section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. § 300f *et seq.*), will be held on May 14, 1996, from 2:30 p.m. until 6:00 p.m. and on May 15, 1996, from 9:00 a.m. until 5:00 p.m. at the Concord Hilton Hotel, 1970 Diamond Boulevard, Concord, California 94520. The purpose of this meeting is two fold. The Council will receive a status on the development of the Proposed Groundwater Disinfection Rule and an update on the Redirection of the Drinking Water Program. The Agency will seek Council advice on consumer awareness as it relates to public drinking water supplies and conduct a general discussion on the implementation issues of a State Revolving Fund.

These meetings are open to the public. The Council encourages the hearing of outside statements and will allocate one hour on May 14, 1996, for this purpose. Oral statements will be limited to ten minutes, and it is preferred that only one person present the statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260–2285 before May 9, 1996.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Members of the public that would like to attend the meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. EPA, Office of Ground Water and Drinking Water (4601), 401 M Street SW., Washington, DC 20460. The telephone number is Area Code (202) 260–2285.

Dated: April 16, 1996.

William R. Diamond,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 96–10095 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5462–8]

Public Meeting of the Urban Wet Weather Flows Advisory Committee's Sanitary Sewer Overflows Advisory Subcommittee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) is convening a public meeting on May 9–10, 1996. This meeting is open to the public without need for advance registration. The Sanitary Sewer Overflows (SSO) Advisory Subcommittee will discuss: (1) identification of approaches for key issues; (2) the overall SSO strategy; (3) permit and compliance priorities; and, (4) the draft SSO framework.

DATES: The SSO meeting will be held on May 9–10, 1996. The May 9 meeting will begin promptly at 8:30 a.m. EST and end at approximately 5:00 p.m. On May 10, the meeting will begin at 8:30 a.m. and end at approximately 4:00 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn Historic-District, 625 First Street, Alexandria, Virginia. The Holiday Inn's telephone number is (703) 548–6300.

FOR FURTHER INFORMATION CONTACT: Charles Vanderlyn, Office of Wastewater Management, at (202) 260–7277.

Dated: April 16, 1996.

Michael B. Cook,

Director, Office of Wastewater Management, Designated Federal Official.

[FR Doc. 96–10091 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5462–9]

Public Meetings of the Urban Wet Weather Flows Advisory Committee, the Storm Water Phase II Advisory Subcommittee, and the Sanitary Sewer Overflows Advisory Subcommittee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) is convening separate public meetings beginning in June and extending through September 1996:

Urban Wet Weather Flows (UWWF) Advisory Committee

UWWF meetings will be held on August 1–2, 1996, at the Latham Hotel Georgetown, 3000 M Street, N.W., Washington, DC 20007, telephone (202) 726–5000; and September 26–27 at the Holiday Inn Hotel & Suites, 625 First Street, Alexandria, VA. 22314, telephone (703) 548–6300. The UWWF Advisory Committee will continue discussions of issues related to watersheds, storm water, and water quality standards in a wet weather context.

Storm Water Phase II Advisory Subcommittee

Storm Water Phase II Advisory Subcomittee meetings will be held on June 13–14, 1996, at the Holiday Inn Hotel & Suites, 625 First Street, Alexandria, VA. 22314, telephone (703) 548–6300; and August 5–6, 1996, at the Latham Hotel Georgetown, 3000 M Street, N.W., Washington, DC 20007, telephone (202) 726–5000. The Storm Water Phase II Advisory Subcommittee will continue discussions on issues concerning the framework for Phase II implementation.

Sanitary Sewer Overflows (SSO) Advisory Subcommittee

SSO Advisory Subcommittee meeting will be held on July 8–9, 1996, at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA. The Crystal Gateway Marriott's telephone is (703) 920–3230. The SSO Subcommittee will continue discussions on the overall SSO strategy, permit and compliance priorities, and the draft SSO framework.

These meetings are open to the public without need for advance registration.

DATES:

June 13–14: Storm Water Phase II meeting. On June 13, the Storm Water Phase II meeting will begin promptly at 9:00 a.m. EST and end at approximately 5:30 p.m. On June 14, the meeting will begin at 9:00 a.m. and end at approximately 4:30 p.m.

July 8–9, 1996: SSO meeting. On July 8, the SSO meeting will begin approximately 8:30 a.m. EST and run until approximately 5:00 p.m. On July 9, the meeting will run from approximately 8:30 a.m. until 4:00 p.m.

August 1–2: UWWF meeting. On August 1, the UWWF meeting will begin at 10:00 a.m. and end at approximately 5:30 p.m. EST. On August 2, the UWWF meeting will begin at 8:00 a.m. and run until 4:30 p.m. EST.

August 5–6: Storm Water Phase II. On August 5, the Storm Water Phase II meeting will begin promptly at 9:00 a.m. and end at 5:30 p.m. EST. On August 6, the Storm Water Phase II meeting will begin promptly at 9:00 a.m. and end at 4:00 p.m.

September 26–27: UWWF meeting. On September 26, the UWWF meeting

will begin at 10:00 a.m. and end at approximately 5:30 p.m. EST. On September 27, the UWWF meeting will begin at 8:00 a.m. and run until 4:30 p.m. EST.

ADDRESSES: Addresses for meeting sites are listed above in the Summary of this Notice.

FOR FURTHER INFORMATION: For the UWWF Advisory Committee meeting, contact William Hall, Urban Wet Weather Matrix Manager, Office of Wastewater Management, at (202) 260–1458, or Internet: hall.william@epamail.epa.gov. For the Phase II Subcommittee meeting, contact Sharie Centilla, Office of Wastewater Management, at (202) 260–6052 or Internet: centilla.sharie@epamail.epa.gov. For the SSO Subcommittee meeting, contact Charles Vanderlyn, Office of Wastewater Management, at (202) 260–7277 or Internet: vanderlyn.charles@epamail.epa.gov.

Dated: April 17, 1996.

Michael B. Cook,

Director, Office of Wastewater Management, Designated Federal Official.

[FR Doc. 96–10092 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–P

[OPP–180997; FRL 5353–8]

Fenoxycarb; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received and granted specific exemption requests from the Oregon and Washington Departments of Agriculture (hereafter referred to as the ''Applicants'') for use of the pesticide fenoxycarb (CAS 72490–01–8) to control pear psylla *Cacopsylla pyricola* on up to 18,900, and 26,000 acres of pears, respectively. The Applicants propose the first food use of an active ingredient; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment about granting the exemptions.

DATES: Comments must be received on or before May 9, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–180997,'' should be submitted by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180997]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Pat Cimino, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA (703) 308–8328; e-mail: cimino.pat@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a State agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue specific exemptions for the use of the insecticide fenoxycarb, to control pear psylla, on up to 18,900 acres of pears in Oregon, and 26,000 acres of pears in Washington. Information in accordance with 40 CFR part 166 was submitted as part of these requests.

The Applicants state that pear psylla is a major, chronic pest of pear orchards. If the pest is left uncontrolled, it will cause dramatic yield decreases, and eventual tree debilitation. Damage is caused by honeydew, secreted by the pear psylla nymphs while feeding, which causes deformed fruit and russeting, leading to major quality problems, downgrading of fruit, and increased cullage. In addition, the honeydew causes secondary problems with black sooty mold on the fruit. While feeding, the pear psylla also injects a toxin into the tree, which is debilitating and reduces vigor and, ultimately, yield. The Applicants state that the need for a method of reducing the overwintering adult population before they lay appreciable numbers of eggs in the spring is critical to pear psylla control. The only effective pre-bloom materials for some years were the synthetic pyrethroids, permethrin and fenvalerate. When widespread resistance to these materials became evident in the psylla population by 1987–88, the Applicants state that cyfluthrin was used under section 18 exemptions in 1988 and 1992, and was found to be efficacious.

In 1993, this use of fenoxycarb was first requested by Washington state, who claimed that resistance to cyfluthrin was being observed. However, the toxicology data available at that time for fenoxycarb did not support this use, and cyfluthrin was again used under section 18 during the 1993 season. In the 1994 and 1995 seasons, both Washington and Oregon requested exemptions for this use. Adequate toxicology data were available to support the use under section 18, and the exemptions were subsequently granted. The Applicants claim that most of the pear psylla populations are now resistant to cyfluthrin, and are therefore again requesting this use of fenoxycarb for control of pear psylla in pears.

The Applicants wishes to treat up to 18,900 acres of pear trees in Oregon, and up to 26,000 acres in Washington. This would translate to a possible total of 4,725 pounds of active ingredient (18,900 lbs. product) in Oregon, and up to 6,500 lbs. a.i. (26,000 lbs. product) in Washington. Up to two applications would be made per growing season, at a maximum rate of 2 oz. a.i. (8 oz. product) per acre, diluted in water to make a minimum spray volume of 50–400 gallons per acre. Application of fenoxycarb would not be allowed by air or through chemigation equipment. Fenoxycarb would be used pre-bloom and would not be allowed to be applied

during or after pear bloom, nor to open blossoms of weeds or cover crops. Negligible residues are expected because this is a prebloom-only use and available residue chemistry data indicate non-detectable residues will occur.

Normally this notice does not constitute a decision by EPA on the applications themselves. However, these specific exemptions were granted on March 1, 1996, because inclement weather and furloughs delayed the publication process and control measures were needed immediately in order to prevent significant economic loss. The regulations governing section 18 require publication of a notice of receipt in the Federal Register and solicit public comment on an application for a specific exemption proposing the first food use of an active ingredient. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–180997] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

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

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Oregon and Washington Departments of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: April 15, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–9975 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–181007; FRL 5362–3]

Pirimicarb; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Oregon, Idaho and Washington Departments of Agriculture (hereafter referred to as the ''Applicant'') to use the pesticide pirimicarb to treat up to 10,000 acres in Oregon, 30,000 acres in Idaho, and 15,000 acres in Washington of alfalfa to control aphids and lygus bugs. The Applicants propose the use of a new (unregistered) chemical. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 9, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–181007,'' should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181007]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Margarita Collantes, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8347; e-mail: collantes.margarita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue a specific exemption for the use of pirimicarb on alfalfa to control aphids and lygus bugs. Information in accordance with 40 CFR part 166 was submitted as part of this request.

In 1981, the registration for pirimicarb was cancelled. According to the Applicants, in 1986 alfalfa seed growers started using fluvalinate, a synthetic pyrethroid, to control aphids and small lygus bugs. However, by 1990 fluvalinate was replaced by bifenthrin. In 1992, growers were noticing increased evidence of resistance toward bifenthrin. During this same year, lambdacyhalothrin was registered for use on alfalfa seed; however, this pyrethroid has been reported to show little effectiveness against lygus bugs. Aphids are becoming an increasing problem due to resistance to various registered pyrethroid controls. The Applicants claim that since pirimicarb is now being supported by Zeneca Inc.,

its use could control lygus bugs and the aphid population below economic levels while retaining predators and parasites.

Under the proposed exemption, pirimicarb may be applied no more than three applications, not to exceed the rate of 3.0 ounces or 0.188 pound of active ingredient (6.0 ounces of product) per acre, applied in a minimum application spray volume of 5 gallons per acre by air or 10 gallons per acre by ground.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide), [40 CFR 166.24 (a)(1)]. Pirimicarb is an unregistered chemical. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–181007] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Oregon, Idaho and Washington Departments of Agricultures.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: April 15, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–9976 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–181009; FRL–5363–7]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to 11 States listed below. A crisis exemption was initiated by the California Department of Pesticide Regulation and a quarantine exemption has been granted to the United States Department of Agriculture. These exemptions, issued during the months of November 1995, and January through February 1996 are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, crisis, and quarantine exemptions for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, CS 1B1, 2800 Jefferson Davis Highway, Arlington, VA (703–308–8417); e-mail: group.ermus@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of norflurazon on bermudagrass to control annual weeds; February 1, 1996, to July 1, 1996. (Dave Deegan)

2. Arizona Department of Agriculture for the use of imidacloprid on cucurbits to control the whitefly; February 9, 1996, to February 9, 1997. (Andrea Beard)

3. Arizona Department of Agriculture for the use of cymoxanil on potatoes to control late blight; February 15, 1996, to April 15, 1996. (Libby Pemberton)

4. Arizona Department of Agriculture for the use of dimethomorph on potatoes to control late blight; February 15, 1996, to April 15, 1996. (Libby Pemberton)

5. California Department of Pesticide Regulation for the use of cymoxanil on potatoes to control late blight; February 15, 1996, to November 13, 1996. (Libby Pemberton)

6. California Department of Pesticide Regulation for the use of dimethomorph on potatoes to control late blight; February 15, 1996, to November 13, 1996. (Libby Pemberton)

7. California Department of Agriculture for the use of imidacloprid on cucurbits to control the whitefly; February 9, 1996, to February 9, 1997. (Andrea Beard)

8. California Department of Pesticide Regulation for the use of bifenthrin on broccoli, cabbage, cauliflower, rapini and lettuce to control the silverleaf whitefly; January 26, 1996, to April 30, 1996. A notice published in the Federal Register of February 7, 1996 (61 FR 4659). Without the the use of bifenthrin, the applicant claims that growers will suffer significant economic loss this growing season. (Margarita Collantes)

9. California Department of Pesticide Regulation for the use of cyromazine on onion seeds to control onion maggots; January 26, 1996, to May 31, 1996. (Dave Deegan)

10. Florida Department of Agriculture and Consumer Services for the use of cymoxanil on tomatoes to control late blight; February 6, 1996, to February 5, 1997. (Libby Pemberton)

11. Florida Department of Agriculture and Consumer Services for the use of mancozeb on mangoes to control anthracnose; February 14, 1996, to September 30, 1996. (Margarita Collantes)

12. Georgia Department of Agriculture for the use of norflurazon on bermudagrass to control annual weeds; February 1, 1996, to July 1, 1996. (Dave Deegan)

13. Louisiana Department of Agriculture and Forestry for the use of norflurazon on bermudagrass to control weeds; February 23, 1996, to April 15, 1996. (Dave Deegan)

14. Minnesota Department of Agriculture for the use of thiophanate-methyl on sunflower seeds to control sclerotinia head rot (white mold); February 21, 1996, to April 15, 1996. (Dave Deegan)

15. New Mexico Department of Agriculture for the use of propazine on

sorghum to control broadleaf weeds; January 31, 1996, to August 1, 1996. (Andrea Beard)

16. North Dakota Department of Agriculture for the use of thiophanate-methyl on sunflower seeds to control sclerotinia head rot (white mold); February 21, 1996, to April 15, 1996. (Dave Deegan)

17. Texas Department of Agriculture for the use of propazine on sorghum to control broadleaf weeds; January 31, 1996, to August 1, 1996. (Andrea Beard)

18. Texas Department of Agriculture for the use of bifenthrin on cucumbers, melons, and squash to control the sweet potato whitefly; January 26, 1996, to January 26, 1997. (Kerry Leifer)

19. Texas Department of Agriculture for the use of imidacloprid on melons, cucumbers, and squash to control the sweet potato whitefly; January 26, 1996, to January 26, 1997. (Kerry Leifer)

20. Texas Department of Agriculture for the use of norflurazon on bermudagrass to control annual weeds; February 1, 1996, to June 15, 1996. (Dave Deegan)

21. Virginia Department of Agriculture and Consumer Services for the use of metolachlor on spinach to control weeds; February 15, 1996, to November 15, 1996. (Margarita Collantes)

A crisis exemption was initiated by the California Department of Pesticide Regulation on November 20, 1995, for the use of bifenthrin on broccoli, cabbage, cauliflower, rapini, and lettuce to control the silverleaf whitefly. This program has ended. (Margarita Collantes)

EPA has granted a quarantine exemption to the United States Department of Agriculture for the use of naled baits on tree trunks, utility poles, and other inanimate objects to eradicate the oriental fruit fly, the melon fly, the peach fruit fly, and other dacus species; February 16, 1996, to February 16, 1999. (Andrea Beard)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: April 12, 1996.

Peter Caulkins,

Acting Director Registration Division, Office of Pesticide Programs.

[FR Doc. 96–10097 Filed 4–23–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–23, DA 96–381]

Revision of Filing Requirements: Annual ARMIS Reports

AGENCY: Common Carrier Bureau, Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this Order, the Common Carrier Bureau rescinded the proposal set forth in *Revision of Reporting Requirements,* that carriers file automated record management information systems (ARMIS) quality of service reports semi-annually rather than quarterly as specified in current requirements. Instead, it established that such report may be filed annually beginning on April 1, 1996, consistent with revisions to ARMIS reporting requirements prescribed by Section 402(b)(2)(B) of the Telecommunications Act of 1996. This action reduced further the frequency of filing of the ARMIS quality of service reports.

FOR FURTHER INFORMATION CONTACT: Nasir M. Khilji, (202) 418–0958.

SUPPLEMENTARY INFORMATION/SYNOPSIS OF ORDER: This is a synopsis of the Common Carrier Bureau's Order in CC Docket No. 96–23, adopted March 18, 1996, and released March 20, 1996. The full text of this Order is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 1400, Washington, D.C. 20037 (telephone (202) 857–3800).

I. Background

1. In *Revision of Reporting Requirements* (CC Docket No. 96–23, FCC 96–64, released February 27, 1996; 61 FR 10522, March 14, 1996), the Commission proposed to eliminate thirteen, and reduce the frequency of filing of six, information collection requirements applicable to communications common carriers. Among the latter, ARMIS quality of service reports are currently required to be submitted quarterly by local exchange carriers (LECs) for whom price cap regulation is mandatory and by LECs that have elected to be governed by price cap rules. In *Revision of Reporting Requirements,* the Commission proposed to reduce the frequency of filing of these reports from quarterly to semi-annual in light of increasingly active monitoring of service quality by states. In *Revision of Reporting Requirements,* the Commission delegated to the Chief, Common Carrier Bureau authority to determine whether to adopt any of the proposals set forth in that notice of proposed rulemaking and to issue any necessary reports or orders arising in that rulemaking.

2. The Telecommunications Act of 1996 became law on February 8, 1996. That Act provides, *inter alia,* that the Commission shall permit any communications common carrier to file ARMIS reports annually, to the extent such carrier is required to file such reports.

II. Discussion

3. Section 402(b)(2)(B) of the Telecommunications Act of 1996 supersedes both current ARMIS filing requirements and the Commission's proposal in *Revision of Reporting Requirements* to reduce the frequency of filing ARMIS quality of service reports from quarterly to semi-annual. Accordingly, the Common Carrier Bureau rescinded the proposal made in this proceeding concerning ARMIS quality of service reports. Instead, as described in paragraph 4 below, in accordance with the Telecommunications Act of 1996, it established that the quality of service report may be filed annually.

4. Carriers subject to ARMIS reporting requirements are currently required to file a quarterly quality of service report on March 31, 1996. The Common Carrier Bureau established that the annual ARMIS quality of service report be filed each year on April 1, beginning April 1, 1996. At a later date, the Bureau will provide further guidance on necessary changes to form and content of the ARMIS quality of service report, and other ARMIS reports, in light of the Telecommunications Act of 1996.

III. Ordering Clauses

5. Accordingly, it is ordered, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291 and section 402(b)(2)(B) of the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. § 159. Sec. 11), the proposal in *Revision of Reporting Requirements* that ARMIS quality of service reports be filed semi-annually is rescinded.

6. It is further ordered that, pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291 and Section 402(b)(2)(B) of the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56 (1996) (to

be codified at 47 U.S.C. 159, Sec. 11), carriers subject to ARMIS quality of service reporting requirements shall file the annual quality of service report on April 1 of each year, and that on April 1, 1996, such carriers shall file the quality of service report due under previous requirements on March 31, 1996.

7. It is further ordered, that a copy of this *Order* shall be sent to each carrier subject to ARMIS quality of service reporting requirements.

Federal Communications Commission.

Regina M. Keeney,

Chief, Common Carrier Bureau.

[FR Doc. 96–9485 Filed 4–23–96; 8:45 am]

BILLING CODE 6712–01–P

Sunshine Act Meeting

FCC to Hold Open Commission Meeting Thursday, April 25, 1996

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, April 25, 1996, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Item No.	Bureau	Subject
1	Office of General Counsel.	Title: Implementation of Section 34(a)(1) of the Public Utility Holding Company Act of 1935, as amended by the Telecommunications Act of 1996. SUMMARY: The Commission will consider proposed procedural rules for ''exempt telecommunications company status'' applications as required by Section 103 of the Telecommunications Act of 1996.
2	Office of Engineering and Technology.	Title: Amendment of the Commission's Rules to Provide for Unlicensed NII/SUPERNet Operations in the 5 GHz Frequency Range (RM–8648 & RM–8653). SUMMARY: The Commission will consider providing spectrum in the 5.15–5.35 GHz and 5.725–5.875 GHz bands for unlicensed NII/SUPERNet devices.
3	Compliance and Information.	Title: Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Ships (CI Docket No. 95–55). Summary: The Commission will consider action concerning the use of the private sector to inspect large cargo and small passenger ships subject to the Communications Act.
4	COMPLIANCE AND INFORMATION TITLE:	Amendment of Part 80 of the Commission's Rules regarding the Inspection of Great Lakes Agreement Ships (CI Docket No. 95–54).. Summary: The Commission will consider action concerning the use of the private sector to inspect ships subject to the Great Lakes Agreement..
5	Wireless Tele-Communications.	Title: Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation (ET Docket No. 95–157, RM–8643). Summary: The Commission will consider action concerning the relocation of microwave facilities operating in the 1850 to 1990 MHz (''2 GHz'') band.

Additional information concerning this meeting may be obtained from Audrey Spivack or Maureen Peratino Office of Public Affairs, telephone number (202) 418–0500.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor,

International Transcription Services, Inc. at (202) 857–3800. Audio and video tapes of this meeting can be purchased from Telspan International at (301) 731–5355.

William F. Caton,

Acting Secretary.

[FR Doc. 96–10170 Filed 4–22–96; 10:43 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 8, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. William and Elsie Giron, Belen, New Mexico; to acquire an additional 2.15 percent, for a total of 11.7 percent of the voting shares of The Bank of Belen, Belen, New Mexico.

Board of Governors of the Federal Reserve System, April 18, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–10040 Filed 4–23–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Hubco, Inc., Mahwah, New Jersey; to acquire 100 percent of the voting shares of Lafayette American Bank and Trust Company, Bridgeport, Connecticut.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Horizon Bancorp Employee Stock Ownership Plan, Michigan City, Indiana; to acquire an additional 4.75 percent, for a total of 37.15 percent of the voting shares of Horizon Bancorp, Michigan City, Indiana, and thereby indirectly acquire share of First Citizens Bank, NA, Michigan City, Indiana.

In connection with this application, Horizon Bancorp also has applied to engage *de novo* in the making and servicing of loans in order to extend a loan to the Horizon Bancorp Employee Stock Ownership Plan, Michigan City, Indiana, pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in Michigan City, Indiana.

Board of Governors of the Federal Reserve System, April 18, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–10041 Filed 4–23–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 8, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. The Bank of Nova Scotia, Toronto, Ontario, Canada; to engage *de novo* through its subsidiary, Scotia Capital Markets (USA), Inc., New York, New York, in acting as a broker or agent with respect to swap and swap-derivative transactions and instruments; and acting as an advisor to institutional customers regarding financial strategies involving such swap and swap-related transactions and instruments, pursuant to The Sumitomo Bank, Limited, 75 Fed. Res. Bull. 582(1989). These activities will be conducted worldwide.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee; to acquire Franklin Financial Group, Inc., Morristown, Tennessee, and thereby indirectly acquire Franklin Federal Savings Bank, Morristown, Tennessee, and thereby engage in owning, controlling, and operating a savings bank, pursuant to § 225.25(b)(9) of the Board's Regulation Y; Colonial Loan Association, Morristown, Tennessee, and thereby engage in consumer finance lending activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y; Franklin Insurance Group, Inc., Morristown, Tennessee, and thereby engage in the sale, as agent, of insurance directly related to extensions of credit by Franklin Federal Savings Bank which assures the repayment of debt upon the death, disability or involuntary unemployment of the debtor, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y, and in extensions of consumer finance credit by Colonial Loan Association which assures the repayment of debt upon the loss or damage to collateral, pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 18, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–10039 Filed 4–23–96; 8:45 am]

BILLING CODE 6210–01–F

Sunshine Act Meeting

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, April 29, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: CLOSED.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 19, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–10166 Filed 4–22–96; 10:05 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities.'' This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the Federal Register.

The Secretary of the Treasury has certified a rate of 13⅝% for the quarter ended March 31, 1996. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: April 18, 1996.

George Strader,

Deputy Assistant Secretary, Finance.

[FR Doc. 96–10085 Filed 4–23–96; 8:45 am]

BILLING CODE 4150–04–M

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Infectious Diseases: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates: 10:30 a.m.–5:30 p.m., May 9, 1996. 8:30 a.m.–3 p.m., May 10, 1996.

Place: CDC, Auditorium B, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters to be Discussed: The agenda will focus on:

1. NCID Update.
2. Minority and Women's Health.
3. National Foundation for the Centers for Disease Control and Prevention.
4. NCID Fellowship Programs.
5. Emerging Infectious Disease Progress/ Plans.
6. Work Group Sessions: Emerging Infectious Disease FY 1997.
   a. Surveillance and Response.
   b. Research.
   c. Prevention and Control.
   d. Infrastructure.
7. Work Group Reports.
8. Strengthening NCID Pathology Capacity.
9. Review of Laboratory Programs in Division of Bacterial and Mycotic Diseases and Hospital Infections Program.
10. Special Pathogens Branch, Division of Viral and Rickettsial Diseases, Peer Review.

Other agenda items include announcements/introductions; follow-up on actions recommended by the Board (December 1995); and consideration of future directions, goals, and recommendations.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, M/S C–20, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0078.

Dated: April 17, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–10045 Filed 4–23–96; 8:45 am]

BILLING CODE 4163–18–M

Vessel Sanitation Program; Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting

Name: Current Status of the Vessel Sanitation Program (VSP) and Experience to Date with Program Operations—Public Meeting between CDC and the cruise ship industry, private sanitation consultants, and other interested parties.

Time and Date: 9 a.m.–1 p.m., June 3, 1996.

Place: Doubletree Grand Hotel, Biscayne Bay Miami, 1717 North Bayshore Drive, Miami, Florida 33132, telephone 305/372–0313, fax 305/372–9455.

Status: Open to the public for participation, comment, and observation, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: During the past 9 years, as part of the revised VSP, CDC has conducted a series of public meetings with members of the cruise ship industry, private sanitation consultants, and other interested parties.

This meeting is a continuation of that series of public meetings to discuss current status of the VSP and experience to date with program operations.

Matters to be Discussed: Agenda items will include the finalization of CDC's ''Interim Shipbuilding Construction Specifications for Passenger Vessels Destined to Call on U.S. Ports,'' the finalization of ''Interim Recommendations to Minimize Transmission of Legionnaires' Disease from Whirlpool Spas on Cruise Ships,'' revising the current VSP Operations Manual, status of development of a VSP Hazard Analysis Critical Control Point training seminar and future plans for program direction.

For a period of 15 days following the meeting, through June 18, 1996, the official record of the meeting will remain open so that additional material or comments may be submitted to be made part of the record of the meeting.

Contact Person for More Information: Thomas E. O'Toole, Deputy Chief, Special Programs Group, NCEH, CDC, 4770 Buford Highway, NE, M/S F29, Atlanta, Georgia 30341–3724, telephone 770/488–7070.

Dated: April 17, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–10044 Filed 4–23–96; 8:45 am]

BILLING CODE 4163–18–M

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KD, The Regional Offices of the Administration for Children and Families (61 FR 3937), as last amended, February 2, 1996. This restructure proposes to change its ten-region organizational structure into a five-region ''hub'' structure as follows: the Northeast Regional Hub (includes Regions 1, 2 and 3), the Southeast Regional Hub (Region 4), the Midwest Regional Hub (includes Regions 5 and 7), the West-Central Regional Hub (includes Regions 6 and 8), and the Pacific-West Regional Hub (includes Regions 9 and 10). Regions 2, 4, 5, 6 and 9 are Hub sites (largest regional offices) and are headed by a Regional Hub Director. The Director assumes the traditional duties of the Regional Administrator but, in addition, takes on important responsibilities encompassing the entire Hub and impacting on the national level as well. Regions 1, 3, 7, 8 and 10 are headed by a Regional Administrator. This Notice is to reflect the changes for the five regional office hub sites.

Chapter KD is amended as follows:

I. Delete KD.00 Mission in its entirety and replace with the following:

KD.00 Mission. The Regional Offices of the Administration for Children and Families (ACF) operate in a five regional Hub structure - the Northeast, Southeast, Midwest, West-Central and Pacific-West. The five Hub sites are located in the five ACF Regional Offices with the largest caseloads and that serve the nation's largest population centers (New York, Atlanta, Chicago, Dallas, and San Francisco). Each of the remaining five regions is part of a Hub (Boston, Philadelphia, Kansas City, Denver and Seattle). All Regional Offices represent ACF to state, county, city or town and tribal governments, grantees, and public and private local organizations in the administration of programs in the region which assist vulnerable and dependent children and families achieve independence, stability, and self-reliance. These programs include: Aid to Families with Dependent Children (AFDC), Head Start, Child Support Enforcement (CSE), Job Opportunities and Basic Skills Training (JOBS), Foster Care, Child Welfare, and Adoption Assistance, Child Care, Runaway and Homeless Youth, Developmental Disabilities and Repatriation.

The ACF regional offices oversee the programmatic and financial management and coordination of the ACF programs in the region and provide guidance and assistance to the various entities responsible for administering these programs. They monitor the programs to ensure compliance with applicable laws and regulations, and adherence to program and fiscal policies and procedures. They contribute to the development of ACF national policy based on program knowledge and services in the region. The ACF regional offices review and approve state and tribal plans and, if warranted, take action to disapprove or recommend disapproval as appropriate. They issue grant awards directly for certain programs, and make recommendations to approve and/or disapprove grant awards for other programs. They advise the Assistant Secretary for Children and Families of problems and issues that may have significant regional or national impact. The ACF regional offices act as liaison with the entities responsible for administering the programs, other federal agencies, and public and private local organizations serving children and families. They develop plans to meet ACF goals and objectives and DHHS and agency initiatives. They participate in regional activities to inform the public about ACF programs in coordination with the ACF Office of Public Affairs and the Office of the Secretary at the regional level. The ACF regional offices work with states and counties to assist with the achievement of automated systems. They participate in special reviews relating to children and families.

II. Sections, ''KD2.10; KD5.10; and KD6.10 Organizations'' are amended as follows:

Replace ''Office of the Regional Administrator'' with ''Office of the Regional Hub Director.'' For Regions 4 and 9, KD.10 Organizations, replace ''Office of the Regional Administrator'' with ''Office of the Regional Hub Director.''

III. Under Sections KD2.20 Functions; KD5.20 Functions; and KD6.20

Functions, delete Paragraph A. Replace the sections with the following:

KD2.20 Functions. A. The Office of the Regional Hub Director is headed by a Director, who reports to the Assistant Secretary for Children and Families through the Director, Office of Regional Operations and State Systems. The Office is responsible for the Administration for Children and Families' key national goals and priorities. It represents ACF's regional interests, concerns, and relationships within the Department and among other Federal agencies and focuses on State agency culture change, more effective partnerships, and improved customer service. The Office provides executive leadership and direction to state, county, city, territorial and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. It ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs. The Office takes action to approve state plans and submits its recommendations to the Assistant Secretary for Children and Families concerning state plan disapproval. The Office contributes to the development of national policy based on regional perspectives for all ACF programs. It oversees ACF operations and the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. It represents ACF at the regional level in executive communications within ACF, with the HHS Regional Director, other HHS operating divisions, other federal agencies, and public or private local organizations representing children and families.

Within the Office of the Regional Hub Director, an administrative staff assists the Regional Hub Director. The staff directs the development of regional work plans related to the overall ACF strategic plan; tracks, monitors and reports on regional progress in the attainment of ACF national goals and objectives; and manages special and sensitive projects. It serves as the focal point for public affairs and contacts with the media, public awareness activities, information dissemination and education campaigns in accordance with the ACF Office of Public Affairs and in conjunction with the HHS Regional Director; and assists the Regional Hub Director in the management of cross-cutting initiatives and activities among the regional components.

KD5.20 Functions. A. The Office of the Regional Hub Director is headed by a Director, who reports to the Assistant Secretary for Children and Families through the Director, Office of Regional Operations and State Systems. The Office is responsible for the Administration for Children and Families' key national goals and priorities. It represents ACF's regional interests, concerns, and relationships within the Department and among other Federal agencies and focuses on State agency culture change, more effective partnerships, and improved customer service. The Office provides executive leadership and direction to state, county, city, and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. It ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs.

The Office takes action to approve state plans and submits its recommendations to the Assistant Secretary for Children and Families concerning state plan disapproval. The Office contributes to the development of national policy based on regional perspectives on all ACF programs. It oversees ACF operations and the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. It represents ACF at the regional level in executive communications within ACF, with the HHS Regional Director, other HHS operating divisions, other federal agencies, and public or private local organizations representing children and families.

Within the Office of the Regional Hub Director, an administrative staff assists the Regional Hub Director. The staff directs the development of regional work plans related to the overall ACF strategic plan; tracks, monitors and reports on regional progress in the attainment of ACF national goals and objectives; and manages special and sensitive projects. It serves as the focal point for public affairs and contacts with the media, public awareness activities, information dissemination and education campaigns in accordance with the ACF Office of Public Affairs and in conjunction with the HHS Regional Director; and assists the Regional Hub Director in the management of cross-cutting initiatives and activities among the regional components.

The Office provides day-to-day support for regional administrative functions, oversees the management and coordination of automated systems in the region, and provides data management support to all Regional Office components. Administrative functions include budget planning and execution, facility management, employee relations, and human resources development. Data management responsibilities include the development of automated systems application to support and enhance program, fiscal, and administrative operation, and the compilation and analysis of data on demographic and service trends that assist in monitoring and oversight responsibilities. The Office is responsible for the effective and efficient management of internal ACF automation process and for oversight of state systems projects for ACF programs. In coordination with other Regional Office components, it monitors state systems projects and is the focal point for technical assistance to states and grantees on the development and enhancement of automated systems.

KD6.20 Functions. A. The Office of the Regional Hub Director is headed by a Director, who reports to the Assistant Secretary for Children and Families through the Director, Office of Regional Operations and State Systems. The Office is responsible for the Administration for Children and Families' key national goals and priorities. It represents ACF's regional interests, concerns, and relationships within the Department and among other Federal agencies and focuses on State agency culture change, more effective partnerships, and improved customer service. The Office provides executive leadership and directives to state, county, city, territorial and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. It ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs. The Office takes action to approve state plans and submits recommendations to the Assistant Secretary for Children and Families

concerning state plan disapproval. The Office contributes to the development of national policy based on regional perspectives on all ACF programs. It oversees ACF operations, the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are met and departmental and agency initiatives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. The Office represents ACF at the regional level in executive communications within ACF, with the HHS Regional Director, other HHS operating divisions, other federal agencies, and public or private local organizations representing children and families.

Within the Office of the Regional Hub Director, the Program Coordination and Planning Unit (PCPU), headed by the Executive Officer and consisting of administrative staff, assists the Regional Hub Director in providing day-to-day support for regional administrative functions, including budget, internal systems, employee relations and human resource development activities. The PCPU develops and implements the regional planning process. Tracking, monitoring and reporting on regional progress in the attainment of ACF national goals and objectives are carried out. The PCPU coordinates public awareness activities, information dissemination and education campaigns in accordance with the ACF Office of Public Affairs and in conjunction with the HHS Regional Director. The unit also assists the Regional Hub Director in management of cross-cutting initiatives and activities among the regional components, and ensures effective and efficient management of internal automation processes.

For Regions 4 and 9, delete paragraph A and replace with the following:

KD.20 Functions. A. The Office of the Regional Hub Director is headed by a Director, who reports to the Assistant Secretary for Children and Families through the Director, Office of Regional Operations and State Systems. The Office is responsible for the Administration for Children and Families' key national goals and priorities. It represents ACF's regional interests, concerns, and relationships within the Department and among other Federal agencies and focuses on State agency culture change, more effective partnerships, and improved customer service. It provides executive leadership and direction to state, county, city, territorial and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. The Office ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs. The Office takes action to approve state plans and submits recommendations to the Assistant Secretary for Children and Families concerning state plan disapproval. The Office contributes to the development of national policy based on regional perspectives on all ACF programs. It oversees ACF operations, the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are met and departmental and agency initiatives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. It represents ACF at the regional level in executive communications within ACF, with the HHS Regional Director, other HHS operating divisions, other federal agencies, and public or private local organizations representing children and families.

Within the Office of the Regional Hub Director, an administrative staff assists the Regional Hub Director in providing day-to-day support for regional administrative functions, including budget, internal systems, employee relations, and human resource development activities. The Staff develops and implements the regional planning process. It tracks, monitors and reports on regional progress in the attainment of ACF national goals and objectives. The Staff coordinates public awareness activities, information dissemination and education campaigns in accordance with the ACF Office of Public Affairs and in conjunction with the HHS Regional Director. It assists the Regional Hub Director in management of cross-cutting initiatives and activities among the regional components, and ensures effective and efficient management of internal automation processes.

IV. Within Chapter KD, replace the term ''Regional Administrator'' with ''Regional Hub Director'' in Regions 2, 4, 5, 6 and 9.

Dated: April 17, 1996.

Mary Jo Bane,

Assistant Secretary for Children and Families.

[FR Doc. 96–10008 Filed 4–23–96; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 96N–0015]

Personal Blood Storage of Memphis, Inc.; Opportunity for Hearing on a Proposal to Revoke U.S. License No. 1131

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for a hearing on a proposal to revoke the establishment license (U.S. License No. 1131) and the product licenses issued to Personal Blood Storage of Memphis, Inc., for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Platelets. The proposed revocation is based on the establishment's discontinuing of manufacturing of products to the extent that a meaningful inspection or evaluation cannot be made.

DATES: The firm may submit a written request for a hearing to the Dockets Management Branch by May 24, 1996, and any data and information justifying a hearing by June 24, 1996. Other interested persons may submit written comments on the proposed revocation by June 24, 1996.

ADDRESSES: Submit written requests for a hearing, any data and information justifying a hearing, and any comments on the proposed revocation to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gloria J. Hicks, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is initiating proceedings to revoke the establishment license (U.S. License No. 1131) and product licenses issued to Personal Blood Storage of Memphis, Inc., formerly located at 5182 East Raines Rd., Memphis, TN 38118, for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Platelets. Proceedings to revoke the licenses are being initiated because an inspection of the facility by FDA revealed that the firm was no longer in operation.

On May 23, 1995, an FDA investigator attempted to conduct an inspection of Personal Blood Storage of Memphis, Inc., and found that the facility was vacant. Communication with the person listed as the responsible head indicated that all of the firm's employees were

dismissed on March 3, 1995. During a June 1, 1995, telephone conversation with FDA staff at the Center for Biologics Evaluation and Research (CBER), one of the owners of the firm stated that the firm ceased operations in December 1994. FDA explained that it could move to revoke the license if the firm remained inoperative. FDA requested a written response within 30 days regarding whether the owners intended to reopen the establishment. As of July 24, 1995, none of the owners had contacted FDA regarding the firm's intentions. In addition, messages left by FDA staff on one owner's telephone answering machine were not answered. An FDA investigator, from the Nashville District Office, was permitted to visit the unoccupied facility by the property owner on August 3, 1995. The investigator documented that the office space and two walk-in freezers were empty and that there was no electrical or water service at the facility. The U.S. Postal Service supplied FDA with the firm's forwarding address, and FDA sent a certified letter, dated September 8, 1995, to the firm's responsible head. The certified letter stated that, under 21 CFR 601.5(b), a license may be revoked if the Commissioner finds that after reasonable efforts authorized FDA employees have been unable to gain access to an establishment for the purposes of conducting an inspection, or that the manufacturing of a product has been discontinued to an extent that a meaningful inspection cannot be made. The letter also stated that following repeated attempts to conduct an inspection, FDA had determined that a meaningful inspection could not be made. The letter provided the firm's responsible head notice of FDA's intent to revoke U.S. License No. 1131 and announced FDA's intent to offer an opportunity for a hearing. The responsible head responded by telephone on September 12, 1995, and said that she was no longer employed by Personal Blood Storage of Memphis, Inc. She also sent a copy of a March 3, 1995, letter to CBER in which she had stated that she was no longer the Technical Director or responsible head for Personal Blood Storage of Memphis, Inc. A copy of FDA's letter of intent to revoke U.S. License No. 1131 was also sent to one owner's address in Texas and was returned by the U.S. Postal Service as unclaimed.

Because FDA made reasonable efforts to notify the firm of the proposed revocation and no response was received from the firm, FDA is proceeding pursuant to 21 CFR 12.21(b) and publishing this notice of an opportunity for a hearing on a proposal to revoke the licenses of the above establishment.

FDA has placed copies of the documents relevant to the proposed license revocation on file with the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this notice. These documents include the following: (1) Record of teleconference dated June 1, 1995; (2) letter to FDA from responsible head dated March 3, 1995; (3) Summary of Findings dated August 3, 1995, (Endorsement-Form FDA 481); (4) FDA certified letter to responsible head dated September 8, 1995; (5) copy of information returned from the U.S. Postal Service showing that the copy of FDA certified letter of September 8, 1995, sent to one owner's Texas address, was unclaimed; and (6) record of teleconference dated September 12, 1995. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Personal Blood Storage of Memphis, Inc., may submit a written request for a hearing to the Dockets Management Branch by May 24, 1996, and any data and information justifying a hearing must be submitted by June 24, 1996. Other interested persons may submit comments on the proposed revocation by June 24, 1996. The failure of the licensee to file a timely written request for a hearing constitutes an election by the licensee not to avail itself of the opportunity for a hearing concerning the proposed license revocation.

FDA procedures and requirements governing a notice of opportunity for a hearing, notice of appearance and request for a hearing, grant or denial of a hearing, and submission of data and information to justify a hearing on a proposed revocation of a license are contained in 21 CFR parts 12 and 601. A request for a hearing may not rest upon mere allegations or denials but must set forth a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses submitted in support of the request for a hearing that there is no genuine and substantial issue of fact for resolution at a hearing, or if a request for a hearing is not made within the requested time, or in the required format or with the required analyses, the Commissioner of Food and Drugs will deny the hearing request, making available the findings and conclusions that justify the denial.

Two copies of any submissions are to be provided to FDA, except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. The public availability of information in submissions is governed by 21 CFR 10.20(j)(2)(i). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 351 the Public Health Service Act (42 U.S.C. 262) and sections 201, 501, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 355, and 371), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of CBER (21 CFR 5.67).

Dated: April 12, 1996.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 96–10025 Filed 4–23–96; 8:45 am]

BILLING CODE 4160–01–F

Food and Drug Administration

Grassroots Regulatory Partnership Meeting; Southeast Region, Atlanta District Office; Turkey/Broiler Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) (Office of External Affairs, Office of Regulatory Affairs, Office of the Southeast Region, and Center for Veterinary Medicine) is announcing a free public meeting. FDA's Atlanta District Office (Southeast Region) and the Center for Veterinary Medicine will meet with interested persons in the Southeast Region to address specific issues related to the turkey/broiler industry. The agency is holding this meeting to promote the President's initiative for a partnership approach with front-line regulators and the people affected by the work of the agency, and to create local partnerships.

DATES: The public meeting will be held on Tuesday, May 14, 1996, from 8 a.m. to 5 p.m.

ADDRESSES: The public meeting will be held at the Sheraton Inn—Raleigh at Crabtree Valley, 4501 Creedmoor Rd., Raleigh, NC 27812. Attendees requiring overnight accommodations may contact the hotel at 919–787–7111.

FOR FURTHER INFORMATION CONTACT: JoAnn M. Pittman, FDA Atlanta District, 60 Eighth St. NE., Atlanta, GA 30309, 404–347–7355, or FAX 404–347–1912.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 20, 1995 (60 FR 19753), FDA announced that a series of Grassroots Regulatory Partnership meetings would be held. Those persons interested in attending this meeting should FAX their comments and registration by Tuesday, April 22, 1996, including name, firm/organization name, address, and telephone number to 404–347–1912. There is no registration fee for this meeting, but advance registration is required. Space is limited and all interested parties are encouraged to register early. The goal of this meeting is to ''listen'' to concerns and ideas, and to identify next-steps for the agency.

Dated: April 15, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–10023 Filed 4–23–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 84F–0314]

Coconut Products Corp.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 4A3824) proposing that the food additives regulations be amended to provide for the safe use of polysorbate 60 as an emulsifier to be used in the preparation of coconut milk drink.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3071.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 9, 1984 (49 FR 39615), FDA announced that a food additive petition (FAP 4A3824) had been filed by the Coconut Products Corp., 779 Kii St., Honolulu, HI 96825, proposing that § 172.836 *Polysorbate 60* (21 CFR 172.836) be amended to provide for the safe use of polysorbate 60 as an emulsifier in the preparation of coconut milk drink. Coconut Products Corp. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 4, 1996.

George H. Pauli,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–10024 Filed 4–23–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96N–0125]

Drug Export; Benadryl® Injection Steri-Vials® (Diphenhydramine Hydrochloride Injection, USP) 50 Milligram Per Milliliter (mg/mL), 1-mL Vials

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Parke-Davis Pharmaceutical Research has filed an application requesting approval for the export of the human drug Benadryl® Injection Steri-Vials® 50 mg/mL, 1-mL Vials (diphenhydramine hydrochloride) Injection, USP, to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Center for Drug Evaluation and Research (HFD–310), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301–594–3150.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Parke-Davis Pharmaceutical Research, 2800 Plymouth Rd., Ann Arbor, MI 48105, has filed an application requesting approval for the export of the human drug Benadryl® Injection Steri-Vials® 50 mg/mL, 1-mL Vials (diphenhydramine hydrochloride) Injection, USP, to Canada. The firm has FDA approval to market this product in 1-mL ampoules and a 1-mL syringe. This product is indicated to be used as an antiallergic, antipruritic, antiemetic, and antispasmodic. The application was received and filed in the Center for Drug Evaluation and Research on November 15, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by May 6, 1996, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: April 5, 1996.

Betty L. Jones,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 96–10020 Filed 4–23–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 90N–0330]

The Kasdenol Corp., et al.; Withdrawal of Approval of Three New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing three new drug applications (NDA's) held by The Kasdenol Corp.; Lever Brothers Co., Inc.; and United Pharmaceutical Inc. The basis for the withdrawals is that the holders of the applications have repeatedly failed to

file required annual reports on these NDA's.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1038.

SUPPLEMENTARY INFORMATION: The holders of approved applications to market new drugs or antibiotic drugs for human use are required to submit annual reports to FDA concerning each of their approved applications in accordance with § 314.81 (21 CFR 314.81).

In the Federal Register of July 13, 1990 (55 FR 28829), FDA offered an opportunity for a hearing on a proposal to withdraw approval of five NDA's because the firms had failed to submit the required annual reports for these NDA's.

The agency had two responses to the notice of opportunity for hearing: From Astra Pharmaceutical Products, Inc.; and from The Purdue Frederick Co. Both responses indicated that the sponsors had previously submitted letters requesting voluntary withdrawal of their NDA's (NDA 13–077 and NDA 11–160, respectively). In the Federal Register of March 27, 1996 (61 FR 13506 at 13507), FDA published a notice that withdrew these applications.

The other three firms did not respond to the notice of opportunity for hearing. Failure to file a written notice of participation and request for a hearing as required by 21 CFR 314.200 constitutes an election by the applicant not to make use of the opportunity for a hearing concerning the proposal to withdraw approval of the applications and a waiver of any contentions concerning the legal status of the drug products. Therefore, the Director, Center for Drug Evaluation and Research, is withdrawing approval of the NDA's listed in the table in this document.

Application no.	Drug	Applicant
NDA 9–394	Kasdenol Mouthwash or Gargle	The Kasdenol Corp., Huntington, NY 11743.
NDA 10–094	Pepsodent Antiseptic Mouthwash	Lever Brothers Co., Inc., 390 Park Ave., New York, NY 10022.
NDA 13–397	Ampar SRC	United Pharmaceutical Inc., 1500 North Wilmut, Tucson, AZ 85712.

The Director, Center for Drug Evaluation and Research, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), and under authority of 21 CFR 5.82, finds that the holders of the applications listed above have repeatedly failed to submit reports required by § 314.81. Therefore, pursuant to this finding, approval of the NDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective May 24, 1996.

Dated: April 9, 1996.

Murray M. Lumpkin,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 96–10022 Filed 4–23–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. May 2, 1996, 8:30 a.m., and May 3, 1996, 9 a.m., National Institutes of Health, Clinical Center, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD. Parking in the Clinical Center Visitor area is reserved for clinical center patients and their visitors. If you must drive, please use an outlying lot such as Lot 41B. Free shuttle bus service is provided from Lot 41B to the Clinical Center every 8 minutes during rush hour and every 15 minutes at other times.

Type of meeting and contact person. Open public hearing, May 2, 1996, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5:30 p.m.; open committee discussion, May 3, 1996, 9 a.m. to 4:30 p.m.; Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 419–259–6211; or Valerie M. Mealy, Advisors and Consultants Staff (HFD–21), 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Cardiovascular and Renal Drugs Advisory Committee, code 12533. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 19, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On May 2, 1996, the committee will discuss: (1) New drug application (NDA) 20–297, Supplement 1, Coreg® (carvedilol), SmithKline Beecham, to be indicated for use in congestive heart failure; and (2) NDA 20–405, Lanoxin® (digoxin)

tablets, Glaxo-Wellcome, for congestive heart failure, and control of ventricular rate in atrial fibrillation. On May 3, 1996, the committee will discuss product license application 95–1167, reteplase, Boehringer Mannheim, for management of acute myocardial infarction (AMI) in adults, lysis of thrombi obstructing coronary arteries, improvement of ventricular function following AMI, reduction of the incidence of congestive heart failure, and reduction of mortality associated with AMI.

FDA regrets that it was unable to publish this notice 15 days prior to the May 2, 1996, Cardiovascular and Renal Drugs Advisory Committee meeting. Because the agency feels that the issue needs to be brought to public discussion urgently, and qualified members of the Cardiovascular and Renal Drugs Advisory Committee were available at this time, the agency decided that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Arthritis Advisory Committee

Date, time, and place. May 7, 1996, 8 a.m., Holiday Inn—Gaithersburg, Whetstone and Walker Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Kathleen R. Reedy, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, FAX 301–443–0699, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Arthritis Advisory Committee, code 12532. Please call the hotline for information concerning any possible changes.

General function of committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in arthritic conditions.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 1, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will hear presentations and discuss data submitted regarding the safety and efficacy of NDA 20–395, Enable® (tenidap sodium), Pfizer, Inc., for use in the treatment of rheumatoid arthritis and osteoarthritis.

FDA regrets that it was unable to publish this notice 15 days prior to the May 7, 1996, Arthritis Advisory Committee meeting. Because the agency feels that the issue needs to be brought to public discussion urgently, and qualified members of the Arthritis Advisory Committee were available at this time, the agency decided that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 18, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–10047 Filed 4–23–96; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for

review, call the HRSA Reports Clearance Office on (301)-443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Health Education Assistance Loan (HEAL) Program: Lender's Application for Insurance Claim on a HEAL Loan and Request for Collection Assistance Under the HEAL Program (currently approved under OMB Nos. 0915–0036 and 0915–0100)—Revision and Extension—This clearance request is for extension of approval of two forms that were previously approved by OMB under separate OMB numbers (shown above). HEAL lenders use the Lender's Application for Insurance Claim to request payment from the Federal Government for federally insured loans lost due to borrowers' death, disability, bankruptcy, or default. The Request for Collection Assistance form is used by HEAL lenders to request federal assistance with the collection of delinquent payments from HEAL borrowers. Minor changes were made to the Lender's Application for Insurance Claim, to reduce burden and improve the utility of the information. No substantive changes were made to the Request for Collection Assistance form. The estimates of burden for the two forms are as follows:

Type of form	No. of respondents	Responses per respondent	Burden per response	Total burden hours
Lender's Application for Insurance Claim (Form 510)	35	22.97	.50	402
Request for Collection Assistance (Form 513)	35	957.74	.17	5,598

Total burden is estimated to be 6,000 hours.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Virginia Huth, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: April 18, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–10018 Filed 4–23–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 23, 1996.

Time: 1 p.m.

Place: River Inn, 924 25th Street NW., Washington, DC 20037.

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857. Telephone: 301, 443–1340.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 23, 1996.

Time: 12 p.m.

Place: River Inn, 924 25th Street NW., Washington, DC 20037.

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857. Telephone: 301, 443–1340.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: April 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–10182 Filed 4–20–96; 11:49 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Master Agreement for HIV Preclinical Vaccine Development proposals, tasks G and I.

Date: April 25, 1996.

Time: 8:00 a.m.

Place: Washington National Airport Hilton Hotel, 2399 Jefferson Davis Highway, Arlington, VA 22202, (703) 418–6800.

Contact Person: Dr. Allen Stoolmiller, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C05, Bethesda, MD 20892–7610, (301) 496–7966.

Purpose/Agenda: To evaluate contract proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 19, 1996.

Sustan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–10183 Filed 4–20–96; 11:49 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Committee Name: National Institute of General Medical Sciences Special Emphasis Panel–MBRS.

Date: April 30.

Time: 8:00 a.m.–6 p.m.

Place: Gaithersburg Holiday Inn, Washington Conference Room, 2 Montgomery Village Avenue, Gaithersburg, Maryland 20879.

Contact Person: Dr. Richard Martinez, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–19g, Bethesda, MD 20892–6200.

Purpose: To review grant applications.

The meeting will be closed in accordance with the provisions set forth in secs.

552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the first meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: April 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–10186 Filed 4–23–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Microbiological and Immunological Sciences.

Date: April 29, 1996.

Time: 1:00 p.m.

Place: NIH. Rockledge 2, Room 4210, Telephone conference.

Contact Person: Dr. Bruce A. Maurer, Scientific Review Administrator, 6701 Rockledge Drive. Room 4210, Bethesda, Maryland 20892, (301) 435–1225.

Name of SEP: Behavioral and Neurosciences.

Date: April 30, 1996.

Time: 11:00 a.m.

Place: NIH, Rockledge 2, Room 5186, Telephone Conference.

Contact Person: Dr. Kenneth Newrock, Scientific Review Administrator, 6701 Rockledge Drive, Room 5186, Bethesda, Maryland 20892, (301) 453–1252.

Name of SEP: Biological and Physiological Sciences.

Date: May 1, 1996.

Time: 9:00 a.m.

Place: Holiday Inn-Georgetown, Washington, DC.

Contact Person: Dr. Krish Krisnan, Scientific Review Administrator, 6701 Rocklege Drive, Room 4122, Bethesda, Maryland 20892, (301) 435–1779.

Name of SEP: Microbiological and Immunological Sciences.

Date: May 2, 1996.

Time: 1:30 p.m.

Place: NIH, Rocklege 2, Room 4182, Telephone Conference.

Contact Person: Dr. William Branche, Jr., Scientific Review Administrator, 6701 Rockledge Drive, Room 4182, Bethesda, Maryland 20892, (301) 435–1148.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Clinical Sciences.

Date: May 7, 1996.

Time: 1:30 p.m.

Place: NIH, Rockledge 2, Room 4136, Telephone Conference.

Contact Person: Dr. Gordon Johnson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4136, Bethesda, Maryland 20892, (301) 435–1212.

Name of SEP: Microbiological and Immunological Sciences.

Date: June 17, 1996.

Time: 8:30 a.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Marcel Pons, Scientific Review Administrator, 6701 Rockledge Drive, Room 4196, Bethesda, Maryland 20892, (301) 435–1217.

Name of SEP: Chemistry and Related Sciences.

Date: June 23–25, 1996.

Time: 8:00 p.m.

Place: Loews New York, New York, NY.

Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, Maryland 20892, (301) 435–1180.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets of commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy:

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, (HHS))

Dated: April 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 98–10185 Filed 4–23–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Office of Women's Services and Center for Substance Abuse Treatment; Notice of Meetings

Pursuant of Public Law 92–463, notice is hereby given of the meetings of the Advisory Committee for Women's Services and Center for Substance Abuse Treatment (CSAT) National Advisory Council in May 1996.

The meeting of the Advisory Committee for Women's Services will include a discussion of and update on policy and program issues relating to women's substance abuse and mental health service needs, the SAMHSA fiscal year 1996 budget and reauthorization; regional meetings on SAMHSA's proposed Performance Partnership Grants; women in senior level positions at SAMHSA; gender issues in SAMHSA's managed care activities; the SAMHSA Policy on Inclusion and Attention to Females and Racial/Ethnic Minorities in Extramural Programs; and, a discussion of data analysis pertaining to women.

A summary of the meeting and/or a roster of committee members may be obtained from: Pamela J. McDonnell, Executive Secretary, Office of Women's Services, Parklawn Building, 5600 Fishers Lane, Room 13–99, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the individual whose name and telephone number is listed as Contact below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date(s): May 13–14, 1996.

Place: Doubletree Hotel, 1750 Rockville Pike, Rockville Room, Rockville, MD 20852.

Type: Open: May 13: 9:00 a.m. to 5 p.m.

Open: May 14: 8:30 a.m. to 5 p.m.

Contact: Pamela J. McDonnell, Room 13–99, Parklawn Building, Telephone: (301) 443–5184.

The Center for Substance Abuse Treatment (CSAT) National Advisory Council meeting will include a discussion of the mission and programs of the Center, policy issues and administrative, legislative, and program developments.

The meeting will also include the presentation and detailed discussion of information about CSAT's procurement plans. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3) and 5 U.S.C. App.2, Section 10(d). Attendance by the public at the open portion of the meeting will be limited to space available. Public comments are welcome during the open session. Please contact the person listed below for guidance.

A summary of the meeting and roster of council members may be obtained from: Ms. Deloris Winstead, Committee Management Specialist, CSAT, Rockwall II Building, Suite 840, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8448.

Substantive program information may be obtained from the individual whose name and telephone number is listed as Contact below.

Committee Name: Center for Substance Abuse Treatment, National Advisory Council.

Meeting Date(s): May 13, 1996.

Place: Omni Shoreham Hotel, 2500 Calvert Street, NW., Hampton Room, Washington, DC 20815.

Type: Closed: May 13, 8:30 a.m.–9:00 a.m. Open: May 13, 9:00 a.m.–5:00 p.m.

Contact: Marjorie M. Cashion, Rockwall II Building, Suite 840, Telephone: (301) 443–8923.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–10046 Filed 4–23–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Garrison Diversion Unit Federal Advisory Council Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Garrison Diversion Unit Federal Advisory Council (Council) established under the authority of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–0294, May 12, 1986). The meeting is open to the public. Interested persons may make oral statements to the Council or file written statements for consideration.

DATES: The Council will meet from 8:00 a.m. to 4:30 p.m. on Thursday, May 2, and from 8:00 a.m. to 12:00 noon on Friday, May 3, 1996.

ADDRESSES: The meeting will be held at the North Dakota Game and Fish Department, 100 N. Bismarck Expressway, Bismarck, North Dakota.

FOR FURTHER INFORMATION CONTACT: Dr. Grady Towns, ND/SD/RW, at (303) 236–8145, extension 644.

SUPPLEMENTARY INFORMATION: The Council will consider and discuss subjects such as the Kraft Slough Status and acquisition, Kraft Slough Alternatives Report, Garrison Diversion Unit project update and wildlife budget, Garrison Diversion Conservancy District Legislative proposal, mitigation, Oakes Test Area, Lonetree management and land acquisition, Arrowwood Environmental Impact Statement, James River Appraisal Report, Audubon National Wildlife Refuge and Wildlife Management Area Mitigation Plan, and the Garrison Diversion Unit Fish and Wildlife Resource Commitment Report.

Dated: April 11, 1996.

Terry Terrell,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 96–10054 Filed 4–23–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[CA–065–06–1210–04]

Southern Sierra Management Plan; Scoping Period & Meeting

AGENCY: Department of the Interior, Bureau of Land Management, Department of Agriuclture, Forest Service.

ACTION: Notice of initial scoping period and public meeting for gathering input in the development of the Southern Sierra Management Plan and NEPA compliance document for public lands in the Bakersfield and California Desert Districts and USFS lands in the Cannell Meadow Ranger District of Sequoia National Forest.

SUMMARY: Pursuant to BLM Manual 8561 Wilderness Management Plans, the Bureau of Land Management (BLM) Caliente and Ridgecrest Resource Areas are required to prepare management plans for addressing management of the wilderness areas designated under the California Desert Protection Act of 1994. BLM and the USFS will be preparing a joint management plan for the Southern Sierra wilderness areas and adjacent non-wilderness public lands. The purpose of the scoping meeting is to identify issues, affected resources, and alternatives. This meeting is a continuation of the scoping process initiated at the public meeting held on April 8, 1995 at the South Fork Administrative Site in Weldon, CA.

DATES: Public scoping meeting will be held on: Date: May 18, 1996 Saturday. Time: 11:00 a.m.–2:00 p.m.; registration begins at 10:30 a.m. Place: Desert Empire Fairgrounds—Sage Hall, 520 South Richmond Road, Ridgecrest, CA 93555.

ADDRESSES: Scoping comments may be sent to: BLM Caliente Resource Area Manager, 3801 Pegasus Drive, Bakersfield, CA 93308 ATTN: Mike Ayers; BLM Ridgecrest Resource Area Manager, 300 S. Richmond Rd., Ridgecrest, CA 93555 ATTN: JuLee Pallette; USFS Sequoia National Forest, Lake Isabella Visitor Center, P.O. Box 3810, Lake Isabella, CA 93240 Attn: Mike Mendoza.

SUPPLEMENTARY INFORMATION: This planning effort addresses the Bright Star, Chimney Peak, Dome Land additions, Kiavah, Owens Peak and Sacatar Trail Wilderness Areas, as designated under the California Desert Protection Act. The boundaries of this coordinated planning effort are generally: Kennedy Meadows (north), LA aqueduct (east), Scodie Mts. (south), and Piute Mts./Dome Land Wilderness (west). [T.21S.–28S., R.34E.–38E., MDM] Nonwilderness lands will be considered in the plan, eg. campgrounds and trailheads.

FOR FURTHER INFORMATION CONTACT: Plan coordinators: Mike Ayers, BLM-Caliente at (805) 391–6000; JuLee Pallette, BLM-Ridgecrest at (619)384–5400; Mike Mendoza, USFS-Sequoia at (619) 379–5646.

Dated April 16, 1996.

Lee Delaney,

Area Manager.

[FR Doc. 96–9863 Filed 4–23–96; 8:45 am]

BILLING CODE 4310–40–P

National Park Service

Submission of Study Packages for OMB Review—Opportunity for Public Comment

The National Park Service Visitor Services Project, based at the Cooperative Park Studies Unit of the University of Idaho, is proposing to conduct visitor studies at the following parks during FY 96:

	Est. No. of responses	Burden hrs
Great Smokey Mountains National Park	800	160
Chamizal National Memorial	400	80
Death Valley National Park	400	80
Prince William Forest Park	400	80
VSP Annual Totals	4,320	864

Abstract: NPS goal is to learn visitor demographics and visitor opinions about services and facilities in these parks. Results will be used by managers to improve services, protect resources and better serve the visitors.

Bureau Form Number: None.

Burden hours: The burden hour estimates are based on 12 minutes to complete each questionnaire and the 80% return rate goal.

Frequency: One Time.

Description of Respondents: Individuals or Households.

Estimated Completion Time: 12 minutes.

Automated Data Collection: At the present time, there is no automated way to gather this information, since it includes asking visitors to evaluate services and facilities that they used in the parks. The burden is minimized by only contacting visitors during a 7 day period at each park.

The National Park Service is soliciting comments on the need for gathering the information in the proposed visitor studies listed above. The NPS is also asking for comments on the practical utility of the information being gathered, the accuracy of the burden hour estimate, and ways to minimize the burden to visitors to these parks. Make comments to: Dr. Gary E. Machlis, Chief Social Scientist, National Park Service, Main Interior Building, Room 3412, 1849 C Street, NW., Washington, DC 20240, phone: 202–208–5391 or 208–885–7129; or Margaret Littlejohn, Visitor Services Project Coordinator, Cooperative Park Studies Unit, College of Forestry, Wildlife and Range Sciences, University of Idaho, Moscow, Idaho 83844–1133, phone: 208–885–7863.

Bureau Clearance Officer: Terry N. Tesar—(202) 523–5092.

Dated: April 19, 1996.

Terry Tesar,

Information Collection Clearance Officer.

[FR Doc. 96–10027 Filed 4–23–96; 8:45 am]

BILLING CODE 4310–07–M

Subsistence Resource Commission meeting

SUMMARY: The Superintendent of Denali National Park and the Chairperson of the Subsistence Resource Commission for Denali National Park announce a forthcoming meeting of the Denali National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order by Chair.
(2) Roll call and confirmation of quorum.
(3) Superintendent's welcome and introductions.
(4) Approval of minutes of last meeting.
(5) Additions and corrections to agenda.
(6) Old business:
  a. Park planning.
  b. Northern access routes to Kantishna.
  c. Subsistence Workgroup report.
  d. ATV use.
  e. Agency reports
(7) Federal Subsistence Management Program update:
  a. Federal Subsistence Board actions.
  b. Regional Advisory Councils actions.
(8) New business:
  a. Wolf management.
  b. Regional Advisory Councils action.
(9) Public and other agency comments.
(10) Set time and place of next meeting.
(11). Adjournment.

DATES: The meeting will be held Monday, April 29, 1996, from 9 a.m. to 6 p.m.

LOCATION: The meeting will be held at the McKinley Village Community Center in Denali Park, Alaska.

FOR FURTHER INFORMATION CONTACT: Stephen P. Martin, Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali Park, Alaska 99755. Phone (907) 683–2294.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Robert D. Barbee,

Field Director.

[FR Doc. 96–10052 Filed 4–23–96; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–191]

Nonrubber Footwear Quarterly Statistical Report

AGENCY: United States International Trade Commission.

ACTION: Change of publication schedule, phaseout of report series, and termination of investigation.

EFFECTIVE DATE: April 15, 1996.

SUMMARY: This series of quarterly reports on the U.S. nonrubber footwear industry has been published by the Commission since 1984 pursuant to a request from the Senate Committee on Finance dated August 8, 1984. The Committee requested that the Commission institute an investigation under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332) for the purpose of preparing and publishing quarterly reports on nonrubber footwear so that it might monitor the condition of the industry on a quarterly basis. The Committee requested that the quarterly reports include data on (1) production and/or shipments, (2) imports, (3) exports, (4) apparent consumption, (5) market share, (6) employment, (7) unemployment, and (8) prices. In addition, the Committee also requested that the Commission provide, on an annual basis, information on plant closings in the industry. In response to this request, the Commission instituted investigation No. 332–191 on August 28, 1984, notice of which was published in the Federal Register of September 6, 1984 (49 FR 35259).

By letter of February 29, 1996, the Committee on Finance requested that the Commission change its publication schedule from quarterly to annual reports, effective January 1, 1996, and finally, cease publishing the report in the year 2000. The Committee requested that the annual report continue to include data on production and/or shipments, imports, exports, apparent consumption, market share, employment, unemployment, and plant closings. Accordingly, the Commission will immediately change the publication schedule from quarterly to annual and will publish five annual reports for the years 1995 through 1999. The annual report for 1995 will be published in April 1996 and the final report, for 1999, will be published in March 2000.

FOR FURTHER INFORMATION: Information may be obtained from Mr. Sundar A. Shetty (202–205–3486), Energy, Chemicals, and Textiles Division, Office of Industries, or from Mr. William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Office of Public Affairs (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Issued: April 16, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–10074 Filed 4–23–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 94–43]

Ekambaram Parameswaran, M.D., Denial of Application; Correction

In notice document 96–6978 appearing on page 11871 in the issue of Friday, March 22, 1996, make the following correction:

On page 11871, in the second column, last paragraph, 10th line from the bottom ''832(f)'' should read ''823(f)''.

Dated: April 17, 1996.
Stephen H. Greene,
Deputy Administrator.
[FR Doc. 96–10007 Filed 4–23–96; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; comment request

April 18, 1996.

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). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ([202] 219–5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call [202] 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OAW/MSHA/OSHA/PWBA/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 Standards Administration.

Title: Worker Information.

OMB Number: 1215–XXXX.

Agency Number: WH–516; WH 516a and WH–516b.

Frequency: On occassion.

Affected Public: Individuals or households; Business or other for-profit; Farms.

Number of Respondents: 160,000.

Estimated Time Per Respondent: 32 minutes.

Total Burden Hours: 85,333.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $24,000.

Description: The Migrant and Seasonal Agricultural Worker Protection Act requires farm labor contractors, agricultural employers and agricultural associations who recruit migrant and seasonal agricultural workers to disclose in writing the terms and conditions of employment and to provide, upon request, a written statement of such terms.

Theresa M. O'Malley,
Acting Departmental Clearance Officer.
[FR Doc. 96–10067 Filed 4–23–96; 8:45 am]
BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Mine Shift Atmospheric Conditions; Respirable Dust Sample

AGENCY: Mine Safety and Health Administration, Labor; National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Public Health Service, HHS.

ACTION: Notice of public hearing; close of record.

SUMMARY: The Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) will hold a public hearing to receive comments on the joint notice proposing a finding that the average concentration of respirable dust, to which each miner in the active workings of a coal mine is exposed, can be measured accurately over a single shift. The hearing will be held in Washington, D.C.

DATES: The public hearing will be held on May 10, 1996, in Washington, D.C. The hearing will begin at 9:00 a.m. The public record will close on June 10, 1996. Requests to make oral presentations for the record should reach MSHA by May 6, 1996. Immediately before the hearing, MSHA will make any unalloted time available to persons making late requests.

ADDRESSES: The hearing will be held at the following location: Frances Perkins Building, Department of Labor, 200 Constitution Avenue NW., Room N–5437, Washington, D.C. 20210.

Send requests to make oral presentations to the Mine Safety and Health Administration; Office of Standards, Regulations, and Variances; 4015 Wilson Boulevard, Room 631; Arlington, Virginia 22203. Phone or fax requests to make oral presentations to the MSHA, Office of Standards, Regulations, and Variances at voice: 703–235–1910, fax: 703–235–5551.

FOR FURTHER INFORMATION CONTACT: Ronald J. Schell, Chief, Division of Health, Coal Mine Safety and Health, 703–235–1358.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 1996 (61 FR 10012), MSHA and NIOSH published a notice in the Federal Register reopening the record for their joint notice. The joint notice proposed a finding that the average concentration of respirable dust, to which each miner in the active workings of a coal mine is exposed, can be measured accurately over a single shift. This finding is being made in accordance with section 202(f) of the Federal Mine Safety and Health Act of 1977. The Agencies reopened the record (1) to submit a definition of accuracy; (2) to supply new data and statistical analyses on the precision of coal mine respirable dust measurements obtained using approved sampling equipment; and (3) to allow the public time to review and submit comments on this supplemental information. This additional information does not change the proposed findings.

The comment period had been scheduled to close on April 11, 1996. In response to requests from the public for additional time to review this information and prepare their comments, the Agencies extended the comment period until June 10, 1996 (61 FR 16123). This extension notice also announced that a public hearing would be held prior to June 10, 1996.

II. Conduct of Hearing

The purpose of the public hearing is (1) to receive relevant comments and (2) to answer questions concerning the definition of accuracy and the new data and statistical analyses on the precision of coal mine respirable dust measurements obtained using approved

sampling equipment. A panel of MSHA and NIOSH officials will conduct the hearing in an informal manner. Although formal rules of evidence or cross examination will not apply, the presiding official may exercise discretion to ensure the orderly progress of the hearing and may exclude irrelevant or unduly repetitious material and questions. The hearing panel will be available to address relevant questions. Verbatim transcripts of the proceedings will be prepared and made a part of the rulemaking record. Copies of the hearing transcripts will be made available to the public for review.

The hearing will begin with an opening statement from MSHA and NIOSH, followed by oral presentations from members of the public. In the interests of conducting a productive hearing, MSHA and NIOSH will schedule speakers in a manner that allows all points of view to be heard as effectively as possible. At his discretion, the presiding official may limit speakers to a maximum of 20 minutes for their presentations.

MSHA and NIOSH also will accept additional written comments and other appropriate data for the record from any interested party, including those not presenting oral statements. To allow for the submission of any post-hearing comments, the record will remain open until June 10, 1996. MSHA will include written comments and data submitted to MSHA or NIOSH on or before June 10, 1996, in the rulemaking record.

Dated: April 22, 1996.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

Dated: April 22, 1996.

Marilyn A. Fingerhut,

Assistant Director for Washington Operations, National Institute for Occupational Safety and Health.

[FR Doc. 96–10246 Filed 4–23–96; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 96–24; Exemption Application No. D–10036 and D–10037, et al.]

Grant of Individual Exemptions; Biscayne Bay Pilots, Inc.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Biscayne Bay Pilots, Inc. Money Purchase Pension Plan (M/P Plan) and Biscayne Bay Pilots, Inc. 401(k) Profit Sharing Plan (P/S Plan; collectively, the Plans), Located in Miami, Florida

[Prohibited Transaction Exemption 96–24; Exemption Application Nos. D–10036 and D–10037]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of certain improved real property (the Property) by a trust (the HK Trust) established on behalf of Helge Krarup (Mr. Krarup) within the Plans to Mr. Krarup, a party in interest with respect to the Plans; provided that the following conditions are satisfied:

(a) the sale will be a one-time cash transaction;

(b) the HK Trust will receive the current fair market value for the Property established at the time of the sale by an independent qualified appraiser;

(c) the HK Trust will pay no expenses associated with the sale;

(d) the sale will provide the HK Trust with liquidity; and

(e) only the assets in the HK Trust will be affected by the transaction.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

Zausner Foods Corp. Savings Plus Plan (the Plan), Located in New Holland, Pennsylvania

[Prohibited Transaction Exemption 96–25; Exemption Application No. D–10064]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the past sale by the Plan of certain units of limited partnership interests (the Units) to Zausner Foods Corp. (Zausner Foods), a party in interest with respect to the Plan, provided that the following conditions were satisfied: (1) The sale was a one-time transaction for cash; (2) the Plan paid no commissions nor other expenses relating to the sale; and (3) the purchase price was the greater of: (a) the fair market value of the Units as determined by a qualified, independent appraiser, or (b) the original acquisition cost of the Units plus attributable opportunity costs.

EFFECTIVE DATE: December 29, 1995.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 5, 1996 at 61 FR 8683.

FOR FURTHER INFORMATION CONTACT: Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Jack, Lyon & Jones, P.A. Profit Sharing Plan (the Plan), Located in Little Rock, AR

[Prohibited Transaction Exemption 96–26; Exemption Application No. D–10071]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the (1) Proposed purchase by the Plan of certain improved real property (the Property) from Jack, Lyon & Jones, P.A., (the Employer), a party in interest with respect to the Plan; (2) the subsequent leasing (the Lease) of the Property by the Plan to the Employer; and (3) the potential future repurchase of the Property by the Employer from the Plan pursuant to the terms of an option agreement (the Option Agreement).

This exemption is conditioned on the following requirements:

(a) The interests of the Plan with respect to the purchase of the Property, the execution and maintenance of the Lease and the potential repurchase of the Property by the Employer will be represented by First Commercial Trust Company (FCTC) of Little Rock, Arkansas, which will serve as the independent fiduciary.

(b) FCTC does not and will not derive more than one percent of its gross business revenues from the Employer and/or its principals for each fiscal year that it serves as the independent fiduciary for the Plan with respect to the transactions described herein.

(c) FCTC will evaluate the transactions, determine that such transactions are in the best interests of the Plan, and monitor and enforce compliance with the terms and conditions of the transactions and the exemption, at all times.

(d) The acquisition price for the Property will be paid by the Plan in cash and will be based upon the fair market value of the Property as determined by a qualified, independent appraiser.

(e) The fair market value of the Property will not exceed 25 percent of the assets of the Plan.

(f) The terms of the Lease will remain at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(g) The fair market rental amount will be redetermined every three years that the Lease is in effect by a qualified, independent appraiser who has been selected by FCTC and, FCTC will then make appropriate adjustments to such rent.

(h) The Employer will be obligated for all real estate taxes, utility costs, fees and insurance premiums that are incidental to the Lease.

(i) The Option Agreement will enable the Plan to sell the Property to the Employer in the event that FCTC determines that it is not in the best interest of the Plan to retain the Property.

(j) The Option Agreement will provide that the Employer repurchase the Property from the Plan for cash in an amount which is not less than the greater of (1) the Plan's acquisition cost for the Property or (2) the fair market value of the Property as determined by a qualified, independent appraiser who has been selected by FCTC.

(k) The Plan will pay no real estate fees, commissions or other expenses in connection with the acquisition of the Property, the administration of the Lease or the repurchase of the Property by the Employer under the Option Agreement.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 13, 1996 at 61 FR 5574.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

IRA Rollover FBO John W. Meisenbach (the IRA), Located in Seattle, Washington

[Prohibited Transaction Exemption 96–27; Exemption Application No. D–10114]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the IRA of certain stock (the Stock) to John W. Meisenbach, a disqualified person with respect to the IRA, provided that the following conditions are satisfied: (a) the sale is a one-time transaction for cash; (b) the IRA pays no commissions nor other expenses relating to the sale; and (c) the purchase price is the fair market value of the Stock as determined by a qualified, independent appraiser as of the date of the sale.*

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 5, 1996 at 61 FR 8684.

FOR FURTHER INFORMATION CONTACT: Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Associated Claims Management 401(k) Plan (the Plan), Located in Walnut Creek, California

[Prohibited Transaction Exemption 96–28; Exemption Application No. D–10121]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a group annuity contract (the GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit) by the Plan to Foundation Health Corporation (FHC), a party in interest with respect to the Plan, provided that the following conditions are satisfied: (a) the sale is a one-time transaction for cash; (b) the Plan suffers no loss nor incurs any expense in connection with the sale; (c) the purchase price is no less than the fair market value of the GAC as of the date of the sale; and (d) any payments under the GAC to FHC, or its successors, after the date of the sale in excess of FHC's purchase price are paid to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 13, 1996 at 61 FR 5576.

FOR FURTHER INFORMATION CONTACT: Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

* Pursuant to 29 CFR 2510.3–2(d), the IRA is not within the jurisdiction of Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Floral Glass and Mirror, Inc. Profit Sharing Plan and Trust (the Plan), Located in Hauppage, New York

[Prohibited Transaction Exemption 96–29; Exemption Application No. D–10144]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of 20 shares of stock of Floral Glass Industries, Inc. (FGI) by the Plan to Mr. Charles Kaplanek, Jr. (Kaplanek), a party in interest with respect to the Plan, provided the following conditions are satisfied: (a) The sale is a one-time transaction for cash; (b) the Plan pays no commissions or other expenses in connection with the transaction; (c) the Plan will receive the fair market value of the shares as determined by a qualified, independent appraiser; and (d) all terms and conditions of the sale will be at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party at the time of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 5, 1996 at 61 FR 8685.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 18th day of April, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 96–10072 Filed 4–23–96; 8:45 am]

BILLING CODE 4510–29–P

Working Group on the Impact of Tax Initiatives on Employer-Sponsored Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on the Impact of Tax Initiatives on Employer-Sponsored Plans of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 8, 1996, in Room N3437 B&C, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 9:30 a.m. and will last until approximately noon, is to explore the impact of various tax proposals on ERISA employer-sponsored plans.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before May 8, 1996, to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group on the Impact of Tax Initiatives on Employer-Sponsored Plans of the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by April 26 at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting Executive Secretary of the Advisory Council at the above address. papers will be accepted and included in the record of the meeting if received on or before April 26, 1996.

Signed at Washington, DC this 18th day of April, 1996.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 96–10068 Filed 4–23–96; 8:45 am]

BILLING CODE 4510–29–M

Pension and Welfare Benefit Administration

Working Group on Protections for Benefit Plan Participants; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Protections for Benefit Plan Participants of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 7, 1996, in Room N3437 B&C, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 1 p.m. and end at approximately 3:30 p.m., is to study the extent to which third-party trustees can provide protections for benefit plan participants.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before April 26, 1996 to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group on Protections for Benefit Plan Participants of the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon

Morrissey by April 26 at the address indicated in the notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before April 26, 1996.

Signed at Washington, DC this 18th day of April, 1996.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 96–10069 Filed 4–23–96; 8:45 am]

BILLING CODE 4510–29–M

Pension and Welfare Benefits Administration

Working Group on Small and Medium-Sized Employer-Sponsored Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Small and Medium-Sized Plans of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 7, 1996, in Room N–3437 B&C, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the meeting, which will run from 9:30 a.m. to noon, is to work to formulate guidance for small and medium-sized plans in selecting plan service providers.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before April 26, 1996 to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group on Small and Medium-Sized Plans of the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 218–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by April 26 at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before April 26, 1996.

Signed at Washington, DC, this 18th day of April 1996.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 96–10070 Filed 4–23–96; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL INSTITUTE FOR LITERACY

Agency Information Collection Activities

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et Seq.*), this notice announces an Information Collection Request (ICR) by the NIFL. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 21, 1996.

FOR FURTHER INFORMATION CONTACT: Sondra Stein at (202) 632–1508 or e-mail: sstein@nifl.gov.

SUPPLEMENTARY INFORMATION:

Title: Application for State-Capacity Building Awards to state officials to develop and implement interagency Performance Measurement and Reporting Systems that foster continuous improvement in adult literacy and basic skills programs.

Abstract: The National Literacy Act of 1991 established the National Institute for Literacy and required that the Institute conduct basic and applied research and demonstrations on literacy, collect and disseminate information to Federal, State and local entities with respect to literacy; and improve and expand the system for delivery of literacy services. This form will be used by State officials, including Governors, State Education Agencies, State Workforce Development Councils, and State Literacy Resource Centers to apply for funding to develop and implement Interagency Performance Measurement and Reporting Systems. Evaluations to determine successful applicants will be made by a panel of literacy experts using the publishing criteria. The Institute will use this information to make a maximum of six cooperative agreement awards for a period of up to 2 years.

Burden Statement: The burden for this collection of information is estimated at 55 hours per response. This estimate includes the time needed to review instructions, complete the form, and review the collection of information.

Respondents: Governors, State Education Agencies, State Workforce Development Councils, and State Literacy Resource Centers.

Estimated Number of Respondents: 20.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1100 hours.

Frequency of Collection: One time. Send comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden to: Sondra Stein, National Institute for Literacy, 800 Connecticut Ave., NW., Suite 200, Washington, DC 20006.

Andrew J. Hartman,

Director, National Institute for Literacy.

[FR Doc. 96–10146 Filed 4–23–96; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 30, 1996, through April 12, 1996. The last biweekly notice was published on April 10, 1996 (61 FR 15985).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 24, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public

Document Room, the Gelman Building, 2120 L Street NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (*Project Director*): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: March 20, 1996.

Description of amendment request: The licensee proposes to relocate Technical Specification (TS) 3.3.3.2, Movable Incore Detectors, to the Harris Nuclear Plant Core Operating Limits Report (COLR). Future changes to the relocated provisions will be evaluated in accordance with 10 CFR 50.59.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change will simplify the Technical Specifications, while implementing the recommendations of the Commission's Final Policy Statement on TS Improvements. The changes are administrative in nature and do not involve any modifications to plant equipment or affect plant operation. Since the TS provisions are being relocated to a licensee-controlled document, any future changes will be controlled under 10 CFR 50.59. Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change is a relocation of existing Technical Specification provisions. It does not involve any physical alterations to plant equipment or alter the method by which any safety-related system performs its function. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change does not affect any Final Safety Analysis Report (FSAR) Chapter 15 accident analyses or have any impact on margin as defined in the Bases to the Technical Specifications. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605

Attorney for licensee: W. D. Johnson, Vice President & Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Eugene V. Imbro

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County; Northeast Nuclear Energy Company, et al., Docket Nos. 50–245, 50–336, 50–423, Millstone Nuclear Power Station, Units 1, 2, and 3, New London County, Connecticut; and North Atlantic Energy Service Company, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: February 1, 1996

Description of amendment request: The amendment request would revise Section 6 ''Administrative Controls,'' of the Haddam Neck Plant, Millstone Unit Nos. 1, 2, and 3, and Seabrook Station, Unit 1 Technical Specifications to reflect several changes in organizational titles. The proposed changes are administrative title and editorial changes only.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

* * * The proposed changes do not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

No design basis accidents are affected by these proposed changes. The proposed changes are administrative and editorial in nature and are being proposed to reflect the recently announced organizational changes which will become effective on February 1, 1996. These changes include: insertion of the function Chief Nuclear Officer, in lieu of Executive Vice President—Nuclear; and establishment of a single point of operational direction for all five units in the position of the Vice President—Nuclear Operations. This individual is in lieu of the positions of Vice President—Haddam Neck, Senior Vice President—Millstone Station, and Executive Director—Nuclear Production. These latter positions have been eliminated; other changes are: the appointment of the Haddam Neck Plant Nuclear Unit Director as chairman of the Haddam Neck PORC [Plant Operations Review Committee]; promotion of the Shift Supervisor/Shift Superintendent to the position of Shift Manager; revising the titles of ''additional operator'' and ''auxiliary operator'' to ''nuclear systems operator''; modifying the phrase ''crewman'' to a gender neutral term ''crewperson'';

reassignment of the delivery of ISEG [Independent Safety Engineering Group] reports to the Senior Vice President—Nuclear Safety and Oversight; and a change to the title of the Seabrook Station Manager to Station Director. No safety systems are adversely affected by the proposed changes, and no failure modes are associated with the changes. Therefore, there is no impact on the probability of occurrence or the consequences of any accidents previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

Because there are no changes in the way the plants are operated due to this administrative change, the potential for an unanalyzed accident is not created. There is no impact on plant response, and no new failure modes are introduced. These proposed administrative and editorial changes have no impact on safety limits or design basis accidents, and they have no potential to create a new or unanalyzed event.

3. Involve a significant reduction in a margin of safety.

The changes do not directly affect any protective boundaries nor do they impact the safety limits for the protective boundaries. These proposed changes are administrative and editorial in nature. Therefore, there can be no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: For the Haddam Neck Plant, Russell Library, 123 Broad Street, Middletown, CT 06457; for Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3, Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360; for Seabrook Station, Unit No. 1, Exeter Public Library, Founders Park, Exeter, NH 03833.

Attorney for Licensees: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee

Duke Power Company, et al., Docket No. 50–413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: January 26, 1996.

Description of amendment request: The amendment would allow a one-time change to the Technical Specifications (TS) to allow operation of the containment purge ventilation system during Modes 3 and 4 during startup following the forthcoming Unit 1 steam generator replacement outage. This would alleviate respiratory hazards to personnel who would enter the containment to perform surveillances during Modes 4 and 3 of startup operations. Those hazards are expected to result from the thermal decomposition product gases evolving from the heatup of newly installed thermal insulation. Operation of the containment purge system to exhaust these gases would ensure that the air quality meets applicable standards for personnel safety.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The activity does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The VP [Containment Purge] System has no interfaces with any primary system, secondary system, or power transmission system. It has no interfaces with any reservoir of radioactive gases or liquids. None of the systems listed above are modified by the activity. In summary, no ''accident initiator'' is affected with the proposed operation of the VP System in Mode[s] 3 and 4. For this reason, the activity does not involve an increase in the probability of an accident previously evaluated.

Analyses have been performed to determine upper bounds to the source term, the offsite doses, and the Control Room dose. The results of that analyses are reported above. Both the source term and the doses were found to be significantly lower than the results of the corresponding design basis analyses. No credit was taken for operation of the annulus ventilation system (VE) in the dose analysis. In addition, it has been determined that with no credit taken for any heat transfer from the fuel and cladding to the moderator channels, that sufficient time would exist for the operators to initiate recovery of flow from the ECCS [Emergency Core Cooling System] to the reactor core. The flow required from the ECCS to maintain the core in a coolable geometry was found to be well within the capacity of any one ECCS pump. Furthermore, it was determined that convective heat transfer to steam would be sufficient to prevent release of significant source term or a significant degree of fuel damage.

For the above reasons, it is determined that operation of the VP System in Mode 3 or 4 immediately following the steam generator replacement outage does not involve a significant increase in either the probability or the consequences of an accident previously evaluated.

(2) The activity does not create the possibility of a new or different type of accident from any accident previously evaluated.

As discussed above, no ''accident initiators'' are affected by the proposed activity. Operation of the VP System proposed for Modes 3 and 4 will be the same as that routinely carried in other modes of operation. For these reasons, the activity will not create the possibility of a new or different type of accident from any previously evaluated.

(3) The activity does not involve a significant reduction in the margin of safety.

Margin of safety is associated with confidence in the ability of the fission product barriers (the fuel and fuel cladding, the Reactor Coolant System pressure boundary, and the containment) to limit the level of radiation doses to the public. The proposed operation of the VP System will occur at the end of an extended outage. The level of decay heat and activity in the reactor is very low compared to the level of decay heat and activity associated with full power operations. For this reason, the likelihood of damage to the fuel following a DBLOCA [design basis loss-of-coolant analysis] occurring during the proposed purging is reduced, as determined above. Both offsite doses and doses to the Control Room were found to be small compared to the limits of 10 CFR [Part] 100 and GDC [General Design Criterion] 19. For these reasons, the activity does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: Herbert N. Berkow.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: December 12, 1995.

Description of amendment request: The proposed amendments would correct an error in the Axial Flux Difference (AFD) Equations to more accurately reflect the proper AFD limit reduction, which is more conservative than the literal interpretation of the current Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The change would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The monitoring of core power distribution and peaking factors is to ensure accident analysis assumptions such as maximum local pin power at the initiation of an accident are satisfied, and are not involved in the initiation or mitigation of any previously evaluated accident.

The proposed change is actually more conservative than the existing Technical Specification currently being used at McGuire.

B. The change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

No plant modifications (hardware or control methods) are involved with this proposed change. The change is simply to correct an error in the Specification introduced in Amendments 130 (Unit 1) and 112 (Unit 2). The proposed change is more restrictive than the current specification. No changes are proposed which could create any new accident scenarios.

C. The proposed change will not involve a significant reduction in any margin of safety.

The proposed change ensures the margin of safety is properly maintained by properly reducing (instead of increasing) the Positive AFD [Axial Flux Difference] limit if a peaking factor exceeds its surveillance limit. The change is more conservative than the existing Specification and will ensure the margins of safety are properly maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: Herbert N. Berkow.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: March 4, 1996.

Description of amendment request: The proposed amendments would delete the Flow Monitoring System from Technical Specification (TS) 3.4.6.1 and associated surveillance requirements. The TS requires that either the Containment Floor and Equipment Sump Level System or the Flow Monitoring System be used to ensure that Reactor Coolant leakage is maintained within the specified limits. Duke Power does not use the Flow Monitoring System as a result of documented instrumentation inaccuracies due to the as-built piping configuration. The existing piping configuration does not ensure a water solid line which is necessary for the correct operation of any type of flow instrumentation. Modification to add a loop seal downstream of the flow element would be necessary for operability, which would create access difficulties as well as increase the potential for a radiological hazard in the form of a CRUD trap.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. This amendment will not significantly increase the probability or consequence of any accident previously evaluated.

This change will not increase the probability or consequences of an accident since this Reactor Coolant Leakage Detection instrumentation is not an accident initiator or mitigator.

This proposed Technical Specification change does not decrease the number of methods for Reactor Coolant leakage detection. This change will ensure there are still three distinctly separate methods of detecting NC [reactor coolant] leakage within the Containment Building. The first method will be detecting liquid leakage inside Containment via CFAE [Containment Floor and Equipment] level monitoring. The second method is detecting an increase in Radiation levels inside Containment and the third method is detecting steam leakage inside Containment. All three methods satisfy the diversity requirements listed in Regulatory Guide 1.45 for detecting a Reactor Coolant leak inside Containment.

The sensitivity requirement listed in Regulatory Guide 1.45 is to detect a Reactor Coolant leak of one (1) gpm in one (1) hour. The first method meets this by use of the Sump level monitoring and rate of increase alarm from this level monitoring device. There are two sumps inside containment and the levels for both sumps are combined for detecting a one (1) gpm leak. McGuire uses the Sump Level monitoring to adequately address liquid leakage detection inside Containment; therefore, a flow monitoring system on the Sump Discharge line is not necessary and can be deleted.

The Radiation Monitors are also set up to the required Regulatory Guide 1.45 sensitivity for detecting Reactor Coolant leakage and are not designed for SSE [safe-shutdown earthquake] events per the McGuire FSAR [Final Safety Analysis Report] (see McGuire's Request for Amendment: Reactor Coolant Leakage Detection Systems, dated March 4, 1996).

The third method for detecting Reactor Coolant leakage is to monitor Containment Ventilation Condensate Drain Tank (VUCDT) flow, for which McGuire is also using a level monitor. As in the case of the CFAE Unit Sump Level monitor, level monitoring for leakage detection is more reliable than flow monitoring.

2. This amendment will not create the possibility of any new or different kind of accident not previously evaluated.

The CFAE Flow Monitoring System has no control function, ([i.e.,] it is only a process monitor). Therefore, its deletion cannot create the pos[s]ibility of a new or different kind of accident.

3. This amendment will not involve a significant reduction in a margin of safety.

This proposed Tech Spec change does not decrease the number of methods for Reactor Coolant leakage detection. This change will ensure there are still three distinctly separate methods of detecting Reactor Coolant leakage within the Containment Building.

Tech Spec 3.4.6.1 specifies two Radiation Monitors as two separate

required methods for Reactor Coolant Leakage Detection with the Containment Ventilation condensate level monitoring as a backup. The third method is the Containment Sump level monitoring with the flow monitoring as a backup.

The new standardized Tech Spec 3.4.15, lists method one as Containment Sump (Level OR Discharge Flow) Monitoring Device. McGuire proposes to use a Sump Level monitoring device only. The second method listed is one Containment Radiation Monitor (either the gaseous or particulate monitor). McGuire will still have both available. The third method listed is one Containment air cooler condensate flow rate monitor for which McGuire plans to also use a level monitor. Liquid, Radiation, and Steam monitoring will still be accounted for in the Tech Spec, with the additional requirement of running a Reactor Coolant leak calculation if any of the methods are inoperable.

Since McGuire is retaining three distinct methods of Reactor Coolant leakage detection per current TS [technical specification] requirements (and in agreement with current ISTS [improved standard technical specification] requirements), the proposed Technical Specification amendment does not cause any reduction in safety margin.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: Herbert N. Berkow.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: February 21, 1996.

Description of amendment request: The licensee proposes a change to the Plant Hatch Unit 1 and Unit 2 Technical Specifications. The proposed revision would change the Drywell Air Temperature Limiting Condition for Operation (LCO) from less than or equal to 135°F to less than or equal to 150°F. The proposed change would provide a margin for the primary containment Drywell Air Temperature LCO when prolonged summer and high river temperatures are experienced. Also, a correction to a Final Safety Analysis Report (FSAR) reference would be made. This typographical error is strictly editorial.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The probability (frequency of occurrence) of previously evaluated accidents is not a function of the ambient drywell air temperature. Instrumentation setpoint calculations were assessed, and the increased ambient drywell air temperature does not affect any instrumentation setpoints or allowable values.

The design basis accidents were reevaluated utilizing the increased drywell air temperature as an initial assumption. The results indicated that no regulatory limits or equipment design requirements will be exceeded as the result of the proposed change. Therefore, the change in drywell air temperature does not result in a significant increase in the probability or consequences of any previously evaluated accidents.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously analyzed. Revising the Drywell Air Temperature LCO does not physically modify the plant nor does it modify the operation of any existing equipment.

3. The proposed change does not involve a significant reduction in a margin of safety. Design bases analyses performed utilizing 150°F as the initial drywell temperature demonstrate that design and regulatory limits are not exceeded. Equipment in the drywell required to mitigate the effects of a DBA [design basis accident] is qualified to operate under environmental conditions expected for an accident. Analysis results do not affect instrumentation setpoints or calibration, or accident equipment qualification.

Equipment qualified life is evaluated by an existing program which uses elevation-dependent drywell temperature rather than bulk average temperature. Therefore, the margin of safety associated with safety and other limits identified in the Technical Specifications are not significantly reduced.

The correction to an FSAR reference is strictly editorial. Therefore, it meets the three criteria stated above.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Herbert N. Berkow.

GPU Nuclear Corporation, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: March 28, 1996 (TSCR 234).

Description of amendment request: The proposed amendment modifies statements in the Technical Specifications and bases to correctly reflect the reference parameter for anticipatory scram signal bypass.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. State the basis for the determination that the proposed activity will or will not increase the probability of occurrence or consequences of an accident.

This change modifies the terminology in a footnote to a Technical Specification Table and the bases. The change properly aligns the footnote and the bases with the FSAR [final safety analysis report] and the newly revised conservative setpoint which now correctly correlates the high pressure turbine third stage extraction steam line pressure to rated reactor thermal power. The change does not modify the function or operation of the bypass logic. Therefore, the proposed change will not increase the probability of occurrence or consequences of an accident.

2. State the basis for the determination that the activity does or does not create the possibility of an accident or malfunction of equipment of

a different type than any previously identified in the SAR.

The change does not involve any hardware and does not alter the functional intent of the pressure switches. The change of the footnote wording and the bases are primarily administrative and the existing Technical Specification Limiting Condition for Operation are preserved. Thus the proposed activity does not create the possibility of an accident or malfunction of a different type than any previously identified in the SAR.

3. State the basis for the determination that the margin of safety as defined in the bases of any Technical Specification is not reduced.

The revised setpoint assures that the anticipatory scram signal bypass is removed before reaching the Technical Specification limit of 40 percent rated reactor thermal power (during power ascension). Thus, the margin of safety as stated in the bases of Technical Specification 3.1 is preserved.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Attorney for licensee: Ernest L. Blake, Jr., Esquire. Shaw, Pittman, Potts & Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: February 22, 1996 (U–602554)

Description of amendment request: The proposed amendment would modify Technical Specifications 3.3.8.1, ''Loss of Power Instrumentation,'' and 3.8.1, ''AC Sources-Operating.'' The proposed changes would delete the Surveillance Requirement (SR) 3.3.8.1.1 which requires a channel check for Loss of Power instrumentation and change Technical Specification Table 3.3.8.1–1 to change the allowable value for the Degraded Voltage Function (items 1.c and 2.c) from ''[greater than or equal to] 3762V and [less than or equal to] 3832V'' to ''[greater than or equal to] 3876V.'' The amendment would also change Technical Specification Table 3.3.8–1 to modify the Division 3 degraded voltage logic to be the same as Divisions 1 and 2 (i.e., two-out-of-two rather than three-out-of-three), and increase the steady state voltage from [greater than or equal to] 3740V to [greater than or equal to] 3870V for SRs 3.8.1.2, 3.8.1.7, 3.8.1.11, 3.8.1.12, 3.8.1.15, 3.8.1.19 and 3.8.1.20.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) None of the proposed changes involve a significant increase in the probability or consequences of any accident previously evaluated. Each of the proposed changes is evaluated against this criteria as discussed below.

The deletion of the channel check surveillance will result in discontinuing the recording of information that is not effective in assessing the capability of the degraded voltage relays to perform their intended function. Deletion of the channel check does not change the design or the expected performance of the Loss of Power (LOP) degraded voltage instrumentation, and therefore, the proposed change does not impact the intended function of this instrumentation to ensure adequate voltage for the ECCS equipment during DBA and other non-accident scenarios. This surveillance provides little added assurance of relay operability since the relay is normally in a ''non-tripped'' state.

The revision of the Allowable Values for the LOP degraded voltage and increase in the minimum required voltage for testing diesel generators will not result in any increase in the probability or consequences of any accident. The revised Allowable Values will continue to provide assurance that adequate voltage is available to run ECCS equipment during DBAs or any other non accident scenarios. With the emergency bus(es) voltage at or greater than the revised Allowable Values, the operability of required ECCS equipment is assured. The revised setpoints for the degraded voltage instrumentation, as controlled under 10CFR50.59 in the Clinton Power Station Operational Requirements Manual (ORM), are sufficiently low to assure that the possibility of spurious trips is minimized.

The planned modification for Division 3 LOP degraded voltage sensor/relay logic will make Division 3 logic identical to the present designs for Division 1 and 2. The proposed design for Division 3 will not result in an increase in the probability of any accident because the proposed LOP Degraded Voltage logic for Division 3 will be identical to the proven design of Division 1 and 2. There will not be an increase in the consequences of an accident because the design of the LOP Degraded Voltage instrumentation will continue to ensure adequate voltage for ECCS equipment during any DBA and during non-accident scenarios.

The proposed footnotes merely assure that the proposed changes become effective upon installation of the corresponding plant modifications. Thus, these changes are purely administrative.

Chapter 15 of the Clinton Updated Safety Analysis Report (USAR) discusses the effects of anticipated process disturbances to determine their consequences and the capability of the plant to control or accommodate such events. Subsection 15.2.6 discusses loss of AC power, including loss of grid voltage. This discussion demonstrates that fuel design limits and reactor coolant pressure boundary design conditions are not exceeded. The proposed changes do not affect the discussion nor the conclusion of this evaluation.

(2) None of the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated. Each of the proposed changes is evaluated against this criterion as discussed below.

The proposed changes (deletion of the channel check, the revised Allowable Value for the LOP degraded voltage instrumentation, revision of the minimum required voltage for the diesel generator (DG) surveillance, and change of the number of required channels for Division 3) do not alter the intent or purpose of the degraded voltage instrumentation. The instrumentation will continue to function to protect the loads on the emergency bus by switching automatically to the on site power source when the voltage has been at a degraded condition for greater than the Allowable Value of the time delay. The LOP instrumentation provides a responsive actuation (trip) to an accident or scenario where the protection provided by this function prevents damage to ECCS equipment during undervoltage (degraded voltage) conditions on the emergency bus(es). Because the instrumentation will continue to function to ensure that the emergency bus voltage for all three divisions is sufficient for the proper operation of all class 1E equipment down to the 120 volt level, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The change in the lower voltage for the DG

surveillances will not impact the way the surveillances are conducted because the DGs are run as close to the nominal voltage as possible. The lower voltage is a criterion for evaluating the surveillance and the revised lower voltage is adequate for its intended purpose.

(3) None of the proposed changes involve a significant reduction in a margin of safety. Each of the proposed changes is evaluated against this criterion as discussed below.

The proposed deletion of the channel check SR 3.3.8.1.1 will not result in any reduction of the margin of safety because the channel check is ineffective and the status of the channel will continue to be apparent to plant personnel because of information provided by other TS required surveillances. The margin of safety is provided by LOP instrumentation ensuring the emergency bus(es) have adequate voltage to support ECCS operability. The proposed revision of the Allowable Value for the LOP degraded voltage will provide assurance that emergency bus(es) voltage will be adequate for ECCS loads during DBA and other non-accident scenarios. These setpoints were determined based on revised voltage calculations and using an NRC-approved setpoint methodology. Thus, these changes will not involve any reduction of the margin of safety. The proposed revision of the number of required channels for Division 3 will not result in a reduction in a margin of safety because the proposed Division 3 LOP Degraded Voltage instrumentation logic will be the same as the proven design of Division 1 and 2. This modification will improve plant maintenance and training by making Divisions 1, 2 and 3 similar thereby enhancing plant performance and safety.

Similarly, the proposed revision of the lower voltage limit for voltage for the DG surveillances (SR 3.8.1.2, SR 3.8.1.7, SR 3.8.1.11, SR 3.8.1.12, SR 3.8.1.15, SR 3.8.1.19, and SR 3.8.1.20) will assure that the DGs will be capable of controlling voltage to a range that will be adequate for the loads on the bus. This value was determined using revised voltage calculations and is consistent with the proposed degraded voltage setpoints. None of the proposed changes will involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Attorney for licensee: Leah Manning Stetener, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, Illinois 62525.

NRC Project Director: Gail H. Marcus.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: February 22, 1996 (U–602551).

Description of amendment request: The proposed amendment would change Technical Specification 3.4.11, ''Reactor Coolant System (RCS) Pressure and Temperature (P/T) Limits,'' to incorporate specific P/T limits for the bottom head region of the reactor vessel, separate and apart from the core beltline region of the reactor vessel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed change results in a specific pressure and temperature (P/T) limit curve for the bottom head during vessel pressure testing evolutions, while the P/T limits for the remaining balance of reactor pressure vessel regions are unchanged. The limits for the bottom head region, which are only applicable during vessel system pressure or leak testing, were developed consistent with Regulatory Guide 1.99, Revision 2; 10CFR50, Appendix G; ASME Section III, Appendix G; and Welding Research Council (WRC) Bulletin 175. Additionally, the proposed change does not result in a change to the way in which the hydrostatic pressure tests are performed. That is, conformance to the P/T limits specified in Technical Specification Figure 3.4.11–1 with the proposed bottom head P/T limits incorporated, will continue to provide protection against brittle fracture of the vessel system during required testing so that vessel integrity is maintained. Therefore, this proposed change does not result in an increase in the probability or consequences of any accident previously evaluated.

(2) The proposed change does not result in any change to the plant or the way in which the hydrostatic pressure tests are performed. As a result, no new failure modes are introduced. Therefore, the proposed change cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The new P/T limit curve for the bottom head has been developed consistent with Regulatory Guide 1.99, Revision 2; 10CFR50, Appendix G; ASME Section III, Appendix G; and Welding Research Council (WRC) Bulletin 175. All other regions of the reactor pressure vessel retain their applicability to appropriate and previously approved P/T limit curves which are based on the same methodology. Conformance to the P/T limit curves, with the proposed changes incorporated, will continue to provide adequate margins of safety against brittle fracture of the reactor vessel. Therefore, this proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Attorney for licensee: Leah Manning Stetener, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, Illinois 62525.

NRC Project Director: Gail H. Marcus.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: February 22, 1996 (U–602522)

Description of amendment request: The proposed amendment would change Technical Specification 3.3.4.1, ''End of Cycle Recirculation Pump Trip (EOC–RPT) Instrumentation,'' by deleting Surveillance Requirement (SR) 3.3.4.1.6. The SR requires the reactor recirculation pump trip breaker interruption time to be determined at least once per 60 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) End of cycle recirculation pump trip (EOC–RPT) actuation in response to main generator load rejection and main turbine trip events has previously been evaluated in Chapter 15 of Clinton Power Station (CPS) Updated Final

Safety Analysis. The proposed change does not affect the initiators of any of these events. In addition, the possibility of failure of the EOC–RPT breaker to mitigate these events has not been increased because there has been no change in design and no change to the plant. Deleting the requirement to periodically measure the breaker arc suppression time will not impact the EOC–RPT breakers' capability of performing their intended function because CPS will continue to perform inspections, testing and maintenance that supports breaker operation as intended and provides assurance that breaker interruption time will be within limits. Thus, the EOC–RPT breaker trip may be expected to operate as before to mitigate pressurization transient effects.

The EOC–RPT breaker trip is also assumed to occur in the analyses for the loss of feedwater heating, feedwater controller failure, pressure regulator failure, recirculation flow control failure, and recirculation pump seizure events. However, the EOC–RPT breaker trip is not an initiator or mitigating feature for these events. The proposed change cannot therefore impact the probability or consequences for these events. Nonetheless, the EOC–RPT breaker trip may be assumed to function as before for these scenarios.

For scenarios where the EOC–RPT breaker trip could initiate an event (i.e., inadvertent recirculation pump trip events), the probability of occurrence is not increased. The design and operation of the EOC–RPT system has not been changed, and therefore, the consequences resulting from the EOC–RPT breaker trip are unchanged.

Based on the above, neither the probability nor the consequences of any accident previously evaluated have been increased.

(2) As noted above, the EOC–RPT breakers will continue to function as before. The proposed change involves no design change or physical change in the plant. Therefore, previous accident analyses are unchanged. Further, no new operations or testing is involved. On this basis, no new failure modes are introduced. Therefore, this proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) This proposed change does not involve a significant reduction in a margin of safety. The capability of the EOC–RPT breaker trip to provide additional insertion of negative reactivity for mitigating design-basis events remains unchanged. That is, the EOC–RPT will continue to be capable of reducing the peak reactor pressure and power resulting from turbine trip or generator load rejection transients, thus providing additional margin to core thermal MCPR Safety Limits.

The margin of safety is assured by the EOC–RPT breaker trip occurring within established limits such that the overall system performs its intended safety function within the time analyzed for the system safety response. No system time limit change is proposed. The robust design of the breakers, combined with continued performance of vendor-recommended testing and maintenance that ensures proper mechanical and electrical performance of the breakers, will continue to provide assurance that breaker interruption time is within the acceptable limit. Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Attorney for licensee: Leah Manning Stetener, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, Illinois 62525.

NRC Project Director: Gail H. Marcus.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: February 22, 1996 (U–602549).

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.6.5.1, ''Drywell,'' to allow drywell bypass leakage tests to be performed at intervals of up to ten years based, in part, on the demonstrated performance of the drywell barrier with respect to leak tightness. The proposed amendment would also revise TS 3.6.5.2, ''Drywell Air Lock,'' to extend the testing intervals for the surveillances on drywell air lock overall leakage and interlock operability, relocate the specific leakage limits on the air lock barrel and door seals to the TS Bases, relocate the requirement to pressurize the drywell air lock to 19.7 psid prior to performance of the overall drywell air lock leakage test to the TS Bases, and other administrative changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed changes do not involve a change to the plant design or operation. As a result, the proposed changes do not affect any of the parameters or conditions that contribute to initiation of any accidents previously evaluated. Therefore, the proposed changes cannot increase the probability of any accidents previously evaluated.

The proposed changes do potentially affect the leaktight integrity of the drywell, a structure used to mitigate the consequences of a loss of coolant accident (LOCA). The function of the drywell is to force the steam released from a LOCA through the suppression pool, limiting the amount of steam released to the primary containment atmosphere. This serves to limit the containment pressurization due to the LOCA. The leakage of the drywell is limited to ensure that the primary containment does not exceed its design limits of 185°F and 15 psig. Because the proposed change to replace the current 18-month frequency for performing drywell bypass leakage tests (DBLRTs) with a performance-based frequency does not alter the plant design, the proposed change does not directly result in an increase in the drywell leakage. However, decreasing the test frequency can increase the probability that a large increase in drywell bypass leakage could go undetected for an extended period of time. This potential has been evaluated, and Illinois Power has determined that the proposed change to the DBLRT frequency will not result in the potential for undetected, large increases in leakage, as further discussed below.

There are several potential drywell bypass leakage paths. These include potential cracks in drywell concrete structure, the drywell vacuum breakers, and various penetrations through the drywell structure. Based on the results of the structural integrity test conducted at the design pressure of 30 psig as part of the preoperational test program, additional cracking of the drywell is not expected during the remaining life of the plant. Ventilation and piping penetrations (including the drywell vacuum breaker penetrations) are designed to ASME Code Class 2 and Seismic Category 1 requirements. These penetrations are typically designed with two isolation valves in series with one valve in the drywell and another either outside primary containment or in the wetwell. Technical Specification (TS) Surveillance Requirements (SRs) require, as applicable, periodic verification of drywell isolation valve

position, stroke time, and automatic isolation capability. High energy lines that extend into the wetwell, such as the main steam lines and feedwater lines, are encapsulated by guard pipes to direct energy back into the drywell in case of a piping rupture. Electrical penetrations are sealed with a high strength/density material that will prevent leakage, as well as provide radiation shielding.

The proposed changes for the drywell air lock involve relocation of the separate limits on the drywell air lock barrel and seal leakage rates to the TS Bases, relocation of the requirement to pressurize the air lock to 19.7 psid prior to performance of the air lock overall (barrel) leakage test, and changing the frequency for these tests from 18 months to 24 months. While the proposed changes will eliminate separate TS limits on leakage of the drywell air lock, the overall drywell bypass leakage TS limit (which includes leakage through the air lock) is not affected by this proposed change. The limiting scenario for drywell bypass leakage is a small break LOCA which results in drywell pressures of approximately 3 psid. Only a large break LOCA can create drywell pressures of 19.7 psid. For this event, the allowable drywell bypass leakage rate is over eight times larger than for a small break LOCA. Thus, relocation of these requirements to the TS Bases will continue to provide adequate control of these requirements. The proposed air lock overall leakage rate testing frequency is consistent with the guidance for testing primary containment air locks in Nuclear Energy Institute (NEI) 94–01, ''Industry Guideline for Implementing Performance-Based Option of 10CFR50, Appendix J.'' The drywell air lock is tested in a manner similar to the primary containment air locks, even though the drywell air lock is not a direct leakage path from primary containment and, therefore, 10CFR50, Appendix J test requirements do not apply. The drywell air lock's use is limited during plant operation due to radiation and temperature in the drywell. Since sufficient confidence in the door's sealing capability is assured considering past performance and the air lock door usage is very low throughout an operating cycle, it is justified to allow performance of these tests at refueling-outage intervals, whether the unit is on a 18-month or a 24-month refueling cycle.

Operational experience has shown that the leak tightness of the drywell has been maintained well below the allowable leakage limits at Clinton Power Station. The TS limit of 10% of the design [maximum allowable leakage path area] provides a large margin for degradation. Drywell performance to date suggests that drywell degradation, even with a ten-year interval between tests, will not exceed this margin. The most recent DBLRT performed during the fourth refueling outage (RF–4) measured a drywell bypass leakage rate of 0.07% of the design limit.

An analysis was also conducted to determine the potential risk to the public from unacceptable drywell bypass leakage going undetected as a result of the proposed change. Based on this probabilistic risk analysis, for several different accident scenarios, the risk of radioactivity release from containment was found to be insignificant.

Based on the above, Illinois Power has concluded that the proposed changes will not result in a significant increase in the consequences of any accident previously evaluated.

(2) The proposed change does not involve a change to the plant design or operation. As a result, the proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents. Drywell bypass leakage cannot, of itself, create an accident. Thus, it has been concluded that the proposed change cannot create the possibility of an accident not previously evaluated.

(3) The NRC has provided standards for determining whether a no significant hazards consideration exists as stated in 10CFR50.92(c). These proposed changes involve the withdrawal of operating restrictions previously imposed because acceptable operation of the Mark III primary containment design had not been demonstrated at the time of initial licensing. As published in the Federal Register (FR) regarding no significant hazards consideration criteria, granting of a relief based upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation had not yet been demonstrated does not involve a significant hazards consideration (reference 48 FR 14870).

The proposed change only affects the frequency of measuring the drywell bypass leakage rate and does not change the bypass leakage rate limit. The proposed change could potentially increase the probability that a large increase in drywell bypass leakage could go undetected for an extended period of time. However, operational experience has shown that the leaktightness of the drywell has been maintained well below the allowable leakage limits. In addition, there are TS surveillances which require, as applicable, periodic verification of drywell isolation valve position, stroke time, and automatic isolation capability. Further, qualitative methods (such as periodic verification that the drywell pressurizes, which ensures that the drywell leak rate is less than the instrument air leak and usage rates) are available to provide assurance that the drywell leakage rate is being maintained within limits. The Clinton Power Station TS require the drywell leakage rate measured during DBLRTs to be less than or equal to 10% of the design limit. This request does not affect this required margin. Nor does it affect the existing margin between the primary containment design pressure and the actual pressure at which primary containment would fail.

With respect to proposed changes to the drywell air lock overall leakage testing and interlock testing requirements, the proposed leak test frequencies are consistent with the guidance for testing primary containment air locks in NEI 94–01. Due to the limited use of the drywell air locks during plant operation, it is justified to allow performance of interlock operability testing on a refueling outage basis, whether the unit is on an 18-month or a 24-month refueling cycle. The separate limits on the drywell air lock and barrel are being relocated from the TS, these limits are being controlled under 10CFR50.59 and the TS Bases Control program of TS 5.5.11. Leakage through these pathways will continue to be a part of the overall drywell bypass leakage limited by LCO 3.6.5.1.

An analysis was also conducted to determine the potential risk to the public from the proposed change. Based on this probabilistic risk analysis, for several different accident scenarios, the risk of radioactivity release from containment was found to be insignificant.

As a result, Illinois Power has concluded that the proposed changes will continue to assure that the drywell bypass leakage will be within design limits if challenged and therefore, will not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Attorney for licensee: Leah Manning Stetener, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, Illinois 62525.

NRC Project Director: Gail H. Marcus.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: February 26, 1996 (AEP:NRC:1071U).

Description of amendment requests: The proposed amendments would modify the technical specifications (TS) to increase the current limit on nominal fuel assembly enrichment for new, Westinghouse-fabricated, fuel stored in the new fuel storage racks from 4.55 weight percent uranium-235 isotope to 4.95 weight percent uranium-235 isotope with certain provisions. Also, TS 5.6.2 would be reformatted similar to that used in the standard TS (NUREG–1431, Rev. 1).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated,

(2) create the possibility of a new or different kind of accident from any accident previously evaluated, or

(3) involve a significant reduction in a margin of safety.

Criterion 1

The proposed changes will not involve a significant increase in the probability of an accident previously evaluated because similar administrative controls to those presently used to identify new fuel storage rack inventory and compliance with T/S limits will be used. There are no physical changes to the plant associated with this T/S change. The consequences of an accident previously evaluated will not be increased because the reactivity of the fuel stored in the new fuel storage racks under the proposed T/S limits will be no greater than the reactivity of fuel stored in the new fuel storage racks presently allowable under the current T/S limits.

Criterion 2

The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated because the changes will involve no physical changes to the plant nor any changes in plant operations. Furthermore, the reactivity of the fuel stored in the new fuel storage racks under the proposed T/S limits will be no greater than the reactivity of fuel stored in the new fuel storage rack presently allowable under the current T/S limits.

Criterion 3

The proposed amendment will not involve a significant reduction in a margin of safety because the reactivity of the fuel stored in the new fuel storage racks under the proposed T/S limits will be no greater than the reactivity of fuel stored in the new fuel storage racks presently allowable under the current T/S limits.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. In addition, the reformatting of TS 5.6.2 is a purely administratiave change having no effect on the physical plant or its operation. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: Mark Reinhart, Acting.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: February 29, 1996 (AEP:NRC:1232).

Description of amendment requests: The proposed amendments would revise the technical specifications to reduce the boric acid concentration in the boric acid storage system from approximately 12 percent to approximately 4 percent by weight. Related changes are also proposed to increase the minimum required flow rate in action statements for certain affected TS and add an additional surveillance requirement for this flow rate, and decrease the minimum temperature requirement in certain affected TS to 63 °F. The bases section is also updated to reflect these proposed changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, a proposed change does not involve a significant hazards consideration if the change does not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated,

2. create the possibility of a new or different kind of accident from any accident previously evaluated, and

3. involve a significant reduction in a margin of safety.

Criterion 1

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

NO. The BAST [boric acid storage tank] water volume and boron concentration were not credited in any Chapter 14 safety analysis. Therefore, no change in the probabilities of the accident analysis will result from the BAST water volume and boron concentration change. In addition, since the BAST water volume and boron concentration are not taken into consideration in any safety analysis, the consequences of an accident previously evaluated in the FSAR [final safety analysis report] are not increased. The heat tracing system is currently only necessary to prevent precipitation of existing high boric acid concentration in the plant systems. The reduction in boron concentration in this proposal eliminates the need for the heat tracing system. The existence of the heat tracing system was not part of any safety analysis and disabling of the heat tracing system will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

NO. Since the minimum required water flow from the boric acid storage system to the reactor coolant system was increased to counteract any possible operational transients, as shown in Attachment 4 [of the application], the change in BAST water volume and boron concentration and disabling of the heat tracing system do not create the possibility of an accident which is different from any already evaluated in the FSAR. No new or different failure modes have been defined for any system or component nor has any new limiting single failure been identified.

Criterion 3

Does the change involve a significant reduction in a margin of safety?

NO. The margin of safety requirements are not affected by the removal of the heat tracing system and the reduction of the boric acid concentration in the boric acid storage system. The required flow paths and borated water sources are unaffected by this proposal. The required quantity of borated water is still available based upon the performed evaluation, and appropriate surveillance requirements ensure the ability to deliver this borated water. The reduction of the boric acid concentration in the BASTs will ensure that the boric acid remains in solution at the normal room temperature in the auxiliary building. With the above changes, there will be a net improvement in system reliability and accordingly the proposed changes do not affect the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: Mark Reinhart, Acting.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: March 13, 1996.

Description of amendment requests: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2 to revise TS 4.0.5, ''Surveillance Requirements,'' to delete reference to prior NRC approval for written relief from the Inservice Inspection (ISI) and Inservice Testing Program (IST) requirements and to add ASME Section XI definition of ''Biennially or every 2 years—At least once per 731 days'' in TS 4.0.5b.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes implement the NRC's recommendation contained in NUREG–1482, ''Guidelines for Inservice Testing Programs at Nuclear Power Plants,'' endorsed by Generic Letter

89–04, Supplement 1, ''Guidance on Developing Acceptable Inservice Testing Programs.'' The changes are consistent with 10 CFR 50.55a, ''Codes and Standards,'' which does not prohibit the implementation of relief from ASME Section XI requirements prior to specific written approval when those changes are found acceptable by change process specified in 10 CFR 50.59, ''Changes, Tests and Experiments.'' The proposed changes are administrative in nature and do not involve any modifications to any plant equipment or affect plant operation.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are administrative in nature, do not involve any physical alterations to any plant equipment, and cause no change in the method by which any safety-related system performs its function.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed changes do not alter the basic regulatory requirements and do not affect any safety analyses.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: William H. Bateman.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: April 3, 1996.

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2 to revise Technical Specifications 3/4.7.5, ''Control Room Ventilation System,'' 3/4.7.6, ''Auxiliary Building Safeguards Air Filtration System,'' and 3/4.9.12, ''Fuel Handling Building Ventilation System,'' to clarify the testing methodology utilized by PG&E to determine the operability of the charcoal and high-efficiency particulate air (HEPA) filters in the engineering safeguards features (ESF) air handling units.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The charcoal testing protocol changes will not affect system operation or performance, nor do they affect the probability of any event initiators. These changes do not affect any engineered safety features actuation setpoints or accident mitigation capabilities. The new charcoal adsorber sample laboratory testing protocol more accurately demonstrates the required performance of the adsorbers in the control room ventilation system and auxiliary building safeguards air filtration system following a design basis loss of coolant accident or in the fuel handling building ventilation system following a fuel handling accident outside containment. The decontamination efficiencies used in the offsite and control room dose analyses are not affected by these changes. Therefore, offsite and control room dose analyses are not affected by this change, and all offsite and control room doses will remain within the limits of 10 CFR 100 and 10 CFR 50, Appendix A, General Design Criterion (GDC) 19.

The requirements of ANSI N510–1980 encompass the requirements of ANSI N510–1975, which is referenced in Regulatory Guide (RG) 1.52, as it applies to testing at Diablo Canyon Power Plant (DCPP). Consequently, revising the Technical Specifications (TS) to reference ANSI N510–1980 will have no effect on filter testing.

The proposed changes are consistent with the new Standard Technical Specifications (NUREG–1431, Rev. 1).

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes to the charcoal sample testing protocol will not affect the method of operation of the system. The proposed changes only affect the testing parameters for the charcoal samples. No new or different accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of these changes.

The requirements of ANSI N510–1980 encompass the requirements of ANSI N510–1975, which is referenced in RG 1.52, as it applies to testing at DCPP. Consequently, revising the TSs to reference ANSI N510–1980 will have no effect on filter testing.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The changes in charcoal sample testing protocol will not affect system performance or operation. The decontamination efficiencies used in the offsite and control room dose analyses are not affected by these changes. Therefore, offsite and control room dose analyses are not affected by this change, and all offsite and control room doses will remain within the limits of 10 CFR 100 and 10 CFR 50, Appendix A, GDC 19.

The requirements of ANSI N510–1980 encompass the requirements of ANSI N510–1975, which is referenced in RG 1.52, as it applies to testing at DCPP. Consequently, revising the TSs to reference ANSI N510–1980 will have no effect on filter testing.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: William H. Bateman.

Pacific Gas and Electric Company, Docket No. 50–133, Humboldt Bay Power Plant, Unit 3, Humboldt County, California

Date of amendment request: March 13, 1996.

Description of amendment request: The proposed amendment would revise the Humboldt Bay Power Plant (HBPP), Unit 3, Technical Specifications (TS) by incorporating position changes to reflect a proposed plant staff reorganization. The TS changes proposed are as follows:

(1) TS Section VII.C.2.c and VII.D.1.b—change the position title from ''Power Plant Engineer'' to ''Senior Power Production Engineer.''

(2) TS Section VII.C.2.d—change the position title from ''Senior Chemical and Radiological Engineer'' to ''Senior Radiation Protection Engineer.''

(3) TS Section VII.C.2.e and VII.D.1.b—change the position title from ''Maintenance Planner'' to ''Supervisor of Maintenance.''

(4) TS Section VII.C.2.g and VII.D.1.b—add the position of ''Assistant Plant Manager/Power Plant Engineer.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed administrative and organizational changes provide editorial corrections and reflect the proposed HBPP and current NRC organizations. These changes do not affect the operating methodology of HBPP, and they are not related to the probability or consequences of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed revisions to the HBPP TS are organizational and administrative in nature, and do not change the method by which any safety-related system performs its function.

Therefore, the proposed changes do not create the possibility of a new of different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed changes have no effect on the current operating methodologies or actions that govern plant performance. In addition, the proposed changes do not affect the margin of safety associated with parameters for any accident analysis.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis of the licensee and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Humboldt County Library, 1313 3rd Street, Eureka, California 95501.

Attorney for licensee: Christopher J. Warner, Esquire, Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Seymour H. Weiss.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application request: February 9, 1996, as superseded by letter dated March 22, 1996.

Description of amendment request: The amendment would revise Technical Specification (TS) Definition 1.7, TS 3/4.6, TS 6.8, and their associated bases to directly reference Regulatory Guide 1.163 as required by 10 CFR 50, Appendix J, Option B, for the Type A containment integrated leak rate tests (ILRTs) and the Type B and C local leak rate tests (LLRTs).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to TS 1.7e, 4.6.1.1, 3/4.6.1.3, Bases 3/4.6.1.1 and the program addition to TS 6.8.4g have no effect on plant operation. The proposed changes only provide mechanisms within TS for implementing a performance-based methodology for determining the frequency of leak rate testing, as allowed by the NRC. The test type, method, and acceptance criteria will not be changed. Containment leakage will continue to be maintained within the required limits. Based on industry and NRC evaluations performed in support of developing Option B, these changes potentially result in a minor increase in the consequences of an accident previously evaluated due to the increased testing intervals. However, the proposed changes do not result in an increase in the core damage frequency since the containment system is used for mitigation purposes only.

Directly referencing the Containment Leakage Rate Testing Program for Containment ILRT and LLRT requirements does not involve any modification to plant equipment or affect the operation or design basis of the containment. Leakage rate testing is not a precursor to or an initiating event for any accident.

Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes only allow for implementation of 10 CFR 50, Appendix J, Option B and do not involve any modifications to any plant equipment or affect the operation or design basis of the containment. The proposed changes do not affect the response of the containment during a design basis accident.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not affect or change a safety limit, any limiting condition for operation or affect plant operations. The changes only implement the Appendix J, Option B test frequencies that have been determined by NRC not to involve a safety concern. The testing methods, acceptance criteria and bases are not changed and still provide assurance that the containment will provide its intended function.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: William H. Bateman.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: March 21, 1996.

Description of amendment request: The proposed changes to the Technical Specifications (TS) for the North Anna Power Station, Units 1&2 (NA–1&2) would clarify the requirements for testing charcoal adsorbent in the Waste Gas Charcoal Filter System, the Control Room Emergency Habitability System, and the Safeguards Area Ventilation System. No change in the testing is being proposed, only clarification of the description of the required testing in TS 3/4.6.4.3, 3/4.7.7.1, and 3/4.7.8.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed Technical Specifications changes will revise Surveillance Requirements for the charcoal adsorbent in the Waste Gas Charcoal Filter System (TS 3/4.6.3.), Control Room Emergency Habitability System (TS 3/4.7.7.2), and the Safeguards Area Ventilation System (TS 3/4.7.8.1) to reflect the current testing methodology for new and used carbon adsorbent. These proposed changes specify ASTM D 3803–1979 as the laboratory testing standard for both new and used charcoal adsorbent for the ventilation system identified above.

Virginia Electric and Power has evaluated the proposed Technical Specification changes to the North Anna Units 1 and 2 Technical Specifications against the Significant Hazards Criteria of 10 CFR 50.92 and determined that the changes do not involve any significant hazard for the following reasons:

1. The probability or consequences of an accident previously evaluated is not significantly increased.

The proposed changes are administrative in nature in that the changes only explicitly specify the current testing methodology for charcoal adsorbent. The proposed changes will not affect system operation or performance, nor do they affect the probability of any event initiators. These changes do not affect any Engineered Safety Features actuation setpoints or accident mitigation capabilities. Therefore, the proposed changes will not significantly increase the consequences of an accident or malfunction of equipment important to safety previously evaluated in the UFSAR.

2. The possibility of an accident or a malfunction of a different type than any previously evaluated is not created.

The proposed changes only clarify the requirements for charcoal testing and will not affect the method of operation of the ventilation systems. Furthermore, the proposed changes are only intended to clarify the existing requirements to explicitly specify the current test methodology. No new or different accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of these changes. Therefore, the possibility of a new or different kind of accident other than those already evaluated will not be created by this change.

3. The margin of safety has not been significantly reduced.

The proposed changes which represent the current laboratory testing methodology for charcoal adsorber samples, demonstrates the required performance of the adsorbent following a design basis LOCA or Fuel Handling Accident. Changing the Technical Specification to clarify the methodology for charcoal sample testing will not affect system performance or operation.

Therefore, these changes will not result in a significant reduction in any margin of safety.

Based on the above discussions, it has been determined that the requested Technical Specification changes do not involve a significant increase in the probability or consequences of an accident or other adverse condition over previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evaluation; or involve a significant reduction in a margin of safety. Therefore, the requested license amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219

NRC Project Director: Eugene V. Imbro.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: March 21, 1996.

Brief description of amendments: The amendments provide changes to Technical Specifications (TS) for CR3 relating to the Once Through Steam Generator's (OTSG's) tube inspection acceptance criteria, and repair limit for removing steam generator tubes from service. The proposed TS change would be applicable for one cycle duration, and only to Inter-Granular-Attack (IGA) degradation mechanism in a limited region of the OTSG.

Date of publication of individual notice in Federal Register: March 28, 1996 (61 FR 13888)

Expiration date of individual notice: April 29, 1996.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 30, 1995, as supplemented by letter dated February 8, 1996.

Description of amendment request: The proposed amendment would increase the spent fuel pool heat load licensing basis to provide greater flexibility for normal refueling practices.

Date of individual notice in the Federal Register: April 3, 1996 (61 FR 14832)

Expiration date of individual notice: May 3, 1996.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the Federal Register as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: December 20, 1995.

Brief description of amendments: These amendments change the instrument setpoint for the reactor trip and main steam isolation signal actuation on low steam generator pressure from greater than or equal to 919 psia with an allowable value of 911 psia to 895 psia with an allowable value of greater than or equal to 890 psia.

Date of issuance: April 5, 1996.

Effective date: April 5, 1996, to be implemented within 45 days of issuance.

Amendment Nos.: Unit 1–105; Unit 2–97; Unit 3–77.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 28, 1996 (61 FR 7544) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 5, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: November 1, 1995 as supplemented on December 1, 1995.

Brief description of amendments: The amendments reflect the new plant electrical distribution configuration, surveillance and limiting condition for operation of the new safety-related (SR) emergency diesel generator (EDG), the increased electrical capacities for the two of the three existing SR EDGs, the increased EDG fuel oil storage capacity, and the fire protection system for the

new EDG building. The remaining existing SR EDG will be upgraded during the Unit No. 2 refueling outage scheduled for the spring of 1997.

Date of issuance: April 2, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 214 and 191.

Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: January 3, 1996 (61 FR 175) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated April 2, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: December 6, 1995, as supplemented February 27, 1996, and March 28, 1996.

Brief description of amendments: The amendments modify the technical specifications to replace the existing scheduling requirements for overall integrated and local containment leakage rate testing with a requirement to perform the testing in accordance with 10 CFR Part 50, Appendix J, Option B. Option B allows test scheduling to be adjusted based on past performance.

Date of issuance: April 4, 1996.

Effective date: April 4, 1996.

Amendment Nos.: 81, 81, 73, and 73.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 28, 1996 (61 FR 7547) The February 27, 1996, and March 28, 1996, supplements modified the Technical Specification pages to be more consistent with the published guidance, were within this scope of the initial notice, and did not affect the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 4, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: October 3, 1995, as supplemented on February 21, 1996, and April 2, 1996.

Brief description of amendments: The amendments revise the Technical Specifications (TS) to implement ten of the line-item TS improvements recommended in Generic Letter (GL) 93–05, ''Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation,'' dated September 27, 1993. The amendments also include editorial changes on the affected TS pages.

Date of issuance: April 10, 1996.

Effective date: April 10, 1996.

Amendment Nos.: 82, 82 and 74, 74.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 27, 1995 (60 FR 58397). The February 21, 1996, and April 2, 1996, submittals did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 10, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: May 17, 1995, as supplemented by letters dated January 17, March 8, March 18, April 4 and April 9, 1996.

Brief description of amendments: The amendments revised the Facility Operating Licenses and the technical specifications to permit the steam generator tubes to be repaired using the tungsten inert gas welded sleeve process developed by ABB-Combustion Engineering and remove references to the kinetically welded sleeving process.

Date of issuance: April 12, 1996.

Effective date: April 12, 1996.

Amendment Nos.: 83, 83, 75, and 75.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised licenses and the Technical Specifications.

Date of initial notice in Federal Register: July 5, 1995 (60 FR 35064) The additional submittals provided information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 12, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: September 1, 1995, for Dresden and September 20, 1995, for Quad Cities.

Brief description of amendments: This application upgrades the current custom Technical Specifications (TS) for Dresden and Quad Cities to the Standard Technical Specifications contained in NUREG–0123, ''Standard Technical Specification General Electric Plants BWR/4.'' This application upgrades only Section 6.0, ''Administrative Controls.''

Date of issuance: April 2, 1996.

Effective date: Immediately, to be implemented no later than June 30, 1996.

Amendment Nos.: 149, 143, 170, and 166.

Facility Operating License Nos. DPR–19, DPR–25, DPR–29 and DPR–30: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 20, 1995 (60 FR 48728) for Dresden and October 5, 1995 (60 FR 52226) for Quad Cities. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 2, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: for Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: January 18, 1996, as supplemented on March 1, March 22, March 26, and April 3, 1996.

Brief description of amendments: The amendments change the setpoints for the automatic primary containment isolation signal upon detection of a high main steamline tunnel differential temperature and delete the automatic isolation function upon detection of a high main steamline tunnel temperature. Additionally, the amendments provide a 12 hour allowed outage time for the Main Steam Line Tunnel Differential Temperature—High isolation signal upon loss of the Reactor Building Ventilation System.

Date of issuance: April 4, 1996.

Effective date: Immediately, to be implemented prior to restart from refueling outage L1R07 (Unit 1) and L2R07 (Unit 2).

Amendment Nos.: 111 and 96.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 27, 1996 (61 FR 7281). The March 1, March 22, March 26 and April 3, 1996, submittals provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 4, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: August 25, 1995 as supplemented on December 15, 1995, February 5, February 9, February 28, March 4, March 28 and April 3, 1996.

Brief description of amendments: These amendments revise the LaSalle Facility Operating Licenses and Technical Specifications (TSs) to reflect the deletion of the leakage control system (LCS) presently installed to control and contain the leakage past the main steamline isolation valves (MSIVs) on each of the four main steamlines. The TSs are also revised to raise the allowable leakage rates from 25 standard cubic feet per hour (scfh) for each set of MSIVs and a total of 100 scfh from all four main steamlines to values of 100 scfh per steamline and 400 scfh for all four steamlines.

Date of issuance: April 5, 1996.

Effective date: Immediately, to be implemented by startup from refueling outage L1R07 (Unit 1) and L2R07 (Unit 2).

Amendment Nos.: 112 and 97.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the licenses and technical specifications.

Date of initial notice in Federal Register: October 25, 1995 (60 FR 54717). The December 15, 1995, February 5, February 9, February 28, March 4, March 28 and April 3, 1996, submittals provided additional information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 5, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: June 16, 1994, as supplemented February 6, 1995.

Brief description of amendment: The amendment revises License Condition 2.K and relocates the Indian Point Nuclear Generating Unit No. 2 (IP2) fire protection requirements from the IP2 Technical Specifications to the IP2 fire protection program plan in accordance with the guidance provided in Generic Letter (GL) 86–10, ''Implementation of Fire Protection Requirements,'' April 24, 1986, and GL 88–12, ''Removal of Fire Protection Requirements from Technical Specifications,'' August 2, 1988.

Date of issuance: March 26, 1996.

Effective date: As of the date of issuance to be implemented within 9 months.

Amendment No.: 186.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications and the Facility Operating License.

Date of initial notice in Federal Register: August 17, 1994 (59 FR 42335) The February 6, 1995, submittal provided clarifying information and did not expand the scope of the original application, and did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: October 17, 1995.

Brief description of amendment: This amendment revises the Palisades Facility Operating License to reference 10 CFR Part 40, allow the use of source materials as reactor fuel, delete references to specific amendments and specific revisions in the listed titles of the Physical Security Plan, Suitability Training and Qualification Plan, and the Safeguards Contingency Plan and make minor editorial changes to the license. In addition, the Technical Specifications (TS) are modified as follows: (1) TS 3.1.2 is modified to change the pressurizer cooldown limit from 100°F to 200°F/hour; (2) the shield cooling system requirements are relocated to the Final Safety Analysis Report; (3) several minor editorial changes and corrections are made, including corrections requested in the licensee's letter of March 24, 1995; and (4) several TS bases pages have been revised. The portion of the amendment request deleting license paragraph 2.F on reporting requirements was denied.

Date of issuance: April 5, 1996.

Effective date: April 5, 1996.

Amendment No.: 171.

Facility Operating License No. DPR–20: Amendment revised the Facility Operating License and the Technical Specifications.

Date of initial notice in Federal Register: November 27, 1995 (60 FR 58399).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 5, 1996, and an Environmental Assessment dated March 11, 1996 (61 FR 10811).

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Duquesne Light Company, et al., Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: December 7, 1995, as supplemented January 4, March 1, March 5, March 7, March 11, March 27, and March 29, 1996.

Brief description of amendment: The amendment revises Technical Specifications 3/4.4.5 and 3/4.4.6.2 and their Bases to maintain voltage-based steam generator tube repair criteria for the tube support plate elevations for future cycles of operation. The amendment replaces a 1.0 volt repair limit which had been approved on an interim basis by License Amendment No. 184 (issued February 3, 1995) with a 2.0 volt repair limit. The amendment also includes additional changes to reflect the guidance provided in NRC Generic Letter 95–05, ''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking.''

Date of issuance: April 1, 1996.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No: 198.

Facility Operating License No. DPR–66: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 3, 1996 (61 FR 178) The January 4, March 1, March 5, March 7, March 11, March 27, and March 29, 1996, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the amendment request beyond the scope of the January 3, 1996 notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: December 14, 1995.

Brief description of amendment: The amendment consists of several changes to the instrumentation sections of the Clinton Power Station Technical Specifications. These changes were required due to engineering reanalyses or plant modifications. The affected instrumentation includes: (1) steam line flow high channels for the reactor core isolation cooling (RCIC) system, (2) ambient temperature channels in the residual heat removal (RHR) system heat exchanger rooms, (3) reactor vessel pressure channels that provide a permissive for operation of the shutdown cooling mode of the RHR system, and (4) RCIC storage tank water level instrument channels.

Date of issuance: April 10, 1996.

Effective date: April 10, 1996.

Amendment No.: 104.

Facility Operating License No. NPF–62: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 22, 1996 (61 FR 1631) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 10, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

No significant hazards consideration comments received: No.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: August 15, 1995, as supplemented November 14, and December 20, 1995.

Brief description of amendment: The amendment modifies the Monticello Technical Specifications (TS) to: (1) revise the main steam line isolation valve leak rate test acceptance criterion to be based upon the combined maximum flow path leakage for all four main steam lines of 46 standard cubic feet per hour (scfh) in lieu of the current limit of 11.5 scfh per valve; (2) revise the operability test interval for the drywell spray header and nozzles from 5 years to 10 years; and (3) revise TS 3/4.7.a.2, Primary Containment Integrity, to remove information specific to the primary containment leakage rate testing program and adopt the requirements of 10 CFR Part 50, Appendix J, Option B, for Type A testing, while remaining under Appendix J, Option A, for Type B and C testing.

Date of issuance: April 3, 1996.

Effective date: April 3, 1996.

Amendment No.: 95.

Facility Operating License No. DPR–22: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 22, 1996 (61 FR 1632) The December 20, 1995, letter provided clarifying information that was within the scope of the initial notice and did not change the staff's initial proposed no significant hazards considerations determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: March 1, 1996 (supersedes December 11, 1995, application).

Brief description of amendment: The amendment modifies Technical Specification Section 4.7, Surveillance Requirements for Primary Containment Automatic Isolation Valves, by revising Surveillance Requirement 4.7.D.4 to require that the seat seals of the drywell and suppression chamber purge and vent valves be replaced every six operating cycles.

Date of issuance: April 9, 1996.

Effective date: April 9, 1996.

Amendment No.: 96.

Facility Operating License No. DPR–22: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 8, 1996 (61 FR 9504). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: December 22, 1995.

Brief description of amendments: The amendments change Technical Specification 3.6.1.8, ''Drywell and Suppression Chamber Purge System,'' increasing the drywell and suppression

chamber purge system operating time limit from 90 hours each 365 days to 180 hours each 365 days.

Date of issuance: March 29, 1996.

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment Nos.: 115 and 77.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 28, 1996 (61 FR 7555).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 29, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York.

Date of application for amendment: February 9, 1996, as supplemented March 20, 1996.

Brief description of amendment: The proposed amendment would revise the Technical Specifications (TSs) to use an installed retractable overhead door assembly and change TS 3.9.3 to satisfy closure requirements for the containment equipment hatch during core alterations or fuel movement in the containment building. The retractable door is to be used as a functionally equivalent closure plate currently required by TS 3.9.3.

Date of issuance: April 1, 1996.

Effective date: April 1, 1996.

Amendment No.: 62.

Facility Operating License No. DPR–18: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 28, 1996 (61 FR 7557). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: August 18, 1995, as supplemented on November 1, 1995, February 14, March 14 (there are two supplemental letters with this date), and March 25, 1996.

Brief description of amendment: The amendment revises the Operating License (OL) to increase the authorized core power level from 2775 Megawatts thermal (MWt) to 2900 MWt. The amendment also approves changes to the technical specifications (TS) to implement uprated power operation.

Date of issuance: April 12, 1996.

Effective date: April 12, 1996.

Amendment No.: 133.

Facility Operating License No. NPF–12: Amendment revises the OL and TS.

Date of initial notice in Federal Register: December 6, 1995 (60 FR 62495). The original Federal Register notice included information from the licensee's November 1, 1995 supplemental letter. The February 14, March 14, and March 25, 1996 supplemental letters provided clarification and amplification of the analysis in the November 1, 1995 letter and were not outside the scope of the initial Federal Register notice. The Commission's related evaluation of the amendment is contained in an Environmental Assessment dated April 12, 1996 and in a Safety Evaluation dated April 12, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: December 30, 1992, as supplemented by letters dated September 7, 1993, August 17, 1994, and March 7, 1996.

Brief description of amendments: These amendments add a new technical specification (TS) 3/4.7.3.1, ''Component Cooling Water (CCW) Safety Related Makeup System,'' and its associated Bases. The new TS will ensure that sufficient CCW capacity is available for continued operation of safety-related equipment during normal conditions and design-basis events.

Date of issuance: April 11, 1996.

Effective date: April 11, 1996.

Amendment Nos.: Unit 2–129; Unit 3–118.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 3, 1993 (58 FR 12268). The September 7, 1993, August 17, 1994, and March 7, 1996, letters provided additional clarifying information and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 11, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713.

Tennessee Valley Authority, Docket No. 50–328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: December 12, 1995, and supplemented March 4, 1996 (TS 95–23).

Brief description of amendment: The amendment revises the TS surveillance requirements and bases to incorporate alternate S/G tube plugging criteria at tube support plate (TSP) intersections. The approach taken is based on guidance given in Generic Letter (GL) 95–05, ''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking.'' The amendment is applicable for Cycle 8 operation only.

Date of issuance: April 3, 1996.

Effective date: April 3, 1996.

Amendment No.: 211.

Facility Operating License Nos. DPR–77: Amendment revises the technical specifications.

Date of initial notice in Federal Register: January 3, 1996 (61 FR 183) The March 6, 1996 supplemental letter provided clarifying information which did not change the proposed no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1996.

No significant hazards consideration comments received: None

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: February 27, 1996, as supplemented by letter dated March 1, 1996.

Brief description of amendment: The amendment allows the drywell personnel air lock shield doors to be open during Operational Conditions 1, 2, and 3 until the end of Operating Cycle 6.

Date of issuance: March 22, 1996.
Effective date: March 22, 1996.
Amendment No.: 84.
Facility Operating License No. NPF–58: This amendment approved a change to the design basis as described in the Updated Safety Analysis Report. Public comments requested as to proposed no significant hazards consideration: Yes (61 FR 8982 dated March 8, 1996). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing BiWeekly Notice by March 18, 1996, corrected to April 5, 1996 (61 FR 10600 dated March 14, 1996), but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The March 1, 1996, supplemental letter provided additional clarifying information and did not change the staff's original no significant hazards consideration determination.

The Commission's related evaluation of the amendment and final no significant hazards consideration determination is contained in a Safety Evaluation dated March 22, 1996.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment requests: November 21, 1995 (TXX–95288) as supplemented by letters dated December 15, 1995 (TXX–95306), and February 2, 1996 (TXX–96040).

Brief description of amendments: The amendments revised the core safety limit curves and revised N–16 Overtemperature reactor trip setpoints as a result of the reload analyses for CPSES Unit 2, Cycle 3. In addition, the minimum required Reactor Coolant System (RCS) flow was increased and an administrative enhancement was included in the footnotes of the RCS flow-low reactor trip function setpoint for both Units 1 and 2.

Date of issuance: April 1, 1996.
Effective date: April 1, 1996.
Amendment Nos.: Unit 1–49; Unit 2–35.
Facility Operating License Nos. NPF–87 and NPF–89. The amendments revised the Technical Specifications.
Date of initial notice in Federal Register: January 3, 1996 (61 FR 185) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 1, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: July 26, 1995.
Brief description of amendments: The amendments revise the Technical Specifications to increase the pressurizer safety valve lift setpoint tolerance and reduce the pressurizer high pressure reactor trip setpoint and allowable value.
Date of issuance: April 1, 1996.
Effective date: April 1, 1996.
Amendment Nos.: 200 and 181.
Facility Operating License Nos. NPF–4 and NPF–7: Amendments revised the Technical Specifications.
Date of initial notice in Federal Register*:* August 30, 1995 (60 FR 45189) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 1, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 8, 1996, as supplemented by letter dated March 26, 1996.
Brief description of amendment: This amendment reduces the calculated thermal design flow of the reactor coolant system and increases the trip setpoint of the low pressurizer pressure.
Date of issuance: April 4, 1996.
Effective date: April 4, 1996.
Amendment No.: 99.
Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (61 FR 10389 dated March 13, 1996). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by April 12, 1996, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 4, 1996.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By May 24, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to *(Project Director)*: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the

General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Arizona Public Service Company, et al., Docket No. STN 50–529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

Date of application for amendment: April 1, 1996, as supplemented by letter dated April 3, 1996.

Brief description of amendment: The amendment modifies Technical Specification (TS) 3/4.9.6 to temporarily allow the use of a hoist instead of the refueling machine for the movement of the fuel assembly at core location A–07.

Date of issuance: April 3, 1996.

Effective date: April 3, 1996.

Amendment No.: Unit 2—96.

Facility Operating License No. NPF–51: The amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 3, 1996.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Project Director: William H. Bateman.

Duke Power Company, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: April 2, 1996.

Brief description of amendments: The amendments revise Technical Specification (TS) Section 4.5.4, ''Penetration Room Ventilation System'' and TS Section 4.14, ''Reactor Building Purge Filters and Spent Fuel Pool Ventilation System.'' The change updates the industry guidance reference for testing charcoal absorber units for the system covered by those TS.

Date of Issuance: April 2, 1996.

Effective date: April 2, 1996, to be implemented within 30 days.

Amendment Nos.: 215, 215, and 212.

Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendments, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 2, 1996.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691.

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036.

NRC Project Director: Herbert N. Berkow.

Dated at Rockville, Maryland, this 17th day of April 1996.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–9925 Filed 4–23–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–245, 50–336 AND 50–423]

Millstone Nuclear Power Station; Establishment of Temporary Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has designated the Waterford Public Library, Waterford, Connecticut, as a temporary local public document room (LPDR) for Northeast Nuclear Energy Company's Millstone Nuclear Power Station. The NRC's official full service LPDR, located at the Three Rivers Community Technical College, Thames Valley Campus, Norwich, Connecticut, is still open and operational.

Members of the public may now inspect and copy Millstone related documents dated April 1, 1996, forward at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385. The library is open on the following schedule: Monday through Thursday 9:00 a.m. to 9:00 p.m.; Friday 9:00 a.m. to 5:30 p.m.; and Saturday 9:00 a.m. to 5:00 p.m.

For further information, interested parties in the Waterford area may contact the LPDR directly through Mr. Vincent Juliano, Library Director, telephone number (860) 444–5805. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, Washington, DC 20555, telephone number (202) 634–3273.

Questions concerning the NRC's local public document room program or the availability of documents should be addressed to Ms. Jona Souder, LPDR Program Manager, Freedom of Information/Local Public Document Room Branch, Division of Freedom of Information and Publications Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (301) 415–7170 or toll-free 1–800–638–8081.

Dated at Rockville, Maryland, this 18th day of April, 1996.

For the Nuclear Regulatory Commission.

Carlton Kammerer,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 96–10050 Filed 4–23–96; 8:45 am]

BILLING CODE 7590–01–P

Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by letter dated March 5, 1996, Mr. C. Morris submitted a Petition pursuant to 10 CFR 2.206 requesting that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to all nuclear power plants.

The Petitioner requests that, within 90 days, the operating licenses of all nuclear power plants be suspended until such time as those licensees have discovered the reasons for the repeated errors in their electrical distribution system designs and in their undervoltage relay (UVR) set points, and provided convincing evidence that these deficiencies have been corrected. Since the Petitioner asserts that the situation is urgent, the request is being treated as one for immediate relief. The Petitioner also requests that the aforementioned evidence be submitted for review by a competent third party, and that if the NRC finds that licensees may safely operate with UVRs that do not remain properly set, it should do so in the context of a public meeting.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken

on this petition within a reasonable time.

By letter dated April 17, 1996, the Director denied the Petitioner's request for immediate suspension of the operating licenses for all nuclear power plants. A copy of the Petition is available for inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

Dated at Rockville, Maryland this 17th day of April, 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–10049 Filed 4–23–96; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; System of Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of a new routine use of records for PBGC–3, Employee Payroll, Leave and Attendance Records—PBGC.

SUMMARY: The Pension Benefit Guaranty Corporation is proposing a new routine use of records for a system of records maintained pursuant to the Privacy Act of 1974, as amended, entitled PBGC–3, Employee Payroll, Leave and Attendance Records—PBGC. The new routine use will permit disclosure of records to the United States Department of the Interior to effect payments to employees.

DATES: Comments on the new routine use must be received on or before May 24, 1996. The new routine use will become effective June 10, 1996, without further notice, unless comments result in a contrary determination and a notice is published to that effect.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or hand-delivered to Suite 340 at the above address between 9 a.m. and 5 p.m., Monday through Friday. Comments will be available for inspection at the PBGC's Communications and Public Affairs Department, Suite 240, at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: D. Bruce Campbell, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4123 (202–326–4179 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The PBGC maintains certain personnel and payroll information in a Privacy Act system of records entitled PBGC–3, Employee, Payroll, Leave and Attendance files—PBGC. Certain payroll and personnel services are performed for the PBGC by the United States Department of Labor (''DOL''). Routine use 1 to PBGC–3 permits disclosure of records to DOL ''to effect payments to employees.''

Beginning in July 1996, the PBGC is implementing a new personnel and payroll system utilizing the United States Department of the Interior's (''DOI's'') personnel and payroll processing system. Accordingly, PBGC is establishing a new routine use of records for PBGC–3, routine use 2, that will permit disclosure of records ''to the United States Department of the Interior to effect payments to employees.'' When testing of the PBGC's new personnel and payroll system is complete and services are provided exclusively by DOI, the PBGC will cease disclosing records to DOL and publish a Federal Register notice deleting routine use 1 from PBGC–3.

For the convenience of the public, PBGC–3, as amended, is published in full below with new routine use 2 italicized.

Issued in Washington, DC this 18 day of April, 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

PBGC–3

SYSTEM NAME:

Employee Payroll, Leave, and Attendance Records—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names; addresses; social security numbers and employee numbers; earnings records; leave status and data; jury duty data; military leave data; time and attendance records, including number of regular, overtime, holiday, and compensatory hours worked; co-owner and/or beneficiary of bonds; marital status and number of dependents; and notifications of personnel actions. The records listed herein are included only as pertinent or applicable to the individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

PURPOSE(S):

This system of records is maintained to perform functions involving employee leave, attendance, and payments, including determinations relating to the amounts to be paid to employees, the distribution of pay according to employee directions (for savings bonds and allotments, to financial institutions, and for other authorized purposes), and tax withholdings and other authorized deductions, and for statistical purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to the United States Department of Labor to effect payments to employees.

2. A record from this system of records may be disclosed to the United States Department of the Interior to effect payments to employees.

General Routine Uses G1 through G8 (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Information may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(f) (5 U.S.C. 552a(b)(12)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and/or in automated form.

RETRIEVABILITY:

Records are indexed by name and/or employee or social security number.

SAFEGUARDS:

Manual records are kept in file cabinets in areas of restricted access that are locked after office hours; access to automated records is restricted.

RETENTION AND DISPOSAL:

Records are maintained for various periods of time, as provided in National Archives and Records Administration General Records Schedule 2.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Operations Department, Pension Benefit Guaranty

Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individual and the Office of Personnel Management.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96–10082 Filed 4–23–96; 8:45 am]

BILLING CODE 7708–01–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, May 6, 1996, and at 8:30 a.m. on Tuesday, May 7, 1996, in Washington, D.C.

The May 6 meeting is closed to the public (see 61 FR 16655, April 16, 1996; and 61 FR 16944, April 18, 1996). The May 7 meeting is open to the public and will be held at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–4800.

Monday Session

May 6–1:00 p.m. (Closed)

1. Consideration of a Filing with the Postal Rate Commission on Classification Reform of Special Services. (John H. Ward, Vice President, Marketing Systems.)
2. Consideration of a Funding Request for Delivering Vehicles. (Allen R. Kane, Vice President, Operations Support.)

Tuesday Session

May 7—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, April 1–2, 1996.
2. Remarks of the Postmaster General/Chief Executive Officer. (Marvin Runyon.)
3. Consideration of Amendments to BOG Bylaws. (Chairman Tirso del Junco.)
4. Quarterly Report on Service Performance. (Yvonne D. Maguire, Vice President, Consumer Advocate.)
5. Quarterly Report on Financial Performance. (Michael J. Riley, Chief Financial Officer and Senior Vice President.)
6. Capital Investments.
   a. Additional Delivery Point Sequencing Bar Code Sorters. (William J. Dowling, Vice President, Engineering)
   b. Anchorage, Alaska, Processing and Distribution Center Expansion. (Rudolph K. Umscheid, Vice President, Facilities)
   c. Las Vegas, Nevada, Processing and Distribution Center Expansion. (Rudolph K. Umsheid, Vice President, Facilities)
7. Tentative Agenda for the June 3–4, 1996, meeting in Philadelphia, Pennsylvania.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–10273 Filed 4–22–96; 3:14 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–10938]

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Semiconductor Packaging Materials Co., Inc., Common Stock, $.10 Par Value)

April 18, 1996.

Semiconductor Packaging Materials Co., Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on January 30, 1996 to withdraw the Company's Security from listing on the Amex and instead, to list the Security on The Nasdaq Stock Market (''Nasdaq''). The decision of the Board followed a thorough study of the matter and was based upon the belief that listing the Security on the Nasdaq/NMS will be more beneficial to the Company's shareholders than the present listing on the Amex because it will increase liquidity, increase the depth of market for its security and lessen the volatility of its security.

Any interested person may, on or before May 9, 1996 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–10037 Filed 4–23–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21906; No. 812–10032]

Valley Forge Life Insurance Company, et al.

April 18, 1996.

AGENCY: Securities and Exchange Commission (SEC or Commission).

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (1940 Act).

APPLICANTS: Valley Forge Life Insurance Company (VFLIC), Valley Forge Life Insurance Company Variable Annuity Separate Account (Separate Account) and CNA Investor Services, Inc. (CNA/ISI).

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order exempting certain transactions from the provisions of sections 26(a)(2)(C) and 27(c)(2) of the Act in connection with the offering of certain flexible premium deferred variable annuity contracts (Contracts) to be issued by VFLIC through the Separate Account or any other separate account (Other Accounts) established in the future by VFLIC, as well as other variable annuity contracts (Future Contracts) issued in the future by VFLIC, through the Separate Account or Other Accounts, which are materially similar to the Contracts.

FILING DATE: The application was filed on March 4, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC 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 May 13, 1996, 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 requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o Donald M. Lowry, Esq., Senior Vice President and General Counsel, CNA Insurance Companies, CNA Plaza 43 South, Chicago, Illinois 60685.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Special Counsel, or Peter R. Marcin, Law Clerk, Office of Insurance Products (Division of Investment Management) at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. VFLIC is a stock life insurance company organized under the laws of the State of Pennsylvania. VFLIC is authorized to transact business in the District of Columbia, Guam, Puerto Rico and all states other than New York.

2. The Separate Account was established by VFLIC as a separate investment account under Pennsylvania insurance law as a funding medium for variable annuity contracts. The Separate Account is registered with the Commission as a unit investment trust under the 1940 Act, and the Contracts are registered under the Securities Act of 1933.

3. The Separate Account currently has 18 subaccounts. The subaccounts each invest exclusively in the shares of a designated investment portfolio of Insurance Management Series, Variable Insurance Products Fund II, The Alger American Fund, MFS Variable Insurance Trust, SoGen Variable Funds, Inc., and Van Eck Worldwide Insurance Trust (each, a portfolio, together, the portfolios). New subaccounts may be added in the future that would invest in additional portfolios.

4. CNA/ISI is an affiliate of VFLIC and is the principal underwriter of the Contracts. CNA/ISI is registered with the SEC as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. (NASD). CNA/ISI may act as principal underwriter for any Future Contracts as well.

5. The Contracts are individual flexible premium deferred variable annuity contracts. They may be purchased on a non-tax qualified basis or they may be purchased and used in connection with retirement plans that qualify for favorable federal income tax treatment. The minimum initial purchase payment for a Contract is $2,000, and the minimum additional purchase payment is $100.

6. The Contracts provide for a death benefit.

a. The Contracts provide that if the annuitant is age 75 or younger, the death benefit is an amount equal to the greatest of:

(i) aggregate purchase payments made less any withdrawals (including the applicable surrender charges, purchase payment tax charge and market value adjustments) as of the date that VFLIC receives due proof of death of the annuitant; or

(ii) the contract value as of the date that VFLIC receives due proof of death of the annuitant; or

(iii) the minimum death benefit described below;

less any applicable purchase payment tax charge on the date that the death benefit is paid.

b. If the annuitant is age 76 or older, the death benefit is an amount equal to the greater of (i) or (ii) above.

c. The minimum death benefit is the death benefit floor amount as of the date of the annuitant's death (i) adjusted for each withdrawal made since the most recent reset of the death benefit floor amount by multiplying that amount by the product of all ratios of the contract value immediately after a withdrawal to the contract value immediately before such withdrawal, (ii) plus any purchase payments made since the most recent reset of the death benefit floor amount.

d. The death benefit floor amount is the largest contract value attained on any prior death benefit floor computation anniversary. Death benefit floor computation anniversaries are the 5th Contract anniversary and each subsequent 5th Contract anniversary prior to the annuitant's age 76.

7. Certain charge and fees are assessed under the Contracts. VFLIC will impose a transfer processing fee of $25 on the thirteenth and each subsequent transfer request made by a Contract owner during a single Contract year prior to the annuity date.

8. VFLIC will deduct an administration charge from the assets of the Separate Account that is equal, on an annual basis, to 0.15%.

9. An annual policy fee of $30 will be charged against each Contract, unless the Contract value is less than $50,000 at the time of the deduction.

10. Applicants represent that the transfer fee, administration charge, and the annual policy fee will not increase regardless of the actual cost incurred. In addition, Applicants represent that these charges are at cost, with no anticipation of profit.

11. VFLIC will deduct a surrender charge upon certain surrenders or withdrawals prior to the annuity date. The charge is a percentage of each purchase payment surrendered or withdrawn (or applied to an annuity payment option during the first five Contract years) as shown in the following table:

Number of full years elapsed between date of receipt of purchase payment and date of surrender or withdrawal	Surrender charge as a percentage of purchase payment withdrawn or surrendered
0	7
1	7
2	6
3	5
4	4
5	0

12. The surrender charge is separately calculated and applied to each purchase payment at any time that the purchase payment is surrendered or withdrawn (or applied to an annuity payment option during the first five Contract years). No surrender charge applies to withdrawals of Contract value in excess of aggregate purchase payments (less prior withdrawals of purchase payments). The surrender charge is calculated using the assumption that all purchase payments are surrendered or withdrawn before any Contract value in excess of aggregate purchase payments (less prior withdrawals of purchase payments), and that purchase payments are surrendered or withdrawn on a first-in, first-out basis. Notwithstanding the foregoing, in each Contract year, a Contract owner may withdraw an amount equal to 15% of aggregate purchase payments (less prior withdrawals of purchase payments) as of the first valuation day of that Contract year without incurring a surrender charge.

13. After the first five Contract years, no surrender charge is assessed on the adjusted Contract value applied to an annuity payment option on the annuity date. If on the annuity date, however, the payee elects to receive a lump sum, this sum will equal the Contract's surrender value on such date.

14. The amounts obtained from the surrender charge will be used to help defray expenses incurred in the sale of the Contracts (or Future Contracts), including commissions and other promotional or distribution expenses associated with the printing and distribution of prospectuses and sales literature. If proceeds from the surrender charge do not cover the expected costs of distributing the Contracts (or Future Contracts), any shortfall will be recovered from VFLIC's general assets, which may include revenue from the mortality and expense risk charge deducted from the Separate Account.

15. VFLIC proposes to deduct a daily mortality and expense risk charge. VFLIC represents that this charge is equal to an effective annual rate of 1.25%. Approximately 0.70% of this annual charge is allocated to the mortality risks that VFLIC will assume, and 0.55% is allocated to the expense risks that VFLIC will assume. VFLIC will assess the charge for mortality and expense risks during the accumulation period and the annuity period and guarantees that it will not raise the charge for any Contract (or Future Contract) once that Contract (or Future Contract) is issued.

16. VFLIC will assume several mortality risks under the Contracts (or Future Contracts). First, VFLIC will assume a mortality risk by its contractual obligation to pay a death benefit to the beneficiary if the annuitant dies prior to the annuity date. Second, VFLIC will assume a mortality risk arising from the fact that the Contract (and Future Contracts) does/do not impose any surrender charge on the death benefit. Third, VFLIC will assume an additional mortality risk by its contractual obligation to continue to make annuity payments for the entire life of the annuitant under annuity options involving life contingencies. With regard to the third risk, VFLIC will assume the risk that annuitants as a group will live a longer time than VFLIC's annuity tables predict, which would require VFLIC to pay out more in annuity payments than it anticipated. The expense risk assumed by VFLIC is that the Contract administrative charges will be insufficient to cover the cost of administering the Contracts.

17. If the mortality and expense risk charges are insufficient to cover the expenses and costs assumed, the loss will be borne by VFLIC. Conversely, if the amount deducted proves more than sufficient, the excess will be profit to VFLIC. VFLIC expects to earn a profit from the mortality and expense risk charge. To the extent that the surrender charge, described above, is insufficient to cover the actual costs of distribution, the expenses will be paid from VFLIC's general account assets, which will include profit, if any, derived from the mortality and expense risk charge.

18. Taxes on purchase payments generally are incurred by VFLIC as of the annuity date based on the Contract value on that date, and VFLIC deducts a charge for taxes on purchase payments from the Contract value as of the annuity date. Some jurisdictions impose a tax on purchase payments at the time such payments are made. In those jurisdictions, VFLIC's current practice is to pay the tax and then deduct the charge for these taxes from the Contract value upon surrender, payment of the death benefit, or upon the annuity date. VFLIC reserves the right to deduct any state and local taxes on purchase payments from the Contract value at the time such tax is due. VFLIC represents that the amount that it will recover from the charge for taxes on purchase payments will not exceed the amount of such taxes that it pays.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act 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 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the assessment of the mortality and expense risk charge from the Separate Account or any Other Accounts with respect to the Contracts and any Future Contracts. For the reasons set forth below, Applicants believe that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

4. Applicants assert that the terms of the relief requested with respect to any Future Contracts funded by the Separate Account or Other Accounts are consistent with the standards enumerated in Section 6(c) of the 1940 Act. Without the requested relief, Applicants would have to request and obtain exemptive relief for each Other Account it establishes to fund any Future Contract. Applicants submit that any such additional request for exemption would present no issues under the 1940 Act that have not been addressed in this application, and that investors would not receive any benefit or additional protections thereby. Indeed, they might be disadvantaged as a result of VFLIC's increased overhead expenses.

5. Applicants submit that the requested relief is appropriate in the public interest because it would promote competitiveness in the variable annuity contract market by eliminating the need for Applicants to file redundant exemptive applications, thereby reducing their administrative expenses and maximizing the efficient use of their resources. The delay and expense involved in having to seek exemptive relief repeatedly would reduce Applicants' ability effectively to take advantage of business opportunity as they arise.

6. Applicants further submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons.

7. Applicants represent that VFLIC assumes a mortality risk by virtue of the death benefit and annuity tables guaranteed in the Contracts or Future Contracts. The annuity rates cannot be changed after issuance of a Contract or Future Contract. If the mortality or expense risk charges are insufficient to cover the actual costs, VFLIC will bear the loss. To the extent that the charges are in excess of actual costs, VFLIC, at its discretion, may use the excess to offset losses when the charges are not sufficient to cover expenses.

8. Applicants represent that the 1.25% per annum mortality and expense risk charge is within the range of industry practice for comparable annuity contracts. This representation is based upon an analysis of publicly available information about similar industry products, taking into consideration such factors as, among others, the current charge levels and benefits provided, the existence of expense charge guarantees, guaranteed death benefits, and guaranteed annuity

rates. VFLIC will maintain at its principal offices, and make available to the Commission and its staff, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, Applicants' comparative review.

9.VFLIC represents that, before issuing any Future Contracts, it will: make the same determinations on the same basis as to the mortality and expense risk charge under such Future Contracts; and maintain at its executive office, and make available to the Commission and its staff upon request, a memorandum setting forth in detail the methodology used in making such determinations.

10. VFLIC has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit the Separate Account and the Other Accounts, and their respective Contract owners. VFLIC represents that it will maintain, and make available to the Commission and its staff upon request, a memorandum setting forth the basis of such conclusion.

11. VFLIC represents that, before issuing any Future Contracts, it will conclude that there is a reasonable likelihood that the distribution financing arrangements proposed for the Future Contracts will benefit the Separate Account, any Other Accounts and their respective Future Contract owners. VFLIC represents that it will maintain, and make available to the Commission and its staff upon request, a memorandum setting forth the basis for such a conclusion.

12. The Separate Account and Other Accounts will be invested only in an underlying fund (or portfolio) which undertakes, in the event VFLIC should adopt a plan for financing distribution expenses pursuant to Rule 12b–1 under the 1940 Act, to have such plan formulated and approved by the fund's board of directors, the majority of whom are not ''interested persons'' of the fund (or portfolio) within the meaning of Section 2(a)(19) of the 1940 Act.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–10055 Filed 4–23–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 96–022]

Merchant Marine Personnel Advisory Committee (MERPAC) Working Group Meeting Concerning Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978 (STCW)

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: MERPAC's STCW working group will meet to discuss various issues relating to implementation of the 1995 Amendments to STCW. The meeting is open to the public.

DATES: The MERPAC STCW working group meeting will be held on Thursday, May 16, 1996, from 9:30 a.m. to 3 p.m..

ADDRESSES: The MERPAC STCW working group meeting will be held at the MEBA Engineering School, 27050 St. Michaels Road, Easton, MD 31601–7550. The telephone number is (410) 822–9737.

FOR FURTHER INFORMATION CONTACT: Commander Jon Sarubbi, Executive Director, or Mr. Mark Gould, Assistant to the Executive Director, Commandant (G–MOS–1), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001; telephone (202) 267–0229, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. § 1 et seq. The agenda for the MERPAC STCW working group meeting will include discussion of the following topics:

(1) Electronic technician (Global Maritime Distress and Safety System (GMDSS) and non-GMDSS) requirement;

(2) Training record book requirement; and,

(3) Rest hours requirement.

With advance notice, and at the working group chairman's discretion, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify Mr. Gould, listed above under **FOR FURTHER INFORMATION CONTACT**, no less than five days before the meeting. Written material may be submitted any time for presentation to the subcommittee. However, to ensure advance distribution to each subcommittee member, persons submitting written material are asked to provide 30 copies to Mr. Gould no later than May 9, 1996.

Dated: April 16, 1996.

Joseph J. Angelo,

Director for Standards, Marine Safety and Environmental Protection Directorate.

[FR Doc. 96–10084 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

[Docket No. 96–40; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1994 Mercedes-Benz E500 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994 Mercedes-Benz E500 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1994 Mercedes-Benz E500 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 24, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether 1994 Mercedes-Benz E500 (Model ID 124.036) passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1994 Mercedes-Benz E500 that was manufactured for importation into, and sale in, the United States and certified by its manufacturer, Daimler Benz A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1994 Mercedes-Benz E500 to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1994 Mercedes-Benz E500, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1994 Mercedes-Benz E500 is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the non-U.S. certified 1994 Mercedes-Benz E500 complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) inscription of the word ''Brake'' on the brake failure indicator lamp lens; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.- model headlamp assemblies which incorporate headlamps with a DOT marking; (b) installation of U.S.- model front and rear sidemarker/reflector assemblies; (c) installation of U.S.- model taillamp assemblies; (d) installation of a high mounted stop lamp. Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: replacement of the convex passenger side rearview mirror.

Standard No. 114 *Theft Protection*: installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number*: installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems*: rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 206 *Door Locks and Door Retention Components*: replacement of the rear door locks and locking buttons with U.S.- model components.

Standard No. 208 *Occupant Crash Protection*: (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch actuated seat belt warning lamp and buzzer. The petitioner states that the vehicle is equipped with an automatic restraint system consisting of a driver's and passenger's side air bag and knee bolster, and that these will be replaced with U.S.-model components, if necessary. The petitioner further states that the vehicle is equipped in each front designated seating position with a combination lap and shoulder restraint that adjusts by means of an automatic retractor and releases by means of a single push button. The petitioner also states that the vehicle is equipped with a combination lap and shoulder restraint that releases by means of a single push button in both rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection*: installation of reinforcing beams in the doors.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 18, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–10061 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–01; Notice 2]

Decision That Nonconforming 1991 Volkswagen GTI (Canadian) Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1991 Volkswagen GTI (Canadian) passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1991 Volkswagen GTI (Canadian) passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1991 Volkswagen Golf GTI), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of April 24, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne'') (Registered Importer R–90–009) petitioned NHTSA to decide whether 1991 Volkswagen GTI (Canadian) passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on January 23, 1996 (61 FR 1816) to afford an opportunity for public comment. The notice identified the vehicle that is the subject of the petition as the ''1991 Volkswagen Golf GT.'' In its comments responding to the notice, a representative of Volkswagen, the vehicle's manufacturer, stated that the vehicle identification number (VIN) assigned to the specific vehicle that the petitioner seeks to import identifies that vehicle as a 1991 Volkswagen GTI manufactured in Mexico for the Canadian market. After being apprised of this comment, the petitioner acknowledged that the petition was in error, and that the manufacturer's representative properly identified the vehicle. In view of this correction, this notice describes the petition as pertaining to a 1991 Volkswagen GTI (Canadian).

The notice of petition identified the vehicle that Champagne claims to be substantially similar to the subject vehicle as the version of the 1991 Volkswagen Golf GT that was manufactured for importation into and sale in the United States and certified by its manufacturer, Volkswagenwerke A.G., as conforming to all applicable Federal motor vehicle safety standards. After reviewing the manufacturer's comments, Champagne informed NHTSA that the comparison vehicle is properly identified as the ''1991 Volkswagen Golf GTI.'' This notice will use that designation in referring to the comparison vehicle. As noted in the notice of petition, the petitioner claimed that it had carefully compared the two vehicles, and found them to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Specifically, the petitioner claimed that the Volkswagen GTI (Canadian) is identical to the 1991 Volkswagen Golf GTL with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence . . . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 108 *Lamps, Reflective Devices, and Associated Equipment*, 109 *New Pneumatic Tires*, 110 *Tire Selection and Rims*, 111 *Rearview Mirrors*, 113 *Hood Latch Systems*, 114 *Theft Protection*, 115 *Vehicle Identification Number*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Door Strength*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials.*

Additionally, the petitioner stated that the 1991 Volkswagen GTI (Canadian) complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contended that the vehicle is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) replacement of the speedometer/odometer assembly with a U.S.-model component.

Standard No. 208 *Occupant Crash Protection*: (a) installation of U.S.-model lap belts in the driver's and front passenger's seating positions; (b) installation of U.S.- model automatic shoulder restraints in the driver's and front passenger's seating positions. The petitioner stated that the rear outboard designated seating positions are equipped with combination lap and shoulder restraints that release by means of a single push button.

One comment was received in response to the notice of petition, from Volkswagen of America, Inc. (''Volkswagen''), the United States representative of Volkswagen AG, the vehicle's manufacturer. In addition to these companies, the comment was submitted on behalf of Volkswagen de Mexico. In its comment, Volkswagen stated that in order to conform the 1991 Volkswagen GTI (Canadian) to the requirements of Standard No. 101, the instrument cluster would have to be

replaced to convert the speedometer and odometer assembly and the brake warning light lens would have to be corrected to show the word ''BRAKE.'' Volkswagen also stated that the 1991 Volkswagen GTI (Canadian) is equipped with daytime running lights that Standard 108 only requires on vehicles manufactured after February 10, 1993.

Volkswagen further stated that the 1991 Volkswagen GTI (Canadian) would have to be equipped with a door-mounted automatic shoulder belt system to comply with Standard 208. Volkswagen additionally observed that manual lap belts would have to be installed in the 1991 Volkswagen GTI (Canadian) so that it is equivalent to its U.S. certified counterpart. Volkswagen contended that these modifications would require removal of the existing seats and their replacement with seats and lap belt assemblies used in U.S.-model vehicles. Volkswagen also stated that a knee bolster would have to be added to the 1991 Volkswagen GTI (Canadian) as part of the passive restraint system that would have to be installed, and that this modification would require removal and replacement of the console assembly.

Volkswagen concluded by emphasizing that its comments pertain only to the version of the 1991 Volkswagen GTI that was manufactured for the Canadian market, and that other versions of the vehicle manufactured for the European and other markets may have structural differences and different bumper systems that would require other modifications to comply with U.S. requirements. Consequently, Volkswagen stressed that if the petition is granted, that grant should be limited to vehicles manufactured for the Canadian market.

NHTSA accorded Champagne an opportunity to respond to Volkswagen's comments. In its response, Champagne stated that the petition addressed the Standard 101 compliance issues that were raised by Volkswagen. Champagne also observed that the presence of running lights on the 1991 Volkswagen GTI (Canadian) does not affect the vehicle's compliance with the requirements of Standard 108 that pertain to that model year. Champagne also noted that the petition addressed the need for an automatic restraint system and manual lap belts to be installed in the 1991 Volkswagen GTI (Canadian). Champagne stated that a knee bolster with a U.S.-model part number would be installed as part of the automatic restraint system. Champagne contended that the installation of manual lap belts does not require replacement of the entire seat, as the belts will have attachment points to the seat rails in the same manner as U.S. certified models.

NHTSA has reviewed each of the issues that Volkswagen has raised regarding Champagne's petition. NHTSA believes that Champagne's responses adequately address each of those issues. NHTSA further notes that the modifications described by Champagne have been performed with relative ease on thousands of nonconforming vehicles imported over the years, and would not preclude the non-U.S. certified 1991 Volkswagen GTI (Canadian) from being found ''capable of being readily modified to comply with all Federal motor vehicle safety standards.''

NHTSA has accordingly decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–149 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1991 Volkswagen GTI (Canadian) not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1991 Volkswagen Golf GTI originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 18, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–10062 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board [1]

[Docket No. AB–455X]

Ashley, Drew & Northern Railway Company; Abandonment Exemption; in Ashley and Drew Counties, AR

AGENCY: Surface Transportation Board.

ACTION: Notice of Exemption.

SUMMARY: The Board, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by Ashley, Drew & Northern Railway Company of its entire line between milepost 0 at Crossett and milepost 40.5 at Monticello, in Ashley and Drew Counties, AR, subject to an environmental condition. The abandonment of a segment of the line is further conditioned upon the receipt of Board authority for the discontinuance of trackage rights over that segment.

DATES: Provided no formal expression of intent to file an offer [2] of financial assistance has been received, this exemption will be effective on May 24, 1996. Formal expressions of intent to file an offer [2] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by May 6,1996; petitions to stay must be filed by May 9, 1996; requests for a public use condition must be filed by May 14, 1996; and petitions to reopen must be filed by May 20, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB–455X to: (1) Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, NW., Washington, DC 20423, and (2) Eugenia Langan, Shea & Gardner, 1800 Massachusetts Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, NW., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5271.]

Decided: April 9, 1996.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to section 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–10065 Filed 4–23–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general pubic and other Federal agencies to comment on an information collection that is due for renewed approval by the Office of Management and Budget. The comment period is required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Office of International Financial Analysis within the Department of the Treasury is soliciting comments concerning recordkeeping requirements associated with Reporting of International Capital and Foreign Currency Transactions and Positions—31 CFR Part 128.

DATES: Written comments should be received on or before June 21, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Gary A. Lee, Manager, Treasury International Capital Reporting System, Department of the Treasury, Room 5464, 1500 Pennsylvania Avenue NW., Washington DC 20220.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Gary A. Lee, Manager, Treasury International Capital Reporting System, Department of the Treasury, Room 5464, 1500 Pennsylvania Avenue NW., Washington DC 20220, (202)622–2270.

SUPPLEMENTARY INFORMATION:

Title: Reporting of International Capital and Foreign Currency Transactions and Positions—31 CFR Part 128.

OMB Number: 1505–0149.

Abstract: 31 CFR Part 128 establishes general guidelines for reporting on United States claims on and liabilities to foreigners; on transactions in securities with foreigners; and on the monetary reserves of the United States as provided for by the International Investment and Trade in Services Survey Act and the Bretton Woods Agreements Act. In addition, 31 CFR Part 128 establishes general guidelines for reporting on the nature and source of foreign currency transactions of large U.S. business enterprises and their foreign affiliates. This regulation includes a recordkeeping requirement, § 128.5, which is necessary to enable the Office of International Financial Analysis to verify reported information and to secure additional information concerning reported information as may be necessary. The recordkeepers are U.S. persons required to file reports covered by these regulations.

Current Actions: No changes to recordkeeping requirements are proposed at this time.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2,000.

Estimated Average Time per Respondent: Three (3) hours per respondent per response.

Estimated Total Annual Burden Hours: 6,000 hours, based on one response per year.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: whether 31 CFR § 128.5 is necessary for the proper performance of the functions of the Office, including whether the information collected has practical uses; the accuracy of the above burden estimates; how to enhance the quality, usefulness, and clarity of the information to be collected; and how to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data.

Thomas Ashby McCown,

Director, Office of International Financial Analysis.

[FR Doc. 96–10036 Filed 4–23–96; 8:45 am]

BILLING CODE 4810–25–M

Fiscal Service

[Dept. Circ. 570, 1995 Rev., Supp. No. 8]

Surety Companies Acceptable on Federal Bonds; Redomestication: Amwest Surety Insurance Company

Amwest Surety Insurance Company has redomesticated from the state of California to the state of Nebraska effective December 14, 1995. The Company was last listed as an acceptable surety on Federal bonds at 60 FR 34438, June 30, 1995.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 revision, to reflect this change.

The Circular may be viewed or downloaded by calling the U.S. Department of the Treasury, Financial Management Service, computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/7034/6953/6872. A hard copy may be purchased from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–0132. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20872, telephone (FTS/202) 874–6602.

Dated: April 4, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 96–10077 Filed 4–23–96; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1995—Rev., Supp. No. 10]

Surety Companies Acceptable on Federal Bonds; Termination of Authority: Delta Casualty Company

Notice is hereby given that the Certificate of Authority issued by the Treasury to DELTA CASUALTY COMPANY, of Chicago, Illinois, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 60 FR 34440, June 30, 1995.

With respect to any bonds currently in force with Delta Casualty Company, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

The Circular may be accessible through the Internet (http: llwww.ustreas.gov/treasury/bureaus/finman/c570.html) and also viewed or downloaded by calling the U.S. Department of the Treasury, Financial Management Service, computerized public bulletin board system (FMS

Inside Line) at (202) 874–6817/7034/6953/6872. A hard copy may be purchased from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 604, Hyattsville, MD 20872, telephone (202/FTS) 874–6905.

Dated: April 8, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 96–10080 Filed 4–23–96; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1995 Rev., Supp. No. 9]

Surety Companies Acceptable on Federal Bonds; Redomestication: Far West Insurance Company

Far West Insurance Company has redomesticated from the state of California to the state of Nebraska effective December 14, 1995. The Company was last listed as an acceptable surety on Federal bonds at 60 FR 34440, June 30, 1995.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 revision, to reflect this change.

The Circular may be viewed or downloaded by calling the U.S. Department of the Treasury, Financial Management Service, computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/7034/6953/6872. A hard copy may be purchased from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–0132. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (FTS/202) 874–6602.

Dated: April 4, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 96–10078 Filed 4–23–96; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1995—Rev., Supp. No. 11]

Surety Companies Acceptable on Federal Bonds Termination of Authority: The Personal Service Insurance Company

Notice is hereby given that the Certificate of Authority issued by the Treasury to The Personal Service Insurance Company, of Columbus, Ohio, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 60 FR 34445, July 1, 1995.

With respect to any bonds currently in force with The Personal Service Insurance Company, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

The Circular may be viewed or downloaded through the Internet (http://www.ustreas.gov/treasury/bureaus/finman/c570.html) or computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/7034/6953/6872. A hard copy may also be purchased from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20872, telephone (202/FTS) 874–6507.

Dated: April 8, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 96–10079 Filed 4–23–96; 8:45 am]

BILLING CODE 4810–35–M

Internal Revenue Service

Proposed Collection; Comment Request for Forms 4070, 4070PR, 4070A, and 4070A–PR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4070, Employee's Report of Tips to Employer; Form 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Form 4070A, Employee's Daily Record of Tips; and Form 4070A–PR, Registro Diario de Propinas del Empleado.

DATES: Written comments should be received on or before June 24, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 4070, Employee's Report of Tips to Employer; Form 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Form 4070A, Employee's Daily Record of Tips; and Form 4070A–PR, Registro Diario de Propinas del Empleado.

OMB Number: 1545–0065

Form Number: Forms 4070, 4070PR, 4070A, and 4070A–PR.

Abstract: Employees who receive at least $20 per month in tips must report the tips to their employers monthly for purposes of withholding of employment taxes. Forms 4070 and 4070PR (Puerto Rico only) are used for this purpose. Employees must keep a daily record of tips they receive. Forms 4070A and 4070A–PR (Puerto Rico only) are used for this purpose.

Current Actions: Forms 4070 and 4070PR are being revised to allow separate reporting of cash tips received, charged tips received, and tips paid out to other employees. The net amount of tips reported to the employer has been moved from Forms 4070A and 4070A–PR to Forms 4070 and 4070PR.

Type of Review: Revision.

Affected Public: Individuals.

Estimated Number of Respondents: 540,000.

Estimated Time Per Respondent: 60 hrs., 58 min. (Forms 4070 and 4070A); 58 hrs., 26 min. (Forms 4070PR and 4070A–PR).

Estimated Total Annual Burden Hours: 32,847,840.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; 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.

Approved: April 11, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–10086 Filed 4–23–96; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 61, No. 80
Wednesday, April 24, 1996

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

48 CFR Parts 213, 215, 216, 223, 235, 252, 253, and Appendix G to Chapter 2

[Defense Acquisition Circular (DAC) 91-10]

Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

Correction

In rule document 96–4480 beginning on page 7739 in the issue of Thursday, February 29, 1996, make the following corrections:

213.505-3 [Corrected]

1. On page 7742, in the third column, in section 213.505-3 (b)(1), in the second line, ''purchasers'' should read ''purchases''.

215.810-3 [Corrected]

2. On page 7743, in the first column, in section 215.810-3 (b)(i)(A), in the second line, ''billion.'' should read ''billion;''.

216.306 [Corrected]

3. On the same page, in the second column, in section 216.306 (c)(i)(C)(iii), in the fourth line, after the word ''not'' insert ''for''.

216.703 [Corrected]

4. On the same page, in the same column, in section 216.703 (c), in the third line, ''basis'' should read ''basic''.

223.7203 [Corrected]

5. On page 7744, in the first column, in section 223.7203, in the first line, ''Under'' should read ''Use''.

235.7006 [Corrected]

6. On the same page, in the third column, in section 235.7006 (H.4), in the fifth line, ''1-800-CAL-DITC'' should read ''1-800-CAL-DTIC''.

7. On page 7745, in the 3d column, in section 235.7006, in the 32nd line, after the word ''Data'' insert ''-''.

8. On the same page, in the same column, in section 235.7006, in the 14th line from the bottom, ''Indiane-Owned'' should read ''Indian-Owned''.

9. On page 7746, in the 1st column, in section 235.7006, in the 23d line, in ''*(I.109) through *(I.126)'', the asterisks in front of these numbers should be removed.

10. On the same page, in the 2nd column, in section 235.7006, in the 27th line, ''52.204-7003'' should read ''252.204-7003''.

11. On the same page, in the third column, in section 235.7006, in the seventh line from the bottom, ''Foregin'' should read ''Foreign''.

12. On the same page, in the same column, in section 235.7006, in the sixth line from the bottom, after the word ''Contract'' insert ''Performance''.

13. On page 7747, in the 3d column, in section 235.7006, in the 40th line, ''Nocommercial'' should read ''Noncommercial''.

14. On the same page, in the 1st column, in section 235.7006, in the 38th line, ''*(I.192)'' should read ''(I.192).

15. On page 7748, in the third column, in section 235.7006, in the seventh line, ''Hostirically'' should read ''Historically''.

16. On the same page, in the 2nd column, in section 235.7006, in the 14th, 15th, and 16th lines, ''252.209-7, 252.219-1, 252.223-13'' should read ''52.209-7, 52.219-1, 52.223-13''.

17. On the same page, in the 1st column, in section 235.7006, in the 14th line from the bottom, ''(L.19)'' should read ''*(L.19)''.

18. On page 7749, in the first column, in section 235.7006 (i)(D)(*3*), in the third line, after the word ''average'' insert ''of''.

252.209-7005 [Corrected]

19. On page 7750, in the first column, in the amendatory instruction to section 252.209-7005, in the fifth line, ''252.209 7005 Military recruiting on campus.'' should read ''252.209-7005 Military Recruiting on Campus.''.

252.217-7027 [Corrected]

20. On the same page, in the second column, in section 252.217-7027 paragraph (b) of the clause, in the fourth line, ''*proposed*,'' should read ''*proposal*,''.

PART 253 [CORRECTED]

21. On page 7751, in the first column, in amendatory instruction 49 to Part 253, in the third line, ''(construction)'' ' should read ''(Construction)'' '.

Appendix G to Chapter 2 [Corrected]

22. On the same page, in the second column, in Appendix G to Chapter 2, under the heading entitled ''PART 10 MISCELLANEOUS DEFENSE ACTIVITIES ACTIVITY ADDRESS NUMBERS'', in third line, ''headquarters'' should read ''Headquarters''; in the fourth line, ''room'' should read ''Room''; in the fifth line, after the zip code ''20301-1155'' insert ''(ZD46)''.

BILLING CODE 1505–01–D

Federal Register

Wednesday
April 24, 1996

Part II

Department of Health and Human Services

Food and Drug Administration

International Conference on Harmonisation; Guidance on Specific Aspects of Regulatory Genotoxicity Tests for Pharmaceuticals; Availability; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94D–0324]

International Conference on Harmonisation; Guidance on Specific Aspects of Regulatory Genotoxicity Tests for Pharmaceuticals; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a guideline entitled ''Guidance on Specific Aspects of Regulatory Genotoxicity Tests for Pharmaceuticals.'' This guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guideline is intended to provide guidance on genotoxicity testing for pharmaceuticals.

DATES: Effective April 24, 1996. Submit written comments at any time.

ADDRESSES: Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the guideline entitled ''Guidance on Specific Aspects of Regulatory Genotoxicity Tests for Pharmaceuticals'' are available from the Consumer Affairs Branch (HFD–8) (previously the CDER Executive Secretariat Staff), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Robert E. Osterberg, Center for Drug Evaluation and Research (HFD–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4300.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In the Federal Register of September 22, 1994 (59 FR 48734), FDA published a draft tripartite guideline entitled ''Notes for Guidance on Specific Aspects of Regulatory Genotoxicity Tests.'' The notice gave interested persons an opportunity to submit comments by December 6, 1994.

After consideration of the comments received and revisions to the guideline, a final draft of the guideline was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies at the ICH meeting held in July 1995.

The guideline recommends methods for testing and assessing the genotoxic potential of pharmaceuticals. A companion document (S2B: ''Genotoxicity: Standard Battery Tests'') providing guidance on a ''core test battery'' is under development. These recommendations are based on a retrospective review of relevant databases from the international pharmaceutical industry and regulatory agencies in the European Community, Japan, and the United States. Because these tests have not been designed nor validated for biological products (e.g., large molecules), they should not be routinely applied to such products. When there is cause for concern, specific endpoints should be identified and relevant tests should be developed and applied.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Although this guideline does not create or confer any rights for or on any person, and does not operate to bind FDA, it does represent the agency's current thinking on recommended methods for testing and assessing the genotoxic potential of pharmaceuticals.

As with all of FDA's guidelines, the public is encouraged to submit written comments with new data or other new information pertinent to this guideline. The comments in the docket will be periodically reviewed, and, where appropriate, the guideline will be amended. The public will be notified of any such amendments through a notice in the Federal Register.

Interested persons may, at any time, submit written comments on the guideline to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the guideline follows:

Guidance on Specific Aspects of Regulatory Genotoxicity Tests for Pharmaceuticals

1. Introduction

Guidelines for the testing of pharmaceuticals for genetic toxicity have been established in the European Community (EEC, 1987) and Japan (Japanese Ministry of Health and Welfare, 1989). FDA's Centers for Drug Evaluation and Research and Biologics Evaluation and Research (CDER and CBER) currently consider the guidance on genetic toxicity testing provided by FDA's Center for Food Safety and Applied Nutrition (58 FR 16536, March 29, 1993) to be applicable to pharmaceuticals.

The following notes for guidance should be applied in conjunction with existing guidelines in the United States, the European Community, and Japan. The recommendations below are derived from considerations of historical information held within the international pharmaceutical industry, the three regulatory bodies, and the scientific literature. Where relevant, the

recommendations from the latest review of the Organization for Economic Cooperation and Development (OECD) guidelines (OECD, 1994) and the 1993 International Workshop on Standardisation of Genotoxicity Test Procedures (*Mutation Research*, 312(3), 1994) have been considered.

2. Specific guidance and recommendations

2.1 Specific guidance for in vitro tests

2.1.1 The base set of strains used in bacterial mutation assays

Current guidelines for the detection of bacterial mutagens employ several strains to detect base substitution and frameshift point mutations. The *Salmonella typhimurium* strains mentioned in guidelines (normally TA1535, TA1537, TA98, and TA100) will detect such changes at G–C (guanine-cytosine) sites within target histidine genes. It is clear from the literature that some mutagenic carcinogens also modify A–T (adenine-thymine) base pairs. Therefore, the standard set of strains used in bacterial mutation assays should include strains that will detect point mutations at A–T sites, such as *S. typhimurium* TA102, which detects such mutations within multiple copies of *hisG* genes, or *Escherichia coli* WP2 *uvrA*, which detects these mutations in the *trpE* gene, or the same strain possessing the plasmid (pKM101), which carries *mucAB* genes that enhance error prone repair (see note 1). In conclusion, the following base set of bacterial strains should be used for routine testing: The strains cited below are all *S. typhimurium* isolates, unless specified otherwise.

1. TA98; 2. TA100; 3. TA1535; 4. TA1537 or TA97 or TA97a (see note 2); 5. TA102 or *E. coli* WP2 *uvrA* or *E. coli* WP2 *uvrA* (pKM101).

In order to detect cross-linking agents it may be preferable to select *S. typhimurium* TA 102 or to add a repair proficient *E. coli* strain, such as WP2 pKM101. It is noted that such compounds are detected in assays that measure chromosome damage.

2.1.2 Definition of the top concentration for in vitro tests

2.1.2.1 High concentration for nontoxic compounds

For freely soluble, nontoxic compounds, the desired upper treatment levels are 5 milligrams (mg)/plate for bacteria and 5 mg/milliliter (mL) or 10 millimolar (mM) (whichever is the lower) for mammalian cells.

2.1.2.2 Desired level of cytotoxicity

Some genotoxic carcinogens are not detectable in in vitro genotoxicity assays unless the concentrations tested induce some degree of cytotoxicity. It is also apparent that excessive toxicity often does not allow a proper evaluation of the relevant genetic endpoint. Indeed, at very low survival levels in mammalian cells, mechanisms other than direct genotoxicity per se can lead to ''positive'' results that are related to cytotoxicity and not genotoxicity (e.g., events associated with apoptosis, endonuclease release from lysosomes, etc.). Such events are likely to occur once a certain concentration threshold is reached for a toxic compound.

To balance these conflicting considerations, the following levels of cytotoxicity are currently considered acceptable for in vitro bacterial and mammalian cell tests (concentrations should not exceed the levels specified in 2.1.2.1):

(i) In the bacterial reverse mutation test, the highest concentration of test compound is desired to show evidence of significant toxicity. Toxicity may be detected by a reduction in the number of revertants, a clearing or diminution of the background lawn.

(ii) The desired level of toxicity for in vitro cytogenetic tests using cell lines should be greater than 50 percent reduction in cell number or culture confluency. For lymphocyte cultures, an inhibition of mitotic index by greater than 50 percent is considered sufficient.

(iii) In mammalian cell mutation tests, ideally the highest concentration should produce at least 80 percent toxicity (no more than 20 percent survival). Toxicity can be measured either by assessment of cloning efficiency (e.g., immediately after treatment), or by calculation of relative total growth, i.e., the product of relative suspension growth during the expression period and relative plating efficiency at the time of mutant selection. Caution is due with positive results obtained at levels of survival lower than 10 percent.

2.1.2.3 Testing of poorly soluble compounds

There is some evidence that dose-related genotoxic activity can be detected when testing certain compounds in the insoluble range in both bacterial and mammalian cell genotoxicity tests. This is generally associated with dose-related toxicity (see note 3). It is possible that solubilization of a precipitate is enhanced by serum in the culture medium or in the presence of S9-mix constituents. It is also probable that cell membrane lipid can facilitate absorption of lipophilic compounds into cells. In addition, some types of mammalian cells have endocytic activity (e.g., Chinese hamster V79, CHO and CHL cells) and can ingest solid particles that may subsequently disperse into the cytoplasm. An insoluble compound may also contain soluble genotoxic impurities. It should also be noted that a number of insoluble pharmaceuticals are administered to humans as suspensions or as particulate materials.

On the other hand, heavy precipitates can interfere with scoring the desired parameter and render control of exposure very difficult (e.g., where (a) centrifugation step(s) is (are) included in a protocol to remove cells from exposure media) (see note 4), or render the test compound unavailable to enter cells and interact with DNA.

The following strategy is recommended for testing relatively insoluble compounds. The recommendation below refers to the test article in the culture medium.

If no cytotoxicity is observed, then the lowest precipitating concentration should be used as the top concentration but not exceeding 5 mg per plate for bacterial tests and 5 mg/mL or 10 mM for mammalian cell tests. If dose-related cytotoxicity or mutagenicity is noted, irrespective of solubility, then the top concentration should be based on toxicity as described above. This may require the testing of more than one precipitating concentration (not to exceed the above stated levels). It is recognized that the desired levels of cytotoxicity may not be achievable if the extent of precipitation interferes with the scoring of the test. In all cases, precipitation should be evaluated at the beginning and at the end of the treatment period using the naked eye.

2.2 Specific guidance for in vivo tests

2.2.1 Acceptable bone marrow tests for the detection of clastogens in vivo

Tests measuring chromosomal aberrations in nucleated bone marrow cells in rodents can detect a wide spectrum of changes in chromosomal integrity. These changes almost all result from breakage of one or more chromatids as the initial event. Breakage of chromatids or chromosomes can result in micronucleus formation if an acentric fragment is produced; therefore, assays detecting either chromosomal aberrations or micronuclei are acceptable for detecting clastogens (see note 5). Micronuclei can also result from lagging of one or more whole chromosome(s) at anaphase and thus micronucleus tests have the potential to detect some aneuploidy inducers (see note 6).

In conclusion, either the analysis of chromosomal aberrations in bone marrow cells or the measurement of micronucleated polychromatic erythrocytes in bone marrow cells in vivo is acceptable for the detection of clastogens. The measurement of micronucleated immature (e.g., polychromatic) erythrocytes in peripheral blood is an acceptable alternative in the mouse, or in any other species in which the inability of the spleen to remove micronucleated erythrocytes has been demonstrated, or which has shown an adequate sensitivity to detect clastogens/aneuploidy inducers in peripheral blood (see note 7).

2.2.2 Use of male/female rodents in bone marrow micronucleus tests

Extensive studies of the activity of known clastogens in the mouse bone marrow micronucleus test have shown that, in general, male mice are more sensitive than female mice for micronucleus induction (see note 8). Quantitative differences in micronucleus induction have been identified between the sexes, but no qualitative differences have been described. Where marked quantitative differences exist, there is invariably a difference in toxicity between the sexes. If there is a clear qualitative difference in metabolites between male and female rodents, then both sexes should be used. Similar principles can be applied for other established in vivo tests (see note 9). Both rats and mice are deemed acceptable for use in the bone marrow micronucleus test (see note 10).

In summary, unless there are obvious differences in toxicity or metabolism between male and female rodents, males alone are sufficient for use in bone marrow micronucleus tests. If gender-specific drugs are to be tested, animals of the corresponding sex should normally be used.

2.3 Guidance on the evaluation of test results

Comparative trials have shown conclusively that each in vitro test system generates both false negative and false positive results in relation to predicting rodent carcinogenicity. Genotoxicity test batteries (of in vitro and in vivo tests) detect carcinogens that are thought to act primarily via a mechanism involving direct genetic damage, such as the majority of known human carcinogens. Therefore, these batteries may not detect nongenotoxic carcinogens. Experimental conditions, such as the limited capability of the in vitro metabolic activation systems, can also lead to false negative results in in vitro tests. The test battery approach is designed to reduce the risk of false negative results for compounds with genotoxic potential, while a positive result in any assay for genotoxicity does not necessarily mean that the test compound poses a genotoxic/carcinogenic hazard to humans.

2.3.1 Guidance on the evaluation of in vitro test results

2.3.1.1 In vitro positive results

The scientific literature gives a number of conditions that may lead to a positive in vitro result of questionable relevance. Therefore, any in vitro positive test result should be evaluated for its biological relevance taking into account the following considerations (this list is not exhaustive, but is given as an aid to decision-making):

(i) Is the increase in response over the negative or solvent control background regarded as a meaningful genotoxic effect for the cells?

(ii) Is the response concentration-related?

(iii) For weak/equivocal responses, is the effect reproducible?

(iv) Is the positive result a consequence of an in vitro specific metabolic activation pathway/in vitro specific active metabolite (see also note 12)?

(v) Can the effect be attributed to extreme culture conditions that do not occur in in vivo situations, e.g., extremes of pH; osmolality; heavy precipitates, especially in cell suspensions (see note 4)?

(vi) For mammalian cells, is the effect only seen at extremely low survival levels (see section 2.1.2.2 for acceptable levels of toxicity)?

(vii) Is the positive result attributable to a contaminant (this may be the case if the compound shows no structural alerts or is weakly mutagenic or mutagenic only at very high concentrations)?

(viii) Do the results obtained for a given genotoxic endpoint conform to that for other compounds of the same chemical class?

2.3.1.2 In vitro negative results

For in vitro negative results, special attention should be paid to the following considerations (the examples given are not exhaustive, but are given as an aid to decision-making): Does the structure or known metabolism of the compound indicate that standard techniques for in vitro metabolic activation (e.g., rodent liver S9) may be inadequate? Does the structure or known reactivity of the compound indicate that the use of other test methods/systems may be appropriate?

2.3.2 Guidance on the evaluation of in vivo test results

In vivo tests, by their nature, have the advantage of taking into account absorption, distribution, and excretion, which are not factors in in vitro tests, but are relevant to human use. In addition, metabolism is likely to be more relevant in vivo compared to the systems normally used in vitro. There are a few validated in vivo models accepted for assessment of genotoxicity. These include the bone marrow or peripheral blood cytogenetic assays. If a compound has been tested in vitro with negative results, it is usually sufficient to carry out a single in vivo cytogenetics assay.

For a compound that induces a biologically relevant positive result in one or more in vitro tests (see section 2.3.1.1), a further in vivo test in addition to the in vivo cytogenetic assay, using a tissue other than the bone marrow/peripheral blood, can provide further useful information. The target cells exposed in vivo and possibly the genetic end point measured in vitro guide the choice of this additional in vivo test. However, there is no validated, widely used in vivo system that measures gene mutation. In vivo gene mutation assays using endogenous genes or transgenes in several tissues of the rat and mouse are at various stages of development. Until such tests for mutation become accepted, results from other in vivo tests for genotoxicity in tissues other than the bone marrow can provide valuable additional data but the assay of choice should be scientifically justified (see note 11).

If in vivo and in vitro test results do not agree, then the differences should be considered/explained on a case-by-case basis (see sections 2.3.1.1, 2.3.2.1, and note 12).

In conclusion, the assessment of the genotoxic potential of a compound should take into account the totality of the findings and acknowledge the intrinsic values and limitations of both in vitro and in vivo tests.

2.3.2.1 Principles for demonstration of target tissue exposure for negative in vivo test results

In vivo tests have an important role in genotoxicity test strategies. The significance of in vivo results in genotoxicity test strategies is directly related to the demonstration of adequate exposure of the target tissue to the test compound. This is especially true for negative in vivo test results and when in vitro test(s) have shown convincing evidence of genotoxicity. Although a dose sufficient to elicit a biological response (e.g., toxicity) in the tissue in question is preferable, such a dose could prove to be unattainable since dose-limiting toxicity can occur in a tissue other than the target tissue of interest. In such cases, toxicokinetic data can be used to provide evidence of bioavailability. If adequate exposure cannot be achieved, e.g., with compounds showing very poor target tissue availability, extensive protein binding, etc., conventional in vivo genotoxicity tests may have little value.

The following recommendations apply to bone marrow cytogenetic assays; as examples, if other target tissues are used, similar principles should be applied.

For compounds showing positive results in any of the in vitro tests employed, demonstration of in vivo exposure should be made by any of the following measurements:

(i) By obtaining a significant change in the proportion of immature erythrocytes among total erythrocytes in the bone marrow, at the doses and sampling times used in the micronucleus test or by measuring a significant reduction in mitotic index for the chromosomal aberration assay.

(ii) Evidence of bioavailability of drug-related material either by measuring blood or plasma levels (see note 13).

(iii) By direct measurement of drug-related material in bone marrow.

(iv) By autoradiographic assessment of tissue exposure.

For methods (ii) to (iv), assessments should be made preferentially at the top dose or other relevant doses using the same species/strain and dosing route used in the bone marrow assay.

If in vitro tests do not show genotoxic potential, in vivo (systemic) exposure should be demonstrated and can be achieved by any of the methods above, but can also be inferred from the results of standard absorption, distribution, metabolism, and excretion studies in rodents.

2.3.2.2 Detection of germ cell mutagens

With respect to the detection of germ cell mutagens, results of comparative studies have shown that, in a qualitative sense, most germ cell mutagens are likely to be detected as such in somatic cell tests and negative results of in vivo somatic cell genotoxicity tests generally indicate the absence of germ cell effects (see note 14).

3. Notes

(1) Relevant examples of genotoxic carcinogens that are detected if bacterial strains with A–T target mutations are included in the base set can be found in the literature (e.g., Levin et al., 1983; Wilcox et al., 1990). Analysis of the data base held by the Japanese Ministry of Labour on 5,526 compounds (and supported by smaller data bases held by various pharmaceutical companies) has shown that approximately 7.5 percent of the bacterial mutagens identified are detected by *E. coli* WP2 *uvrA*, but not by the standard set of four Salmonella strains. Although animal carcinogenicity data are not available on these compounds, it is likely that such compounds would carry the same carcinogenic potential as mutagens inducing changes in the standard set of Salmonella strains.

(2) TA1537, TA97, and TA97a all contain cytosine runs at the mutation sensitive site within the relevant target histidine loci and show similar sensitivity to frameshift mutagens that induce deletion of bases in these frameshift hotspots. There was consensus agreement at the International Workshop on Standardisation of Genotoxicity Procedures, Melbourne, 1993 (Gatehouse et al., 1994) that all three strains could be used interchangeably.

(3) Laboratories in Japan carrying out genotoxicity tests have much experience in testing precipitates and have identified examples of substances that are clearly genotoxic only in the precipitating range of

concentrations. These compounds include polymers and mixtures of compounds, some polycyclic hydrocarbons, some phenylene diamines, heptachlor, etc. Collaborative studies with some of these compounds have shown that they may be detectable in the soluble range; however, it does seem clear that genotoxic activity increases well into the insoluble range. A discussion of these factors is given in the report of the in vitro subgroup of the International Workshop on Standardisation of Genotoxicity Procedures, Melbourne, 1993 (Kirkland, 1994).

(4) Testing compounds in the precipitating range is problematical with respect to defining the exposure periods for assays where the cells grow in suspension. After the defined exposure period, the cells are normally pelleted by centrifugation and are then resuspended in fresh medium without the test compound. If a precipitate is present, the compound will be carried through to the later stages of the assay, making control of exposure impossible. If such cells are used, e.g., human peripheral lymphocytes or mouse lymphoma cells, it is reasonable to use the lowest precipitating concentration as the highest tested.

(5) As the mechanisms of micronucleus formation are related to those inducing chromosomal aberrations (e.g., Hayashi et al., 1984 and 1994; Hayashi, 1994), both micronuclei and chromosomal aberrations can be accepted as assay systems to screen for clastogenicity induced by test compounds. Comparisons of data where both the mouse micronucleus test and rat bone marrow metaphase analysis have been carried out on the same compounds have shown impressive correlation both qualitatively, i.e., detecting clastogenicity, and quantitatively, i.e., determination of the lowest clastogenic dose. Even closer correlations can be expected where the data are generated in the same species.

(6) Although micronuclei can arise from lagging whole chromosomes following interaction of a compound with the spindle apparatus, the micronucleus test may not detect all aneuploidy inducers. Specific aneuploidy assays may become available in the near future. One approach is the evolving rapid and sensitive technique for identifying individual (rodent) chromosomes in interphase nuclei, e.g., via fluorescence in situ hybridization (FISH).

(7) The peripheral blood micronucleus test in the mouse using acridine orange supravital staining was originally introduced by Hayashi et al. (1990). The test has been the subject of a major collaborative study by the Japanese Collaborative Study Group for the Micronucleus Test (*Mutation Research*, 278, 1992, Nos. 2/3). The tests were carried out in CD–l mice using 23 test substances of various modes of action. Peripheral blood sampled from the same animal was examined 0, 24, 48, and 72 hours (or longer) after treatment. As a rule one chemical was studied by 2 different laboratories (46 laboratories took part). All chemicals were detected as inducers of micronuclei. There were quantitative differences between laboratories but no qualitative differences. Most chemicals gave the greatest response 48 hours after treatment. Thus, the results suggest that the peripheral blood micronucleus assay using acridine orange supravital staining can generate reproducible and reliable data to evaluate the clastogenicity of chemicals. Based on these data, the International Workshop on Standardisation of Genotoxicity Procedures, Melbourne, 1993, concluded that this assay is equivalent in accuracy to the bone marrow micronucleus assay (Hayashi et al., 1994). The application of the peripheral blood micronucleus assay to rats is under validation by the Japanese Collaborative Study Group for the Micronucleus Test.

(8) A detailed collaborative study was carried out indicating that, in general, male mice were more sensitive than female mice for micronucleus induction; where differences were observed, they were only quantitative and not qualitative (The Collaborative Study Group for the Micronucleus Test, 1986). This analysis has been extended by a group considering the micronucleus test at the International Workshop on Standardisation of Genotoxicity Procedures, Melbourne, 1993. Having analyzed data on 53 in vivo clastogens (and 48 nonclastogens), the same conclusions were drawn (Hayashi et al., 1994).

(9) As the induction of micronuclei and chromosomal aberrations are related, it is reasonable to assume that the same conditions can be applied when using male animals in bone marrow chromosomal aberration assays. The peripheral blood micronucleus test has been validated only in male rodents (The Collaborative Study Group for the Micronucleus Test, 1992) as has the ex vivo unscheduled DNA synthesis (UDS) test (Kennely et al., 1993; Madle et al., 1994).

(10) Both the rat and mouse are suitable species for use in the micronucleus test with bone marrow. However, data are accumulating to show that some species-specific carcinogens are species-specific genotoxins (e.g., Albanese et al., 1988). When more data have accumulated there may be a case for carrying out micronucleus tests in both the rat and the mouse.

(11) Apart from the cytogenetic assays in bone marrow cells, a large data base for in vivo assays exists for the liver UDS assay (Madle et al., 1994). A review of the literature shows that a combination of the liver UDS test and the bone marrow micronucleus test will detect most genotoxic carcinogens with few false positive results (Tweats, 1994). False negative results with this combination of assays have been generated for some unstable genotoxic compounds and certain aromatic amines that are problematical for most existing in vivo screens (Tweats, 1994). Therefore, further in vivo testing should not be restricted to liver UDS tests as other assays may be more appropriate (e.g., ^{32}P postlabeling; DNA strand-breakage assays, etc.), depending on the compound in question. It is important to recognize that for these in vivo endpoints, their relationship to mutation is not precisely known.

(12) Examples to consider regarding the differences between in vitro and in vivo test results have been described in the literature (e.g., Ashby, 1983). They include: (i) An active metabolite produced in vitro may not be produced in vivo, (ii) an active metabolite may be rapidly detoxified in vivo but not in vitro, and (iii) rapid and efficient excretion of a compound may occur in vivo.

(13) The bone marrow is a well-perfused tissue and it can be deduced, therefore, that levels of drug-related materials in blood or plasma will be similar to those observed in bone marrow. This is borne out by direct comparisons of drug levels in the two compartments for a large series of different pharmaceuticals (Probst, 1994). Although drug levels are not always the same, there is sufficient correlation for measurements in blood or plasma to be adequate for validating bone marrow exposure.

(14) There may be specific types of mutagens, e.g., aneuploidy inducers, that act preferentially during meiotic gametogenesis stages. There is no conclusive experimental evidence to date for the existence of such substances.

4. Glossary

Aneuploidy: Numerical deviation of the modal number of chromosomes in a cell or organism.

Base substitution: The substitution of one or more base(s) for another in the nucleotide sequence. This may lead to an altered protein.

Cell proliferation: The ability of cells to divide and to form daughter cells.

Clastogen: An agent that produces structural changes of chromosomes, usually detectable by light microscopy.

Cloning efficiency: The efficiency of single cells to form clones. Usually measured after seeding low numbers of cells in a suitable environment.

Culture confluency: A quantification of the cell density in a culture (cell proliferation is usually inhibited at high degrees of confluency).

Frameshift mutation: A mutation (change in the genetic code) in which one base or two adjacent bases are added (inserted) or deleted to the nucleotide sequence of a gene. This may lead to an altered or truncated protein.

Gene mutation: A detectable permanent change within a single gene or its regulating sequences. The changes may be point mutations, insertions, or deletions.

Genetic endpoint: The precise type or type class of genetic change investigated (e.g., gene mutations, chromosomal aberrations, DNA-repair, DNA-adduct formation, etc.).

Genetic toxicity, genotoxicity: A broad term that refers to any deleterious change in the genetic material regardless of the mechanism by which the change is induced.

Micronucleus: Particle in a cell that contains microscopically detectable nuclear DNA; it might contain a whole chromosome(s) or a broken centric or acentric part(s) of chromosome(s). The size of a micronucleus is usually defined as being less than 1/5 but more than 1/20 of the main nucleus.

Mitotic index: Percentage of cells in the different stages of mitosis among the cells not in mitosis (interphase) in a preparation (slide).

Plasmid: Genetic element additional to the normal bacterial genome. A plasmid might be inserted into the host chromosome or form an extrachromosomal element.

Point mutations: Changes in the genetic code, usually confined to a single DNA base pair.

Polychromatic erythrocyte: An immature erythrocyte in an intermediate stage of development that still contains ribosomes and, as such, can be distinguished from mature normochromatic erythrocytes (lacking ribosomes) by stains selective for ribosomes.

Survival (in the context of mutagenicity testing): Proportion of cells in a living stage among dead cells, usually determined by staining and colony counting methods after a certain treatment interval.

Unscheduled DNA synthesis (UDS): DNA synthesis that occurs at some stage in the cell cycle (other than S-phase) in response to DNA damage. It is usually associated with DNA excision repair.

5. References

Albanese, R., E. Mirkova, D. Gatehouse, and J. Ashby, ''Species-specific response to the rodent carcinogens, 1,2-dimethylhydrazine and 1,2-dibromochloropropane in rodent bone marrow micronucleus assays,'' *Mutagenesis*, 3:35–38, 1988.

Ashby, J., ''The unique role of rodents in the detection of possible human carcinogens and mutagens,'' *Mutation Research*, 115:177–213, 1983.

EEC, ''Notes for Guidance for the Testing of Medicinal Products for their Mutagenic Potential,'' *Official Journal European Community*, L73, 1987.

Gatehouse, D., S. Haworth, T. Cebula, E. Gocke, L. Kier, T. Matsushima, C. Melcion, T. Nohmi, T. Ohta, S. Venitt, and E. Zeiger, ''Report from the working group on bacterial mutation assays: International workshop on standardisation of genotoxicity test procedures,'' *Mutation Research*, 312:217–233, 1994.

Hayashi, M., T. Sofuni, and M. Ishidate, Jr., ''Kinetics of micronucleus formation in relation to chromosomal aberration in mouse bone marrow,'' *Mutation Research*, 127:129–137, 1984.

Hayashi, M., T. Morita, Y. Kodama, T. Sofuni, and M. Ishidate, Jr., ''The micronucleus assay with mouse peripheral blood reticulocytes using acridine orange-coated slides,'' *Mutation Research*, 245:245–249, 1990.

Hayashi, M., R. R. Tice, J. T. MacGregor, D. Anderson, D. H. Blakey, M. Kirsch-Volders, F. B. Oleson, Jr., F. Pacchierotti, F. Romagna, H. Shimada, S. Sutou, and B. Vannier, ''*In vivo* rodent erythrocyte micronucleus assay,'' *Mutation Research*, 312(3):293–304, 1994.

Hayashi, M., ''Acceptability of *in vivo* MN and CA tests,'' *in* Proceedings of the Second International Conference on Harmonisation (ICH 2), edited by P. F. D'Arcy and D. W. G. Harron, Greystoke Books Ltd., N. Ireland, pp. 232–237, 1994.

Japanese Ministry of Health and Welfare, Guidelines for toxicity studies of drugs, 1989.

Kenelly, J. C., R. Waters, J. Ashby, P. A. Lefevre, B. Burlinson, D. J. Benford, S. W. Dean, and I. deG. Mitchell, ''In vivo rat liver UDS assay,'' *in* Supplementary Mutagenicity Tests, UKEMS Recommended Procedures, edited by D. J. Kirkland and M. Fox, Cambridge University Press, pp. 52–77, 1993.

Kirkland, D., ''Report of the *in vitro* sub-group. International workshop on standardisation of Genotoxicity Test Procedures,'' *Mutation Research*, 312:211–215, 1994.

Levin, D. E., M. Hollstein, M. F. Christman, E. A. Schwiers, and B. N. Ames, ''A new Salmonella tester strain (TA102) with A–T base pairs at the site of mutation detects oxidative mutagens,'' *Proceedings of the National Academy of Sciences of the USA*, 79:7445–7449, 1982.

Madle, S., S. W. Dean, U. Andrae, G. Brambilla, B. Burlinson, D. J. Doolittle, C. Furihata, T. Hertner, C. A. McQueen, and H. Mori, ''Recommendations for the performance of UDS tests *in vitro* and *in vivo*,'' *Mutation Research*, 312:263–285, 1994.

OECD Guidelines for Genetic Toxicology (1983, 1984, 1986) Published by OECD, Paris; latest revisions discussed at ad hoc expert committee meeting, Rome, September 1994.

Probst, G., ''Validation of target tissue exposure for *in vivo* tests,'' *in* Proceedings of the Second International Conference on Harmonisation (ICH 2), edited by P. F. D'Arcy and D. W. G. Harron, Greystoke Books Ltd., N. Ireland, pp. 249–252, 1994.

The Collaborative Study Group for the Micronucleus Test, CSGMT, ''Sex difference in the micronucleus test,'' *Mutation Research*, 172:151–163, 1986.

The Collaborative Study Group for the Micronucleus Test, CSGMT, ''Micronucleus test with mouse peripheral blood erythrocytes by acridine orange supravital staining: The summary report of the 5th collaborative study by CSGMT/JEMS: MMS,'' *Mutation Research*, 278:83–98, 1992.

Tweats, D. J., ''Follow-up of *in vitro* positive results,'' *in* Proceedings of the Second International Conference on Harmonisation (ICH 2), edited by P. F. D'Arcy and D. W. G. Harron, Greystoke Books Ltd., N. Ireland, pp. 240–244, 1994.

Wilcox, P., A. Naidoo, D. J. Wedd, and D. G. Gatehouse, ''Comparison of *Salmonella typhimurium* TA102 with *Escherichia coli* WP2 tester strains,'' *Mutagenesis*, 5:285–291, 1990.

Dated: April 15, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–10021 Filed 4–23–96; 8:45 am]

BILLING CODE 4160–01–F

Federal Register

Wednesday
April 24, 1996

Part III

Department of the Treasury

31 CFR Part 103

Exemptions From the Requirement To Report Transactions in Currency and List of Entities Who Are Exempt; Interim Rule and Notice

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA10; 1506–AA11

Amendment to the Bank Secrecy Act Regulations—Exemptions From the Requirement To Report Transactions in Currency

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: This document contains an interim rule eliminating the requirement to report transactions in currency in excess of $10,000, between depository institutions and certain classes of ''exempt persons'' defined in the rule. The interim rule applies to currency transactions occurring after April 30, 1996. It is adopted as a major step in reducing the burden imposed upon financial institutions by the Bank Secrecy Act and increasing the cost-effectiveness of the counter-money laundering policies of the Department of the Treasury. The interim rule is part of a process to achieve the reduction set by the Money Laundering Suppression Act of 1994 in the number of currency transaction reports filed annually by depository institutions.

DATES: *Effective date.* The interim rule is effective May 1, 1996.

Comment deadline. Comments must be received by August 1, 1996.

Applicability. This interim rule applies to transactions in currency occurring after April 30, 1996.

ADDRESSES: Written comments should be submitted to: Office of Regulatory Policy and Enforcement, Financial Crimes Enforcement Network, Department of the Treasury, 2070 Chain Bridge Road, Vienna, Virginia 22182–2536, *Attention:* Interim CTR Exemption Rule.

Submission of comments. An original and four copies of any comment must be submitted. All comments will be available for public inspection and copying, and no material in any such comments, including the name of any person submitting comments, will be recognized as confidential. Accordingly, material not intended to be disclosed to the public should not be submitted.

Inspection of comments. Comments may be inspected at the Department of the Treasury between 10:00 a.m. and 4:00 p.m., in the Financial Crimes Enforcement Network (''FinCEN'') reading room, on the third floor of the Treasury Annex, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. Persons wishing to inspect the comments submitted should request an appointment by telephoning (202) 622–0400.

FOR FURTHER INFORMATION CONTACT: Pamela Johnson, Assistant Director, Office of Financial Institutions Policy, FinCEN, at (703) 905–3920; Charles Klingman, Office of Financial Institutions Policy, FinCEN, at (703) 905–3920; Stephen R. Kroll, Legal Counsel, FinCEN, at (703) 905–3590; or Cynthia A. Langwiser, Office of Legal Counsel, FinCEN, at (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Introduction

This document adds, as an interim rule, a new paragraph (h) (the ''Interim Rule'') to 31 CFR 103.22. The Interim Rule exempts, from the requirement for the reporting of transactions in currency in excess of $10,000, transactions occurring after April 30, 1996, between depository institutions [1] and certain classes of exempt persons defined in the Interim Rule. The Interim Rule is adopted to implement the terms of 31 U.S.C. 5313(d) (and related provisions of 31 U.S.C. 5313 (f) and (g)), which were added to the Bank Secrecy Act by section 402(a) of the Money Laundering Suppression Act of 1994 (the ''Money Laundering Suppression Act''), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325 (September 23, 1994).

II. Background

A. Statutory Provisions

The Bank Secrecy Act, Titles I and II of Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330, authorizes the Secretary of the Treasury, *inter alia,* to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5330) appear at 31 CFR Part 103. The authority of the Secretary to administer Title II of the Bank Secrecy Act has been delegated to the Director of FinCEN.

The reporting by financial institutions of transactions in currency in excess of $10,000 has long been a major component of the Department of the Treasury's implementation of the Bank Secrecy Act. The reporting requirement is imposed by 31 CFR 103.22, a rule issued under the broad authority granted to the Secretary of the Treasury by 31 U.S.C. 5313(a) to require reports of domestic coin and currency transactions.

Four new provisions (31 U.S.C. 5313 (d) through (g)) concerning exemptions were added to 31 U.S.C. 5313 by the Money Laundering Suppression Act. Subsection (d)(1) provides that the Secretary of the Treasury shall exempt a depository institution from the requirement to report currency transactions with respect to transactions between the depository institution and the following categories of entities:

(A) Another depository institution.

(B) A department or agency of the United States, any State, or any political subdivision of any State.

(C) Any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States or any such State or political subdivision.

(D) Any business or category of business the reports on which have little or no value for law enforcement purposes.

Subsection (d)(2) states that:

> The Secretary of the Treasury shall publish in the Federal Register at such times as the Secretary determines to be appropriate (but not less frequently than once each year) a list of all of the entities whose transactions with a depository institution are exempt under this subsection from the [currency transaction] reporting requirements. * * *

The companion provisions of 31 U.S.C. 5313(e) authorize the Secretary to permit a depository institution to grant additional, discretionary, exemptions from currency transaction reporting. Subsection (f) places limits on the liability of a depository institution in connection with a transaction that has been exempted from reporting under either subsection (d) or subsection (e) and provides for the coordination of any exemption with other Bank Secrecy Act provisions, especially those relating to the reporting of suspicious transactions. New subsection (g) defines ''depository institution'' for purposes of the new exemption provisions.

Section 402(b) of the Money Laundering Suppression Act states simply that in administering the new statutory exemption procedures:

> the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31 * * *

[1] As explained below, the text of the rule itself uses the term ''bank,'' which as defined in 31 CFR 103.11 (c) includes both banks and other classes of depository institutions.

by at least 30 percent of the number filed during the year preceding [September 23, 1994,] the date of enactment of [the Money Laundering Suppression Act].

During the period September 24, 1993 through September 23, 1994, approximately 11.2 million currency transaction reports were filed. Of that number, approximately 10.9 million reports were filed by depository institutions. Thus the statute contemplates a reduction of at least approximately 3.3 million filings per annum.

B. Shortcomings of the Present Exemption System

The enactment of 31 U.S.C. 5313 (d) through (g) reflects a Congressional intention to ''reform * * * the procedures for exempting transactions between depository institutions and their customers.'' *See* H.R. Rep. 103–652, 103d Cong., 2d Sess. 186 (August 2, 1994). The administrative exemption procedures at which the statutory changes are directed are found in 31 CFR 103.22(b)(2) and (c) through (f); those procedures have not succeeded in eliminating routine currency transactions by businesses from the operation of the currency transaction reporting requirement.

Several reasons have been given for this lack of success. The first is the retention by banks of liability for making incorrect exemption determinations. The risk of potential liability is made more serious by the complexity of the administrative exemption procedures (which require banks, for example, to assign dollar limits to each exemption based on the amounts of currency projected to be needed for the customary conduct of the exempt customer's lawful business). Finally, advances in technology have made it less costly for some banks to report all currency transactions rather than to incur the administrative costs (and risks) of exempting customers and then administering the terms of particular exemptions properly.

The problems created by the administrative exemption system include that system's failure to provide the Treasury with information needed for thoughtful administration of the Bank Secrecy Act. Although banks are required to maintain a centralized list of exempt customers and to make that list available upon request, see *31* CFR 103.22 (f) and (g), there is no way short of a bank-by-bank request for lists (with the time and cost such a request would entail both for banks and government) for Treasury to learn the extent to which routine transactions are effectively screened out of the system or (for that matter) the extent to which exemptions have been granted in situations in which they are not justified.

In crafting the 1994 statutory provisions relating to mandatory and discretionary exemptions, Congress sought to alter the burden of liability and uncertainty that the administrative exemption system created. The statutory provisions embraced several categories of transactions that were either already partially exempt or plainly eligible for exemption under the administrative exemption system.[2] In addition, Congress authorized the Treasury to exempt under the mandatory rules, as indicated above, ''[a]ny business or category of business the reports on which have little or no value for law enforcement purposes.'' 31 U.S.C. 5313 (d)(1)(D).

C. Objectives of the Interim Rule

As indicated above, the Interim Rule is the first step in the use of section 402 of the Money Laundering Suppression Act to transform the Bank Secrecy Act provisions relating to currency transaction reporting. That transformation has four objectives.

The first is to reduce the burden of currency transaction reporting. That reduction comes in part through the issuance of a blanket regulatory exemption covering transactions in currency between one depository institution and another within the United States and between depository institutions and government departments and agencies at all levels. But at least an equal (and likely a significantly greater) part of the reduction comes from the decision to treat as being of little interest to law enforcement transactions in currency between depository institutions and corporations whose common stock is listed on certain national stock exchanges.

That decision reflects a second, related objective of the Interim Rule: to begin the process of limiting currency transaction reports to transactions for which the benefits of the reporting requirement (both providing usable information to enforcement officials and creating a deterrent against attempts to misuse the financial system) justify the costs of supplying the information to the Treasury. It is unlikely that reports of routine currency transactions for a company of sufficient size to be traded on a national securities exchange can be of significant use, by themselves, to law enforcement, regulatory, or tax authorities.

The third objective is to focus the Bank Secrecy Act reporting system on transactions that signal matters of clear interest to law enforcement and regulatory authorities. In publishing the final rule relating to the reporting of suspicious transactions under the Bank Secrecy Act, Treasury stated ''its judgment that reporting of suspicious transactions in a timely fashion is a key component of the flexible and cost-efficient compliance system required to prevent the use of the nation's financial system for illegal purposes.'' See 61 FR 4326, 4327 (February 5, 1996). The Interim Rule *re-enforces* the central importance of suspicious transaction reporting to Treasury's counter-money laundering program; expanded suspicious transaction reporting forms a basis for steps to reduce sharply the extent to which routine currency transactions by ongoing businesses are required to be reported. Currency transactions, like non-currency transactions, are required to be reported under the terms of new 31 CFR 103.21, if they constitute suspicious transactions as defined in that section; nothing in the Interim Rule reduces or alters the obligations imposed by 31 CFR 103.21. *See* 31 U.S.C. 5313(f)(2)(B).

The relationship between required suspicious transaction reporting and expanded and simplified exemptions from routine currency transaction reporting is a strong one; each rule forms an integral part of the policy of the other. The substitution of suspicious transaction reporting for routine reporting of all currency transactions by exempt persons in effect defines what a routine transaction for an exempt person is. That is, a routine currency transaction, in the case of an exempt person, is a transaction that does not trigger the suspicious transaction reporting requirements, because the transaction does *not*, for example, give the bank a reason to suspect money laundering, a violation of a reporting requirement, or the absence of a business purpose. *See* 31 CFR 103.21(a)(2) (i)-(iii).

The fourth objective of the Interim Rule is to create an exemption system that works. Thus choices have been made with an eye to achieving ease of administration and comprehensibility—the very factors whose absence hindered the prior administrative exemption process.

[2] Thus, as noted below, transactions in currency between domestic banks are already exempt from reporting, *see* 31 CFR 103.22(b)(1)(ii), and ''[d]eposits or withdrawals, exchanges of currency or other payments and transfers by local or state governments, or the United States or any of its agencies or instrumentalities'' are one of the categories of transactions specifically described as eligible for exemption by banks. *See* 31 CFR 103.22(b)(2)(iii).

FinCEN has attempted to craft a rule that will be easily understood by the banking professionals who must apply it. That meant painting with a broad brush; any general exemption rule will almost certainly include within its terms some results that are not optimal when viewed in isolation.

FinCEN understands that the changeover to the new system will require an initial period of effort by both the Treasury and banking institutions; it is impossible to reduce the volume of currency transaction reports to the extent that the Interim Rule tries to do without creating some small degree of temporary inconvenience as the terms of the system change. FinCEN believes, however, that the transition period will be relatively short and that the new greatly streamlined exemption procedures, once in place, will be self-sustaining and will produce a leaner, less burdensome, and more cost effective exemption system than now exists.

FinCEN is eager to improve the terms of the rule as necessary to eliminate temporary incongruities. Comments on ways in which the rule could be improved in this regard are specifically invited.

D. Additional Relief Under Study

The Interim Rule is the first result of FinCEN's work to put in place the new exemption system contemplated by the provisions of 31 U.S.C. 5313 (d) through (g). The goal of FinCEN's work in this area, like the Congress' goal in shaping the Money Laundering Suppression Act provisions on exemptions, is to reduce the cost of Bank Secrecy Act compliance and to further a fundamental restructuring of the Bank Secrecy Act. The restructuring emphasizes cost-effective collection of only that information that is likely to benefit law enforcement and regulatory authorities.

In solving the issues posed by implementation of the new statutory exemption rules, FinCEN has consulted regularly with banking industry representatives. For example, under the auspices of Bank Secrecy Act Advisory Group it convened a working session of bank officials to discuss possible structures for the new exemption system and the constraints that bank operating procedures posed for broad-scale relief from unnecessary currency transaction reporting.

In this connection, FinCEN is aware that the Interim Rule and any final rule resulting therefrom may well affect the operation of large banks in urban areas more than the operation of smaller community-based institutions, if only because larger companies tend to do business with larger banks and because the Interim Rule does not simplify the exemption system with respect to transactions by privately held companies, large and small, whose banking history and business would also justify a simplified exemption system.

Accordingly, FinCEN is working now on a notice of proposed rulemaking implementing the discretionary exemption authority contained in 31 U.S.C. 5313(e) and will at the appropriate time consult with the banking community in shaping proposals to implement that authority. Meanwhile, banks will still be able to maintain any exemptions properly granted under the current administrative system. Commenters on this Interim Rule are invited to include in their comments any suggestions on the projected second stage of the exemption effort.

III. Specific Provisions

A. 103.22(a). Reports of Currency Transactions

A new sentence is added following the first sentence of paragraph (a) of 31 CFR 103.22 to provide a cross-reference in that paragraph to the provisions of new paragraph (h) added by the Interim Rule.

B. 103.22(h)(1). Currency Transactions of Exempt Persons With Banks Occurring After April 30, 1996

Paragraph (h)(1) states the general effect of the Interim Rule. That is, simply and directly: no currency transaction report is required to be filed by a bank for a transaction in currency by an exempt person occurring after April 30, 1996.

The Interim Rule uses the term ''bank'' rather than ''depository institution'' to define the class of financial institutions to which the Interim Rule applies. Although 31 U.S.C. 5313(d) speaks of exemptions for transactions with ''depository institutions'' (as the latter term is defined in 31 U.S.C. 5313(g)), FinCEN believes that the broad definition of bank contained in 31 CFR 301.11(c) includes all of the categories of institutions included in the statutory ''depository institution'' definition; because the term ''bank'' is familiar to bank officials who work with the Bank Secrecy Act, substitution of a new term whose effect is the same does not appear either necessary or advisable.

The Interim Rule applies only to transactions between exempt persons and banks, to reflect the terms of 31 U.S.C. 5313(d); it does not apply to transactions between exempt persons and financial institutions other than banks. Comments are invited about whether the rule should extend to transactions with such other classes of financial institutions.

Although 31 U.S.C. 5313(d) speaks of ''mandatory'' exemptions, the Interim Rule does not affirmatively prohibit banks from continuing to report routine currency transactions with exempt persons. Treasury believes that the incentives created by the Interim Rule are, as Congress intended them to be, sufficiently great to lead banks to take advantage of the new exemption system to a far greater extent than they took advantage of the prior administrative exemption system.

The Interim Rule, however, is not simply a regulatory relief measure. As indicated above, it is part of a fundamental restructuring of the Bank Secrecy Act's administration. Treasury hopes and expects that banks will be willing to undertake the one-time effort necessary to make the new, substantially different system work.

C. 103.22(h)(2). Exempt Person

Under the Interim Rule, the crucial exemption determinant is whether a particular entity is an ''exempt person.'' That term is defined in new paragraph (h)(2).

The first three categories of exempt persons specified in paragraph (h)(2) are those to whom exemption is required to be granted by 31 U.S.C. 5313(d)(1)(A)–(C).[3]

Banks. The first category of exempt person is banks themselves, with the result that transactions between banks will not require reporting. In most cases, no reporting is required at present for such transactions; 31 CFR 103.22(b)(1)(ii) states flatly that the currency transaction reporting requirement does not ''require reports * * * of transactions between domestic banks.'' The definition is limited to banking operations and transactions within the United States. Thus a transfer of currency by a bank inside the United States to a bank outside the United States is not exempt under the Interim Rule.

Departments and Agencies of the United States and of States and Their Political Subdivisions

The second category of exempt person includes departments and agencies of the United States, of any state, and of any political subdivision of any state.

[3] The language of 31 U.S.C. 5313(d)(1)(A)–(C) is quoted in section IIA of this Supplementary Information section, above.

The definition of ''United States'' used in 31 CFR 103.11 includes not only the states but also the District of Columbia and the various territories and insular possessions of the United States. *See* 31 CFR 103.11(nn); as of August 1, 1996, the definition will also include the Indian lands. *See* 61 FR 7054, 7056 (February 23, 1996). Thus departments and agencies of the governments of these areas are also classified as exempt persons under the definition.

Entities Exercising Governmental Authority

The third category of exempt person includes any entity established under the laws of the United States[4], of any state, or of any political subdivision of any state, or under an interstate compact between two or more states, that exercises governmental authority on behalf of the United States or any such state or political subdivision. Operating rules for making determinations about the governmental entities are included in paragraph (h)(4), discussed below.

Listed Corporations

The fourth category of person subject to mandatory exemption under 31 U.S.C. 5313(d) is ''any business or category of business the reports on which have little or no value for law enforcement purposes.'' Treasury is making use of that provision to treat as an exempt person any corporation whose common stock (i) is listed on the New York Stock Exchange or the American Stock Exchange (but not including stock listed on the Emerging Company Marketplace of the American Stock Exchange), or (ii) has been designated as a Nasdaq National Market Security listed on the Nasdaq Stock Market (but not including stock listed under the separate ''Nasdaq Small-Cap Issues'' category). For convenience, this class of exempt persons is referred to in this discussion as ''listed corporations.''

The ''listed corporation'' formulation has been adopted for several reasons. First, Treasury believes that the formulation is a convenient and accurate way of describing many, if not most, large-scale enterprises that make extensive routine use of currency in their normal business operations. Second, the list of corporations described in the formulation is readily available and is published in general circulation newspapers each morning. Finally, the scale of enterprises listed on the nation's largest securities exchanges, and the variety of internal and external controls to which they are subject—whether as a matter of market discipline or government regulation—make their use for the sort of money laundering or tax evasion marked by anomalous transactions in currency, or that could be detected by a simple examination of currency transaction reports, sufficiently unlikely that the benefits of a uniform formulation far exceed the apparent risks of such a formulation. This is especially true because of the continuing applicability of the suspicious transaction reporting rules to all (non-currency *and* currency) transactions between listed corporations and banks.

The determination whether a company is a corporation for purposes of the Interim Rule depends solely upon the formal manner of its organization; if the company has a corporate charter, it is a corporation, and if it does not, it is not a corporation, for purposes of the Interim Rule. The sort of ''corporate equivalence'' analysis required, for example, for certain purposes to determine an entity's status under the Internal Revenue Code is neither called for nor permitted by the Interim Rule.[5]

At present the Interim Rule applies only to corporations, even though Treasury understands that the equity interests of some partnerships and business trusts are also listed on the named securities exchanges. Comments are invited as to whether the definition of exempt person should be extended to all persons whose equity interests are so listed.

Consolidated Subsidiaries of Listed Corporations

Many, if not most, listed corporations include groups of subsidiary operating corporations whose treatment under the Interim Rule raises significant issues. Such subsidiaries are not named in stock exchange listings, but the policy of the statute and Interim Rule cannot be effectively implemented without the inclusion of such subsidiaries in the exempt person category.

That fact raises an issue of what might be called the ''burden'' of *reducing* regulatory burden. Many definitions of parent-subsidiary relationship are quite technical and of importance only to legal, accounting, and investment specialists; even definitions phrased only in terms of stock ownership often devolve into questions of direct or indirect stock ownership that can be extremely difficult to resolve.

In that context, mindful of the need to provide as simple a formulation as possible, the Interim Rule treats as a subsidiary any corporation that files a consolidated income tax return with a listed corporation. The choice of this standard was not any easy one; its chief rationale is that the fact of consolidation (as opposed to, say, eligibility for consolidation) is relatively easy to determine by asking corporate customers (and by asking corporate officials to ask their tax or accounting departments if necessary).

Franchisees of listed corporations (or of their subsidiaries) are not included within the definition of exempt person, unless such franchisees are independently exempt as listed corporations or listed corporation subsidiaries. A local corporation that holds a McDonald's franchise, for example, is not an exempt person simply because McDonald's Corporation is a listed corporation; a McDonald's outlet owned by McDonald's Corporation directly, on the other hand, would be an exempt person, because McDonald's Corporation's common stock is listed on the New York Stock Exchange.

Still, the definition is not optimal. It introduces a note of complexity into the Interim Rule, and Internal Revenue Service (''IRS'') statistics indicate that at best only 70 to 80 percent of the companies eligible to file consolidated income tax returns with their parent companies actually do so. The success of the Interim Rule in reducing the volume of currency transaction reports will depend in part upon the effectiveness and acceptance of the definition of subsidiary company, and comments are encouraged about the appropriateness of the definition. FinCEN would especially welcome ideas about other formulations, based upon sound banking practice, that bank employees would find easy to apply and that would accomplish the goals of the Interim Rule more effectively than a definition based upon consolidation for income tax filing purposes.

D. 103.22(h)(3). Designation of Exempt Persons

The Interim Rule imposes one condition on a bank's exemption of currency transactions of a customer who satisfies the definition of exempt person. That condition is that a single form be filed designating the exempt person and the bank that recognizes it as such. The designation is to be made by a bank by filing for each exempt person a single Internal Revenue Service

[4] Again, the broad definition of ''United States'' applies.

[5] Again, there may be a limited group of entities, listed on the national securities exchanges but organized abroad, for which such a distinction raises issues of interpretation that cannot be dealt with effectively in the Interim Rule. Guidance is requested on whether such issues exist and, if so, how they should be resolved.

Form 4789 (the form now used by banks and others to report a transaction in currency) that is marked (in the Form's line 36) to indicate its purpose and that provides identifying information about the exempt person and bank involved.

The designation requirement must be satisfied, for existing customers, on or before August 15, 1996. The requirement is a condition subsequent; that is, a bank may recognize a customer as an exempt person on April 30, and stop filing currency transaction reports as permitted by the Interim Rule, even though it does not satisfy the designation requirement for the customer until August 15, 1996.

The designation of new customers as exempt persons must be made no later than 30 days following the first transaction in currency in excess of $10,000 between a bank and the new customer. (Because persons may become new customers during the period April 30–August 15, 1996, a new customer to whom the 30 day designation rule applies is, technically, a customer who satisfies the exempt person definition and who becomes a customer, or who seeks to engage in its first transaction in currency, after July 15, 1996.)

Under the Interim Rule, each bank that deals with an exempt person must satisfy the designation requirement. FinCEN hopes to be able to use the results of the designation filings to compile a list of exempt persons that can itself be published in the Federal Register, as contemplated by 31 U.S.C. 5313(d)(2), in place of the shorter descriptive notice of exempt persons that is published contemporaneously with the publication of the Interim Rule. The designation filings will also be used to review the effectiveness of the Interim Rule (and of any final rule that is derived from it) and the extent to which its terms are understood and used by banks.

E. 103.22(h)(4). Operating Rules for Applying Definition of Exempt Person

The Interim Rule contains several provisions that are designed to assist banks in applying the definition of ''exempt person.''

1. General Rule

As indicated above, every effort has been made to craft a rule that is as simple to understand and to administer as its broad objective will permit. Application of the Interim Rule requires instead that banks simply make one or more determinations about the status of particular customers. The rule does not specify detailed procedures for making or documenting the determinations required. (Indeed, one defect of the administrative exemption system was its need for detailed procedural steps for authorizing exemptions. *See* 31 CFR 103.22(d).) Instead, paragraph (h)(4)(i) explains that banks are expected to perform the same degree of due diligence in determining whether a customer is an exempt person (and documenting that determination) that a reasonable and prudent bank would perform in the conduct of its own business in avoiding losses from fraud or misstatement. In other words, FinCEN's objective is to leave it to bankers, who have already designed business procedures and protocols to deal with similar problems, to adapt their present procedures to achieve the results sought by the Interim Rule.

An assessment of compliance with the terms of the Interim Rule will focus not on whether a bank necessarily makes every judgment perfectly, but on whether it takes the steps a reasonable and prudent banker would take to create systems to apply the Interim Rule's terms. Such an approach is a corollary to the limitations on liability set by 31 U.S.C. 5318(f)(1) and repeated in paragraph (h)(6) of the Interim Rule; under the liability limitations a bank remains subject to penalties if, *inter alia*, it has a reason to believe that a particular customer or transaction does not meet the criteria established for the granting of an exemption.

2. Government Status

Paragraph (h)(4)(ii) permits a bank to determine the status of a customer as a government department, agency, or instrumentality based on its name or community knowledge, much like the so-called ''eyeball test,'' *cf.* Treas. Reg. § 1.6049–4(c)(1)(ii), for the determination of exempt recipient status for the purposes of information reporting and withholding with respect to interest payments under applicable provisions of the Internal Revenue Code.

The determination whether an entity exercises ''governmental authority'' is unfortunately not amenable to such a simple test, and the second sentence of paragraph (h)(4)(ii) states a general definition of governmental authority for use by banks.

3. Status as Listed Corporation

Paragraph (h)(4)(iii) permits a bank to rely on any New York, American, or Nasdaq Stock Market listing published in a newspaper of general circulation. Such listings are easily identified. For example, in the Wall Street Journal, which is published and distributed nationally, the listings are entitled, respectively, ''NEW YORK STOCK EXCHANGE COMPOSITE TRANSACTIONS,'' ''AMERICAN STOCK EXCHANGE COMPOSITE TRANSACTIONS,'' AND ''NASDAQ NATIONAL MARKET ISSUES.'' Because such listings often make use of the trading symbols (abbreviated company names) for each stock, banks may also rely on any commonly accepted or published stock symbol guide in reviewing the newspaper listings to determine if the listings include their customers.

4. Consolidated Return Status

The treatment of a corporation as an exempt person because it is included in the consolidated income tax return of a listed corporation presents one of the more difficult issues of administration in the Interim Rule. The corporations included on any consolidated return are required to be shown on Internal Revenue Service Form 851 (Affiliation Schedule) filed with the return; a bank may rely upon any reasonably authenticated photocopy of Form 851 (or the equivalent thereof for the appropriate tax year) in determining the status of a particular corporation, or it may rely upon any other reasonably authenticated information (for example, an officer's certificate) relating to a corporation's filing status.

F. 103.22(h)(5). Limitation on Exemption

The exemption for transactions by an exempt person applies only with respect to transactions involving that person's own funds. The exemption does not apply to situations in which an exempt person is engaging in a transaction as an agent on behalf of another, beneficial owner of currency. (If the principal for whom the agent is acting is itself an exempt person, the exempt status of the principal is what causes the transaction to be exempt.) In other words, an exempt person cannot lend its status, for a fee or otherwise, to another person's transactions.

G. 103.22(h)(6). Effect of Exemption; Limitation on Liability

The designation requirement applies equally to exempt persons who have previously been the subject of bank-initiated exemptions under the administrative exemption system as it does to other customers.

Once a bank has complied with the terms of the Interim Rule, it is generally protected, by 31 U.S.C. 5313(f) and paragraph (h)(6) of the Interim Rule, from any penalty for failure to file a currency transaction report with respect to a currency transaction by an exempt person. The protection does not apply if

the bank knowingly files false or incomplete information relating to the exempt person (for example on an designation filing) or with respect to the transaction (for example on a suspicious activity report). The protection also does not apply if the bank has reason to believe at the time the exemption is granted that the customer does not satisfy the definition of exempt person or if the transaction is not a transaction of the exempt person.

It is anticipated that the Interim Rule will supersede the administrative exemption system with respect to categories of exempt persons named in the Interim Rule, 60 days after a final rule based on the Interim Rule is published. At that time, transactions in currency with exempt persons after April 30, 1996 will be exempt from reporting by banks only to the extent that the new terms are satisfied.

H. 103.22(h)(7). Obligation To File Suspicious Activity Reports, etc.

The provisions of the Interim Rule create an exemption only with respect to the currency transaction reporting requirement. The Interim Rule does not create any exemption, and in fact has no effect of any kind, on the requirement that banks file suspicious activity reports with respect to transactions, including currency and non-currency transactions, that satisfy the requirements of the rules of FinCEN and the federal bank supervisory agencies relating to suspicious activity reporting.[6] (Indeed, as indicated above, the reduction in currency transaction report volume reflects in part Treasury policy to rely to the greatest extent possible on reports of truly suspicious activity.)

For example, multiple exchanges of small denominations of currency into large denominations of currency or currency transactions that are not (or whose amounts are not) commensurate with the stated business or other activity of the exempt person conducting the transaction, or on whose behalf the transaction is conducted, may indicate the need to file suspicious activity reports with respect to transactions in currency. Similarly a sudden need for currency by a business that never before had such a need can form a basis for the determination that a suspicious activity report is due. In all cases, whether such a report is required is governed by the rules of 31 CFR 103.21, rules on whose application the Interim Rule has no effect.

I. 103.22(h)(8). Revocation

The Interim Rule makes clear that the status of an exempt person as such may be revoked at any time by the Treasury Department. Revocation will be prospective in all cases except those to which the protections of liability conferred by 31 U.S.C. 5313(f) and 31 CFR 103.22(h)(6) do not apply.

IV. Regulatory Matters

A. Executive Order 12866

The Department of the Treasury has determined that this interim rule is not a significant regulatory action under Executive Order 12866.

B. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), Pub. L. 104–4 (March 22, 1995), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under section 202 and has concluded that on balance this interim rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

C. Administrative Procedure Act

Because the Interim Rule implements the statute and grants significant relief from existing regulatory requirements, it is found to be impracticable to comply with notice and public procedure under 5 U.S.C. 553(b). Because the Interim Rule grants exemptions to current requirements, it may be made effective before 30 days have passed after its publication date. *See* 5 U.S.C. 553(d).

D. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this Interim Rule because the agency was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

E. Paperwork Reduction Act

This Interim Rule is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). By expanding the applicable exemptions from an information collection that has been reviewed and approved by the Office of Management and Budget (OMB) under control number 1505–0063, the Interim Rule significantly reduces the existing burden of information collection under 31 CFR 103.22. Thus, although the Interim Rule advances the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, and its implementing regulations, 5 CFR Part 1320, the Paperwork Reduction Act does not require FinCEN to follow any particular procedures in connection with the promulgation of the Interim Rule.

F. Compliance With 5 U.S.C. 801

Prior to the date of publication of this document in the Federal Register, FinCEN will have submitted to each House of the Congress and to the Comptroller General the information required to be submitted or made available with respect to the Interim Rule by the provisions of 5 U.S.C. 801 (a)(1)(A) and (a)(1)(B).

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Banks, banking, Currency, Foreign Banking, Foreign currencies, Gambling, Investigations, Law enforcement, Penalties, Reporting and recordkeeping requirements, Securities, Taxes.

Amendment

For the reasons set forth above in the preamble, 31 CFR Part 103 is amended as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

2. Section 103.22 is amended by adding a new sentence immediately following the first sentence in paragraph (a)(1) and by adding a new paragraph (h) to read as follows:

§ 103.22 Reports of currency transactions.

(a)(1) * * * Transactions in currency by exempt persons with banks occurring after April 30, 1996, are not subject to

[6] *See* 61 FR 4326, 4332, 4338 (February 5, 1996) (FinCEN, Office of the Comptroller of the Currency and Federal Reserve Board); 61 FR 6095, 6100 (February 16, 1996) (Federal Deposit Insurance Corporation and Office of Thrift Supervision); and 61 FR 11526 (March 21, 1996) (National Credit Union Administration).

this requirement to the extent provided in paragraph (h) of this section. * * * * * * * * * *

(h) *No filing required by banks for transactions by exempt persons occurring after April 30, 1996.* (1) *Currency transactions of exempt persons with banks occurring after April 30, 1996.* Notwithstanding the provisions of paragraph (a)(1) of this section, no bank is required to file a report otherwise required by paragraph (a)(1) of this section, with respect to any transaction in currency between an exempt person and a bank that is conducted after April 30, 1996.

(2) *Exempt person.* For purposes of this section, an exempt person is:

(i) A bank, to the extent of such bank's domestic operations;

(ii) A department or agency of the United States, of any state, or of any political subdivision of any state;

(iii) Any entity established under the laws of the United States, of any state, or of any political subdivision of any state, or under an interstate compact between two or more states, that exercises governmental authority on behalf of the United States or any such state or political subdivision;

(iv) Any corporation whose common stock is listed on the New York Stock Exchange or the American Stock Exchange (except stock listed on the Emerging Company Marketplace of the American Stock Exchange) or whose common stock has been designated as a Nasdaq National Market Security listed on the Nasdaq Stock Market (except stock listed under the separate ''Nasdaq Small-Cap Issues'' heading); and

(v) Any subsidiary of any corporation described in paragraph (h)(2)(iv) of this section whose federal income tax return is filed as part of a consolidated federal income tax return with such corporation, pursuant to section 1501 of the Internal Revenue Code and the regulations promulgated thereunder, for the calendar year 1995 or for its last fiscal year ending before April 15, 1996.

(3) *Designation of exempt persons.* (i) A bank must designate each exempt person with whom it engages in transactions in currency, on or before the later of August 15, 1996, and the date 30 days following the first transaction in currency between such bank and such exempt person that occurs after April 30, 1996.

(ii) Designation of an exempt person shall be made by a single filing of Internal Revenue Service Form 4789, in which line 36 is marked ''Designation of Exempt Person'' and items 2–14 (Part I, Section A) and items 37–49 (Part III) are completed. The designation must be made separately by each bank that treats the person in question as an exempt person. (For availability, see 26 CFR 601.602.)

(iii) This designation requirement applies whether or not the particular exempt person to be designated has previously been treated as exempt from the reporting requirements of paragraph (a) of this section under the rules contained in paragraph (b) or (e) of this section.

(4) *Operating rules for designating exempt persons.* (i) Subject to the specific rules of this paragraph (h), a bank must take such steps to assure itself that a person is an exempt person (within the meaning of applicable provisions of paragraph (h)(2) of this section) that a reasonable and prudent bank would take to protect itself from loan or other fraud or loss based on misidentification of a person's status.

(ii) A bank may treat a person as a governmental department, agency, or entity if the name of such person reasonably indicates that it is described in paragraph (h)(2)(ii) or (h)(2)(iii) of this section, or if such person is known generally in the community to be a State, the District of Columbia, a tribal government, a Territory or Insular Possession of the United States, or a political subdivision or a wholly-owned agency or instrumentality of any of the foregoing. An entity generally exercises governmental authority on behalf of the United States, a State, or a political subdivision, for purposes of paragraph (h)(2)(iii) of this section, only if its authorities include one or more of the powers to tax, to exercise the authority of eminent domain, or to exercise police powers with respect to matters within its jurisdiction.

(iii) In determining whether a person is described in paragraph (h)(2)(iv) of this section, a bank may rely on any New York Stock Exchange, American Stock Exchange, or Nasdaq Stock Market listing published in a newspaper of general circulation and on any commonly accepted or published stock symbol guide.

(iv) In determining whether a person is described in paragraph (h)(2)(v) of this section, a bank may rely upon any reasonably authenticated corporate officer's certificate or any reasonably authenticated photocopy of Internal Revenue Service Form 851 (Affiliation Schedule) or the equivalent thereof for the appropriate tax year.

(5) *Limitation on exemption.* A transaction carried out by an exempt person as an agent for another person who is the beneficial owner of the funds that are the subject of a transaction in currency is not subject to the exemption from reporting contained in paragraph (h)(1) of this section.

(6) *Effect of exemption; limitation on liability.* (i) FinCEN may in the future determine by amendment to this part that the exemption contained in this paragraph (h) shall be the only basis for exempting persons described in paragraph (h)(2) of this section from the reporting requirements of paragraph (a) of this section.

(ii) No bank shall be subject to penalty under this part for failure to file a report required by paragraph (a) of this section with respect to a currency transaction by an exempt person with respect to which the requirements of this paragraph (h) have been satisfied, unless the bank:

(A) Knowingly files false or incomplete information with respect to the transaction or the customer engaging in the transaction; or

(B) Has reason to believe at the time the exemption is granted that the customer does not meet the criteria established by this paragraph (h) for treatment of the transactor as an exempt person or that the transaction is not a transaction of the exempt person.

(iii) A bank that files a report with respect to a currency transaction by an exempt person rather than treating such person as exempt shall remain subject with respect to each such report to the rules for filing reports, and the penalties for filing false or incomplete reports, that are applicable to reporting of transactions in currency by persons other than exempt persons. A bank that continues for the period permitted by paragraph (h)(6)(i) of this section to treat a person described in paragraph (h)(2) of this section as exempt from the reporting requirements of paragraph (a) of this section on a basis other than as provided in this paragraph (h) shall remain subject in full to the rules governing an exemption on such other basis and to the penalties for failing to comply with the rules governing such other exemption.

(7) *Obligation to file suspicious activity reports, etc.* Nothing in this paragraph (h) relieves a bank of the obligation, or alters in any way such bank's obligation, to file a report required by § 103.21 with respect to any transaction, including, without limitation, any transaction in currency, or relieves a bank of any other reporting or recordkeeping obligation imposed by this part (except the obligation to report transactions in currency pursuant to paragraph (a) of this section to the extent provided in this paragraph (h)).

(8) *Revocation.* The status of any person as an exempt person under this paragraph (h) may be revoked by

FinCEN by written notice, which may be provided by publication in the Federal Register in appropriate situations, on such terms as are specified in such notice. In addition, and without any action on the part of the Treasury Department:

(i) The status of a corporation as an exempt person pursuant to paragraph (h)(2)(iv) of this section ceases once such corporation ceases to be listed on the applicable stock exchange; and

(ii) The status of a subsidiary as an exempt person under paragraph (h)(2)(v) of this section ceases once such subsidiary ceases to be included in a consolidated federal income tax return of a person described in paragraph (h)(2)(iv) of this section.

* * * * *

Dated: April 16, 1996.

Stanley E. Morris,

Director, Financial Crimes Enforcement Network.

[FR Doc. 96–9798 Filed 4–23–96; 8:45 am]

BILLING CODE 4820–03–P

DEPARTMENT OF THE TREASURY

List of Entities Whose Currency Transactions With Depository Institutions Are Exempt From the Bank Secrecy Act Reporting Requirement

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Notice.

SUMMARY: This document contains a list of the types of entities whose currency transactions in excess of $10,000 with depository institutions are exempt, under the terms of an interim rule published elsewhere in today's Federal Register, from the general Bank Secrecy Act requirement that such transactions be reported to the Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: Pamela Johnson, Assistant Director, Office of Financial Institutions Policy, FinCEN, at (703) 905–3920; Charles Klingman, Office of Financial Institutions Policy, FinCEN, at (703) 905–3920; Stephen R. Kroll, Legal Counsel, FinCEN, at (703) 905–3590; or Cynthia A. Langwiser, Office of Legal Counsel, FinCEN, at (703) 905–3590.

SUPPLEMENTARY INFORMATION: Published elsewhere in today's Federal Register is the text of an interim rule (31 CFR 103.22(h)) which exempts, from the requirement for the reporting of transactions in currency in excess of $10,000, transactions occurring after April 30, 1996, between depository institutions and certain classes of exempt persons. The interim rule is adopted to implement the terms of 31 U.S.C. 5313(d) (and related provisions of 31 U.S.C. 5313(f) and (g)), which were added to the Bank Secrecy Act by section 402(a) of the Money Laundering Suppression Act of 1994 (the ''Money Laundering Suppression Act''), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325 (September 23, 1994).

This notice is issued to comply with a related requirement of the Money Laundering Suppression Act, namely, that the Treasury publish a list, not less frequently than once each year, of all the entities whose transactions with a depository institution are mandatorily exempt. *See* 31 U.S.C. 5313(d)(2).

Thus, provided a depository institution complies with the provisions of 31 CFR 103.22(h) published as an interim rule elsewhere in today's Federal Register, transactions between the depository institution and any of the following entities are exempt from the reporting requirements of 31 U.S.C. 5313(a) and its implementing regulation, 31 CFR 103.22(a)(1):

(1) A bank, as defined in 31 CFR 103.11(c), to the extent of such bank's domestic operations;

(2) A department or agency of the United States, of any state, or of any political subdivision of any state;

(3) Any entity established under the laws of the United States, of any state, or of any political subdivision of any state, or under an interstate compact between two or more states, that exercises governmental authority on behalf of the United States or any such state or political subdivision;

(4) Any corporation whose common stock is listed on the New York Stock Exchange or the American Stock Exchange (except stock listed on the Emerging Company Marketplace of the American Stock Exchange) or whose common stock has been designated as a Nasdaq National Market Security listed on the Nasdaq Stock Market (except stock listed under the separate ''Nasdaq Small-Cap Issues'' heading); and

(5) Any subsidiary of any corporation described in paragraph (4) whose federal income tax return is filed as part of a consolidated federal income tax return with such corporation pursuant to section 1501 of the Internal Revenue Code and the regulations promulgated thereunder, for the calendar year 1995 or for its last fiscal year ending before April 15, 1996.

Dated: April 16, 1996.

Stanley E. Morris,

Director, Financial Crimes Enforcement Network.

[FR Doc. 96–9799 Filed 4–23–96; 8:45 am]

BILLING CODE 4820–03–P

Federal Register

Wednesday
April 24, 1996

Part IV

Department of Education

Jacob K. Javits Gifted and Talented Students Education Program; FY 1996 Applications and Final Priorities; Notices

DEPARTMENT OF EDUCATION

[CFDA No. 84.206A]

Jacob K. Javits Gifted and Talented Students Education Program; Notice Inviting Applications for New Awards for Fiscal Year 1996

Purpose of Program: To provide grants to help build a nationwide capability in elementary and secondary schools to identify and meet the special educational needs of gifted and talented students; to encourage the development of rich and challenging curricula for all students; and to supplement and make more effective the expenditures of State and local funds for the education of gifted and talented students.

Eligible Applicants: State educational agencies; local educational agencies; institutions of higher education; and other public and private agencies and organizations, including Indian tribes and organizations—as defined by the Indian Self-Determination and Education Assistance Act—and Native Hawaiian organizations.

Deadline for Transmittal of Applications: June 14, 1996.

Deadline for Intergovernmental Review: August 12, 1996.

Applications Available: May 3, 1996.

Estimated Available Funds: $1,765,000.

Estimated Range of Awards: $100,000–$275,000.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 7.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months. Please note that all applicants for multi-year awards are required to provide detailed budget information for the total grant period requested. The Department will negotiate at the time of the initial award the funding levels for each year of the grant award.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the final regulations for Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts, published on September 14, 1995, in the Federal Register (60 FR 47808) and to be codified at 34 CFR Part 700.

Note: The regulations in 34 CFR Part 791 previously applicable to this program will no longer apply to this program.

Priorities: The notice of final priorities as published in this issue of the Federal Register applies to this competition.

For Applications or Information Contact: Janet Williams, U.S. Department of Education, 555 New Jersey Avenue, NW, room 502, Washington, DC 20208–5645; *Facsimile machine:* (202) 219–2053; *Telephone:* (202) 219–1674. Individuals who use a telecommunications device for the deaf (TDD), may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m., and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases); or world wide web site at (http://www.ed.gov/money.html). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 8031–8036.

Dated: April 18, 1996.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 96–10011 Filed 4–23–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Jacob K. Javits Gifted and Talented Students Education Program

AGENCY: Department of Education.

ACTION: Notice of final priorities.

SUMMARY: The Secretary announces an absolute priority and a competitive preference priority under the Jacob K. Javits Gifted and Talented Students Education Program. The Secretary takes this action to focus Federal financial assistance on specific approaches to identifying and serving gifted and talented students. The Secretary may use these priorities in FY 1996 and subsequent years.

EFFECTIVE DATE: These priorities take effect May 24, 1966.

FOR FURTHER INFORMATION CONTACT: Janet Williams, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 504, Washington, D.C. 20208–5645. Fax: (202) 219–2053; Telephone: (202) 219–1674. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Jacob K. Javits Gifted and Talented Students Education Program is designed to build nationwide capability in gifted and talented education and encourage rich and challenging curricula for all children.

The Secretary seeks to improve the education of gifted and talented children, and to promote the use of strategies developed in gifted and talented education programs to help improve the education of all students. The Secretary believes that improving the education of gifted and talented students is an integral part of achieving the National Education Goals, which require that every student attain higher standards of academic excellence. The Secretary is particularly concerned that the educational needs of gifted and talented students from populations historically underserved by gifted and talented education programs be addressed. In addition, the Secretary wants to see gifted and talented education programs contribute to systemic education reform by modeling coordinated systems of challenging standards and assessments, curricula, and teacher preparation aligned with those standards to improve education. The Secretary believes that the use of challenging content and performance standards is the most promising way to raise students' achievement.

Therefore, the Secretary announces an absolute priority that would support the development of model demonstration programs that focus on economically disadvantaged children, children with limited English proficiency, or children with disabilities. Each project would be required to involve a school or schools that serve at least 50 percent low-income children and to incorporate professional development of staff and training of parents into the program. In addition, the program must be based on challenging content and performance standards in one or more of the core subject areas, and include a comprehensive improvement plan for each school involved in the project.

The Secretary announces a competitive priority to direct financial assistance to projects that primarily benefit areas that have been designated as Empowerment Zones or Enterprise Communities in accordance with Section 1391 of the Internal Revenue Code (IRC), as amended by Title XIII of the Omnibus Budget Reconciliation Act (OBRA) of 1993.

Background on Empowerment Zone and Enterprise Community Program—(EZ/EC)

The Empowerment Zone and Enterprise Community program is a critical element of the Administration's community revitalization strategy. The program is the first step in rebuilding communities in America's poverty-stricken inner cities and rural heartlands. It is designed to empower people and communities by inspiring Americans to work together to create jobs and opportunity.

The Departments of Agriculture (USDA) and Housing and Urban Development (HUD) have designated empowerment zones and enterprise communities, which are communities located within the cities and counties listed in the appendix.

The Empowerment Zones and Enterprise Communities were designated based on locally-developed strategic plans that comprehensively address how the community will link economic development with education and training, as well as how community development, public safety, human services, and environmental initiatives together will support sustainable communities. Designated areas will receive Federal grant funds and substantial tax benefits and will have access to other Federal programs. (For additional information on the Urban EZ/EC program contact HUD at 1–800–998–9999 and for the rural EZ/EC program contact USDA at 1–800–645–4712.)

The Department of Education is supporting the Empowerment Zone and the Enterprise Community initiative in a variety of ways. It is encouraging zones to use funds they already receive from Department of Education programs (including Title I of the Elementary and Secondary Education Act, the Safe and Drug-Free Schools and Communities Act, the Adult Education Act, and the Carl D. Perkins Vocational and Applied Technology Education Act) to support the comprehensive vision of their strategic plans. In addition, the Department of Education is giving preferences to EZ/ECs in a number of discretionary grant programs that are well suited for inclusion in a comprehensive approach to economic and community development.

The Empowerment Zone initiative and the Jacob K. Javits Gifted and Talented Students Education Program share some common features. Both programs are concerned with the educational advancement of students caught in high-poverty communities. Under the Javits Gifted and Talented Education Program, at least one-half of the grants in any given year must serve students who are economically disadvantaged, limited English proficient or who have disabilities. Communities that have been designated as Empowerment Zones or Enterprise Communities have demonstrated a capacity for the type of planning that allows communities to use, where appropriate, methods and materials developed in gifted and talented programs to improve the educational opportunities for all children.

On February 23, 1996, the Secretary published a notice of proposed priorities for this program in the Federal Register (61 FR 6980). The Secretary has made no changes in these priorities since publication of the notice of proposed priorities.

Note: This notice of final priorities does *not* solicit applications. A notice inviting applications under these priorities for fiscal year 1996 is published elsewhere in this issue of the Federal Register.

Analysis of the Comments and Changes

In response to the Secretary's invitation on the notice of proposed priorities, four of the 10 parties submitting comments made recommendations. Two of the commenters expressed support for the priorities without making recommendations for change. Five of the commenters asked for more information about the Javits Gifted and Talented Students Education Program, or the Program's future, or the application for the competition. An analysis of the recommendations submitted by four commenters follows.

Comments: Two commenters objected to the requirement that the school must serve at least 50 percent low-income children. One commenter questioned his school's eligibility for funding or whether funding would be based solely on economic needs and standards. The other commenter expressed concern that every solicitation, with which he is familiar, from the U.S. Department of Education, the National Science Foundation, as well as from his own State Education Department is narrowed in such a way that only specific kinds of enterprises can compete.

Discussion: The legislation creating the Jacob K. Javits Gifted and Talented Students Education Program requires the Secretary to give highest priority to programs serving economically disadvantaged, limited English proficient, and disabled students who are gifted and talented. The Secretary believes that there are many gifted and talented students who come from disadvantaged backgrounds, and who are not recognized or served by traditional gifted and talented education programs. He believes that these projects will serve as models for ways to identify and serve these students more effectively.

Changes: None.

Comments: One commenter expressed concern that the Competitive Preference Priority for Empowerment Zones and Enterprise Communities (EZ/EC) excluded some of the most needy socioeconomic and geographic areas, such as the rural communities in his State.

Discussion: The list of EZ/ECs, which were designated by the Departments of Agriculture and Housing and Urban Development, contains some rural areas. These EZ/ECs have great need and have already established comprehensive community development plans. The Secretary believes that the limited resources available would have the greatest impact if the funds are directed to these communities. Awarding five (5) additional points to applications from EZ/ECs will not preclude consideration of applications that address the needs of students in other needy geographic areas.

Changes: None.

Comments: Another commenter objected to the use of the Competitive Preference Priority for EZ/ECs because it would eliminate the possibility of projects from his State being seriously considered for funding. This commenter recommended the priorities focus on the research that is needed to improve services to gifted students.

Discussion: The legislation creating the Jacob K. Javits Gifted and Talented Students Education Program contains provisions for a National Center for Research and Development in the Education of Gifted and Talented Children and Youth. The Center is responsible for carrying out the research on methods and techniques for identifying and teaching gifted and talented students. The legislation restricts the amount of funding available for this activity to no more than 30% of the total amount available for the Program. The Secretary believes the remainder of the funds are best used to support demonstration projects to serve the needs of the target audience.

Changes: None.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Absolute Priority—Model Programs

Projects that establish and operate model programs to serve gifted and talented students in schools in which at least 50 percent of the students enrolled are from low-income families. Projects must include students who may not be served by traditional gifted and talented programs, including economically disadvantaged students, limited English proficient students, and students with disabilities. The projects must incorporate high-level content and performance standards in one or more of the core subject areas as well as utilize innovative teaching strategies. The projects must provide comprehensive ongoing professional development opportunities for staff. The projects must incorporate training for parents in ways to support their children's educational progress. There must also be comprehensive evaluation of the projects' activities.

The Secretary believes that the limited resources available under the Jacob K. Javits Gifted and Talented Students Education Program will have the greatest impact if the funds are directed to communities that have the greatest need and have already established comprehensive community development plans. Therefore, the Secretary establishes the following competitive priority to focus Federal funds on gifted and talented projects that would address the needs of Empowerment Zones or Enterprise Communities.

Competitive Preference Priority—Empowerment Zone or Enterprise Community

Within this absolute priority concerning model projects, the Secretary, under 34 CFR 75.105(c)(2)(i), gives preference to applications that meet the following competitive priority. The Secretary awards five (5) points to an application that meets this competitive priority. These points would be in addition to any points the application earns under the evaluation criteria for the program:

Projects that implement model programs in one or more schools in an Empowerment Zone or Enterprise Community or that primarily serve students who reside in the EZ or EC. Applicants must ensure that the proposed program relates to the strategic plan and will be an integral part of the Empowerment Zone or Enterprise Community program.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Applicable Regulations: (a) 34 CFR Parts 74, 75, 77, 79, 80, 81, 85 and 86; and (b) the final regulations for Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts, published on September 14, 1995 in the Federal Register (60 FR 47808) and to be codified at 34 CFR Part 700.

Note: The regulations in 34 CFR Part 791 previously applicable to this program will no longer apply to this program.

Program Authority: 20 U.S.C 8032–8036.

(Catalog of Federal Domestic Assistance Number 84.206A, Jacob K. Javits Gifted and Talented Students Education Program).

Dated: April 18, 1996.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

Appendix—Empowerment Zones and Enterprise Communities

Empowerment Zones (EZ)

Georgia: Atlanta
Illinois: Chicago
Kentucky: Kentucky Highlands*
Maryland: Baltimore
Michigan: Detroit
Mississippi: Mid Delta*
New York: Harlem, Bronx
Pennsylvania/New Jersey: Philadelphia, Camden
Texas: Rio Grande Valley*

Supplemental Empowerment Zones (SEZ)

California: Los Angeles
Ohio: Cleveland

Enterprise Communities (EC)

Alabama: Birmingham
Alabama: Chambers County*
Alabama: Greene, Sumter Counties*
Arizona: Phoenix
Arizona: Arizona Border*
Arkansas: East Central*
Arkansas: Mississippi County*
Arkansas: Pulaski County
California: Imperial County*
California: Los Angeles, Huntington Park
California: San Diego
California: San Francisco, Bayview, Hunter's Point
California: Watsonville*
Colorado: Denver
Connecticut: Bridgeport
Connecticut: New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County*
Florida: Tampa
Florida: Miami, Dade County
Georgia: Albany
Georgia: Central Savannah*
Georgia: Crisp, Dooley Counties*
Illinois: East St. Louis
Illinois: Springfield
Indiana: Indianapolis
Iowa: Des Moines
Kentucky: Louisville
Louisiana: Northeast Delta*
Louisiana: Macon Ridge*
Louisiana: New Orleans
Louisiana: Ouachita Parish
Massachusetts: Lowell
Massachusetts: Springfield
Michigan: Five Cap*
Michigan: Flint
Michigan: Muskegon
Minnesota: Minneapolis
Minnesota: St. Paul
Mississippi: Jackson
Mississippi: North Delta*
Missouri: East Prairie*
Missouri: St. Louis
Nebraska: Omaha
Nevada: Clarke County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque
New Mexico: Moro, Rico Arriba, Taos Counties*
New York: Albany, Schenectady, Troy
New York: Buffalo
New York: Newburgh, Kingston
New York: Rochester
North Carolina: Charlotte
North Carolina: Halifax, Edgecombe, Wilson Counties*
North Carolina: Robeson County*
Ohio: Akron
Ohio: Columbus
Ohio: Greater Portsmouth*
Oklahoma: Choctaw, McCurtain Counties*
Oklahoma: Oklahoma City
Oregon: Josephine*
Oregon: Portland
Pennsylvania: Harrisburg
Pennsylvania: Lock Haven*
Pennsylvania: Pittsburg
Rhode Island: Providence
South Carolina: Charleston
South Carolina: Williamsburg County*
South Dakota: Beadle, Spink Counties*
Tennessee: Fayette, Haywood Counties*
Tennessee: Memphis
Tennessee: Nashville
Tennessee/Kentucky: Scott, McCreary Counties*
Texas: Dallas
Texas: El Paso
Texas: San Antonio
Texas: Waco
Utah: Ogden
Vermont: Burlington
Virginia: Accomack*
Virginia: Norfolk
Washington: Lower Yakima*
Washington: Seattle
Washington: Tacoma
West Virginia: West Central*
West Virginia: Huntington

West Virginia: McDowell*
Wisconsin: Milwaukee

*denotes rural designee

Enhanced Enterprise Communities (EEC)

California: Oakland
Massachusetts: Boston
Missouri/ Kansas: Kansas City, Kansas City
Texas: Houston

[FR Doc. 96–10012 Filed 4–23–96; 8:45 am]
BILLING CODE 4000–01–P

Federal Register

Wednesday
April 24, 1996

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 31

Airworthiness Standards; Manned Free Balloon Burner Testing; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 31

[Docket No. 27543; Amendment No. 31–7]

RIN 2120–AE87

Airworthiness Standards; Manned Free Balloon Burner Testing

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the certification test requirements for burners used on manned free balloons. The current test requirements do not test the burner's most critical operating conditions. This amendment will increase the current level of safety by requiring more realistic tests and cut the fuel costs to balloon manufacturers seeking certification.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: J. Lowell Foster, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Background

Statement of the Problem

The current burner certification requirement resembles the testing requirement for airplane engines. Airplane engines are operated continuously at high percentage powers, while balloon burners are operated on an intermittent basis to maintain level or buoyant flight. The burner requirement calls for maximum fuel flow burning over the majority of the test time. This requirement does not reflect the fact that a burner is continually turned on and off every few seconds or that a minimum heat output condition is much more critical than a maximum heat output condition. The challenging test conditions for a burner are short blasts to maximize the thermal shock and operation on vapor, which can result in the burner coils glowing red.

Since certification testing should simulate flight conditions and the critical concern is not the duration of operation but the number of mechanical and thermal cycles, this final rule would change the balloon burner requirements to include testing of mechanical and thermal cycles, and testing of operation on vapor. As a result, the burners would be tested over a 40-hour period instead of 50-hour period.

The Proposal

This amendment is based on Notice of Proposed Rulemaking (NPRM), Notice No. 93–16, which was published on December 7, 1993 (58 FR 64450). The Federal Aviation Administration (FAA) proposed to amend § 31.47(d) to remove 30 test hours at maximum heat output and require, instead, additional testing that focuses on critical functions experienced during flight. More specifically, the FAA proposed changes in the balloon burner requirements to include testing of mechanical and thermal cycles, and testing of operation on vapor. The burners would be tested over a 40-hour period instead of 50 hours. The testing would be for specified periods at maximum, intermediate, and minimum fuel pressures and would include burn times of 3 to 10 seconds per minute instead of continuous burning. The term ''intermediate fuel pressure'' would be defined as 40 to 60 percent of the range between the maximum and minimum applicable fuel pressures in order to provide for testing the burners near the mid-point of their ranges of operation.

The FAA also proposed to change the word ''heater'' to ''burner'' in § 31.47. The industry universally uses the term ''burner,'' and this change reflects accepted industry terminology.

Discussion of Comments

Comments to the NPRM were requested with a closing date of February 7, 1994. All comments received have been considered in adopting this amendment.

The FAA received comments from Transport Canada, which supports the proposal, and from two prominent balloon manufacturers. One manufacturer agrees in general with the proposals, but offers three suggestions that are outside the scope of this proposal. The other recommends that the FAA adopt the British standard for § 31.47. The FAA will address these comments in the order they were submitted.

Concerning proposed § 31.47(d)(1)(i), the commenter states, ''Mechanically cycling the main blast valve not only demonstrates wear but provides the hydraulic shock necessary to adequately test the entire fuel system. However, the on/off cycle for each system should be different because of its thermal mass. For example, our burner has two cast alloy base plates and thin wall Inconel vaporizing coils. Some burners have very heavy coils and only pipe-type tubing to and from the blast valve. A pre-test should be done to determine the widest possible temperature swing of any of the elements that will be 'in the fire' and subject to heat-stress failures. This will provide the on/off time.'' The commenter proposes that the rule be reworded to include, ''a burn time for each one minute cycle which has been previously established [by a pre-test to determine the widest possible temperature change of any of the elements, as discussed above] to provide the maximum thermal shock to temperature effected [sic] elements, but in no case less then four seconds.''

The FAA recognizes the merit of this comment concerning a burn time that would provide the maximum thermal shock to temperature-affected elements. The intent of proposed § 31.47(d)(1)(i) was to allow each applicant to pre-determine a burn time for the particular system undergoing certification testing such that the thermal cycle used in the testing would provide approximately the maximum difference between the coolest and hottest temperatures the burner coils and affected hardware would experience in service. Although the preamble to Notice No. 93–16 did not refer specifically to testing that would achieve the maximum temperature differential, it did emphasize the need to simulate actual flight conditions, during which the burner is subjected to thermal shock from its intermittent operation. Referring to the extreme temperature change that occurs when vaporized fuel cools the entire assembly followed by flames engulfing the vaporizing coils, the notice stated that the critical concern was the number of mechanical and thermal cycles.

In order to achieve the necessary thermal shock, the FAA proposed a burn time range of from three to ten seconds for each one minute cycle of the test. From within that time range, an applicant, through pre-certification testing, would determine the burn time that would maximize the temperature differential experienced by the system's temperature-affected elements. Although Notice No. 93–16 did not explain how the FAA arrived at the proposed 3 to 10 second range for the burn time, that range was proposed because the FAA had learned from previous certification testing that this time range is reasonable and reflects the range of burn times within a one-minute cycle from which the maximum temperature differential may be obtained.

Nevertheless, because, as pointed out by the commenter, the requirement as proposed did not make clear that the purpose of the 3 to 10 seconds of burn

time was to ensure that the burner being tested is subjected to the maximum thermal shock, the regulatory text of § 31.47(d)(1)(i) is being clarified by adding a sentence to state explicitly that requirement. The FAA believes that the added requirement to assure that the maximum thermal shock is achieved during testing reflects the intent of the proposed amendment and is necessary to increase safety by more closely simulating flight conditions. Although the commenter suggested a minimum burn time of four seconds, based on the FAA's prior certification experience the burn time requirement for each minute cycle of testing remains at 3 to 10 seconds as proposed.

Referring to § 31.47(d)(1)(iv), the commenter states, ''A pilot who consistently uses incorrect fuel management techniques may get into situations where he subjects the burner to the stress of running on vapor. The degradation of some parts is cumulative and it would be good to be assured that vaporizing coils, for example, would not fracture without warning in flight.'' To achieve this goal, the commenter recommends the FAA double the time for this test.

The FAA has determined that testing for a total of 15 minutes, as specified in the proposal, should provide confidence that the burner will not suffer from undue thermal stresses while not imposing an unwarranted burden on the manufacturer. Manufacturers have told the FAA that their balloons would not fly long on vapors before the pilot would notice the balloon descending. The manufacturers state that the heat output from a burner operating on vapor is not enough for the balloon to hold altitude. Even with vapor burning constantly, the balloon will develop an increasing rate of descent. For this reason, several manufacturers suggested that 30 minutes was extreme and would constitute a burden to them. The FAA could not justify, based on any adverse service history, requiring a test of more than the originally proposed 15 minutes total time of burner operation on vapor; therefore, the § 31.47(d)(1)(iv) will retain the 15 minute standard as proposed.

The same commenter offers the following suggested rewrite for § 31.47(d)(1)(v): ''Fifteen hours of normal flight operation during which backup burner and pilot lights must be extinguished and relighted at least twice in each flight hour.'' The commenter justifies this recommended change by explaining that backup burner and pilot lights may be easy to relight on the ground when the burner is mounted in a test fixture but may be difficult to relight when it is in position during flight.

The FAA acknowledges the merits of this comment concerning backup burners and notes that currently § 31.47(e) does not specify testing the backup burner. However, the FAA may not impose an additional burden on the public without offering the public an opportunity to comment on the proposed requirements. This comment addresses a matter that is beyond the scope of the proposed rule change; therefore, it can be considered only for future rulemaking projects. Section 31.47(d)(1)(v) is adopted as proposed.

The commenter recommends rewording the proposal for § 31.47(d)(2) to read as follows: ''The test program for the secondary or backup operations of the burner must include two hours of operation of the backup burner with a continuous cycle time of five minutes on and five minutes off. Test must include extinguishing and relighting this burner, without the use of the pilot light system, at least one time per 30 minutes of testing, while under a crosswind airflow, the speed of which must be equal to the highest demonstrated maximum sink rate for the balloon systems for which approval is being sought.'' The commenter's explanation follows:

''The use of the backup burner in flight may include operation for up to three or four minutes at a time. During several certification flights, we were required to use only the backup for some flight maneuvers. For example, on several occasions we did an entire recovery from Maximum Sink Rate Descent and on another we did almost an entire flight using the backup burner alone.''

''It is important to do this test with some airflow to simulate conditions in flight should the burner have to be used during a high speed descent. Each balloon flies at a different rate because of the drag coefficient/gross weight, hence the air velocity requirement. In our testing we use 1300 fpm as a descent rate maximum and if we exceed it in our certification flights we reduce allowable Max Gross System Weight. This figure appears in the LIMITATIONS and PERFORMANCE section of the Aircraft Flight Manual.''

''A condition may occur in flight where the backup burner is metered down to a low flame and is used as a pilot light system. It is important that it be demonstrated to light without the use of pilots [lights].''

Again, the FAA recognizes the merit of this comment concerning backup burner flameouts and relights. Because this comment addresses a matter that is beyond the scope of the proposed rule change, it can be considered only for future rulemaking projects. Accordingly, § 31.47(d)(2) is adopted as proposed.

The commenter recommends adding new paragraphs (3) and (4) to § 31.47(d). The recommendation for a new § 31.47(d)(3) is to require two hours of operation of the pilot light system while under a crosswind airflow with the wind speed equal to the highest demonstrated maximum sink rate. The test would induce extinguishing and relighting the pilot light at least one time per 10 minutes of testing. This test would include testing a piezo-electric element or other electrical means of igniting the pilot lights. Again, the commenter's reasoning is that backup burner and pilot lights may be easy to relight on the ground when the burner is mounted in a test fixture but may be difficult to relight when in position during flight. Also, the commenter believes that the piezo-electric igniters are not as reliable in airflow as devices currently used.

This comment is also beyond the scope of the proposed rule change and can be considered only for future rulemaking projects.

The recommendation for a new § 31.47(d)(4) concerns a post-test teardown of the burner. The commenter proposes adding the following requirement: ''A teardown of the burner should be done to reveal any abnormalities.'' Current § 31.47(f) requires that each element of the burner system be serviceable at the end of the test. The FAA agrees with the commenter that a teardown inspection at the end of testing is an acceptable procedure and a means of demonstrating compliance. However, a teardown inspection is not an airworthiness safety standard. The term ''serviceable,'' as used in aviation, defines a standard for airworthiness based on certification testing of the burner and its components.

The second commenter states that if the goal of international harmonization is to be approached, the FAA should take into account the British, German, and French codes in proposing changes to 14 CFR part 31. The commenter also notes that a number of balloon manufacturers and representatives of European regulatory authorities met at London Heathrow Airport in March 1992 to consider the member nations' airworthiness requirements for balloons, and to make recommendations for a future JAR 31. The commenter includes the British Civil Airworthiness Requirements (BCAR) wording that was recommended for JAR 31.47. BCAR § 31.47(d) reads as follows:

The heater system (including the burner unit, controls, fuel lines, fuel cells, regulators, control valves, and other related elements) must be substantiated by an endurance test designed to reflect the limiting conditions likely to be encountered in service, both in kind and duration. The endurance test proposed by the manufacturers must be approved by the certification authority.

Though the commenter expresses the view that the version of § 31.47(d) proposed in No. 93–16 is better than the existing version, the commenter, nevertheless, asserts that the proposed requirement is over-specified and will soon be rendered obsolete by technical change. The commenter further states that the proposals leaves out some important points, but the commenter did not identify them.

To adopt the British testing requirement would be beyond the scope of the NPRM. The FAA does recognize the importance of harmonization and is currently expending extensive resources to harmonize the Federal Aviation Regulations with the European Joint Aviation requirement (JAR). Though the requirements in BCAR § 31.47(d) may accommodate new technology more readily than those proposed in Notice 93–16, the British rule requires the manufacturer to develop an endurance test and have it approved by the certification authority even for current technology. The proposed amendment of § 31.47(d) provides a specific minimum requirement for all burners to meet. If changing technology were to render the proposed requirements obsolete for a new burner, the FAA may apply ''special conditions'' for new and novel technology (14 CFR 21.16). Accordingly, the rule is adopted as proposed.

International Compatibility

The agency has reviewed corresponding International Civil Aviation Organization international standards and recommended practices and Joint Aviation Authorities requirements and has identified no differences in these amendments and the foreign regulations.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) will generate benefits that justify its costs; (2) is not a ''significant regulatory action'' as defined in the Executive Order and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (3) will not have a significant economic impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Benefits and Costs

The rule will enhance safety by targeting critical functions and conditions experienced in actual flight and will significantly reduce certification testing costs. The current requirements call for a total of at least 50 hours of testing, which typically consumes about 7,000 gallons of fuel per type certification. The new requirements, in contrast, are expected to consume about 350 gallons of fuel because the burners will be tested over a total of 40 hours instead of 50 hours and be tested about 3 to 10 seconds per minute instead of the full 60 seconds. Applying a price of $1.20 per gallon of propane, the revised requirements are expected to yield almost $7,800 in net cost savings per type certification. Accordingly, the FAA finds the rule to be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule is expected to have a ''significant (positive or negative) economic impact on a substantial number of small entities.'' Based on the standards and thresholds specified in FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The rule will have little or no effect on the sale of U.S. balloons in foreign markets and the sale of foreign balloons into the United States.

Federalism Implications

The regulations 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 12866, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of the Federalism Assessment.

Conclusion

The FAA proposed to amend the airworthiness standards for testing balloon burners because test requirements did not test the burner's most critical operating conditions. This amendment will cut the cost to balloon manufacturers seeking certification and increase the current level of safety by requiring more realistic tests.

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not significant under Executive Order 12866.

In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of the regulation, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 14 CFR Part 31

Aircraft, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 31 of the Federal Aviation Regulations (14 CFR part 31) as follows:

PART 31—AIRWORTHINESS STANDARDS: MANNED FREE BALLOONS

1. The authority citation for part 31 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

2. Section 31.47 is amended by revising the heading and paragraphs (a) and (d) to read as follows:

§ 31.47 Burners.

(a) If a burner is used to provide the lifting means, the system must be designed and installed so as to create a fire hazard.

* * * * *

(d) The burner system (including the burner unit, controls, fuel lines, fuel cells, regulators, control valves, and other related elements) must be substantiated by an endurance test of at least 40 hours. Each element of the system must be installed and tested to simulate actual balloon installation and use.

(1) The test program for the main blast valve operation of the burner must include:

(i) Five hours at the maximum fuel pressure for which approval is sought, with a burn time for each one minute cycle of three to ten seconds. The burn time must be established so that each burner is subjected to the maximum thermal shock for temperature affected elements;

(ii) Seven and one-half hours at an intermediate fuel pressure, with a burn time for each one minute cycle of three to ten seconds. An intermediate fuel pressure is 40 to 60 percent of the range between the maximum fuel pressure referenced in paragraph (d)(1)(i) of this section and minimum fuel pressure referenced in paragraph (d)(1)(iii);

(iii) Six hours and fifteen minutes at the minimum fuel pressure for which approval is sought, with a burn time for each one minute cycle of three to ten seconds;

(iv) Fifteen minutes of operation on vapor, with a burn time for each one minute cycle of at least 30 seconds; and

(v) Fifteen hours of normal flight operation.

(2) The test program for the secondary or backup operation of the burner must include six hours of operation with a burn time for each five minute cycle of one minute at an intermediate fuel pressure.

* * * * *

Issued in Washington, DC, on April 8, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–10004 Filed 4–23–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Wednesday
April 24, 1996

Part VI

Federal Communications Commission

47 CFR Parts 80 and 87

Operation of Certain Domestic Ship and Aircraft Radio Stations Without Individual Licenses; Final and Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 80 and 87

[CC Docket No. 96–82, FCC 96–145]

Operation of Certain Domestic Ship and Aircraft Radio Stations Without Individual Licenses

AGENCY: Federal Communications Commission.

ACTION: Interim rule.

SUMMARY: This interim rule amends the Federal Communications Commission's (Commission) rules regarding ship and aircraft radio stations, to remove the individual radio licensing requirement and to authorize by rule the operation of radio equipment on recreational vessels and aircraft. The rules are effective immediately pending a proceeding to consider amending the Commission's rules. A Notice of Proposed Rulemaking concerning these rules is published concurrently in the Federal Register. The Commission finds that while receipt of public comment is necessary to make a final determination of public interest regarding the repeal of licensing rules for recreational vessels and aircraft, it is not in the public interest to continue requiring such applications to be filed pending consideration of the proposed rules. The basis for this finding is that this interim rule will immediately reduce the regulatory burdens on the public and the Commission, and avoid the need to return thousands of applications and regulatory fees if the proposals in this proceeding are ultimately adopted. The interim rule does not make licensees eligible for a partial refund of user fees. However, if the interim rules are adopted as final, such licensees may at that time be eligible for a partial refund of user fees pursuant to 47 CFR 1.1159. The Commission further believes that the interim rules are necessary to avoid confusion and regulatory uncertainty in the marine and aviation communities. Moreover, the Commission does not believe that any party will be harmed by implementation of the interim rules, pending completion of the rulemaking proceeding.

EFFECTIVE DATE: April 12, 1996.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0871, or at smagnott@fcc.gov.

SUPPLEMENTARY INFORMATION: As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects

47 CFR Part 80

Radio, Vessels.

47 CFR Part 87

Radio.

Parts 80 and 87 of Chapter I of Title 47 of the Code of Federal Regulations, Parts 80 and 87, are amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.13 is revised to read as follows:

§ 80.13 Station license required.

(a) Except for those excluded in paragraph (c) of this section, stations in the maritime service must be licensed by the FCC either individually or by fleet.

(b) One ship station license will be granted for operation of all maritime services transmitting equipment on board a vessel.

(c) A ship station is licensed by rule and does not need an individual license issued by the FCC if the ship station is not subject to the radio equipment carriage requirements of the Communications Act or any other treaty or agreement to which the United States is signatory, the ship station does not travel to foreign ports, and the ship station does not make international communications. A ship station licensed by rule is authorized to transmit radio signals using a marine radio operating in the 156–162 MHz band, any type of EPIRB, and any type of radar installation. All other transmissions must be authorized under a ship station license. Even though an individual license is not required, a ship station licensed by rule must be operated in accordance with all applicable operating requirements, procedures, and technical specifications found in this Part 80.

PART 87—AVIATION SERVICES

1 . The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

2. A new § 87.18 is added to read as follows:

§ 87.18 Station license required.

(a) Except for those excluded in paragraph (b) of this section, stations in the aviation service must be licensed by the FCC either individually or by fleet.

(b) An aircraft station is licensed by rule and does not need an individual license issued by the FCC if the aircraft station is not subject to the radio equipment carriage requirements of any statute, treaty, or agreement to which the United States is signatory, the aircraft station is on board a private aircraft, and the aircraft station does not make international flights or communications. Even though an individual license is not required, an aircraft station licensed by rule must be operated in accordance with all applicable operating requirements, procedures, and technical specifications found in this Part 87.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–10163 Filed 4–23–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 80 and 87

[CC Docket No. 96–82, FCC 96–145]

Operation of Certain Domestic Ship and Aircraft Radio Stations Without Individual Licenses

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Pursuant to the 1996 Telecommunications Act, this NPRM proposes to amend the Commission's rules regarding ship and aircraft radio stations, to remove the individual radio licensing requirement and to authorize by rule the operation of radio equipment on recreational vessels and aircraft. The Federal Communications Commission (''Commission'') tentatively concludes that individual licenses are unnecessary for either the safety or operational requirements of these vessels and aircraft. It also tentatively concludes that individual licensing is unnecessary to meet its regulatory and spectrum management responsibilities with regard to these services, and that eliminating the individual licensing requirement will remove an unnecessary regulatory burden on the public. This proposed rule is being considered with the adoption of interim rules published concurrently in the Federal Register.

DATES: Comments are due on or before May 10, 1996. Reply comments are due on or before May 20, 1996. Informal comments may be filed on or before May 20, 1996.

ADDRESSES: You must send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. You may also file informal comments by electronic mail. You should address informal comments to smagnott@fcc.gov. You must put the docket number of this proceeding on the subject line (''WT Docket No. 96–82''). You must also include your full name and Postal Service mailing address in the text of the message.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0871, or at smagnott@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking in WT Docket No. 96–82, adopted April 1, 1996, and released April 12, 1996.

The complete text of the Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 230), 1919 M Street, N.W., Washington D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, at (202) 857–3800, 1919 M Street, N.W., Room 246, Washington, D.C. 20554.

Synopsis of Notice of Proposed Rulemaking

This Notice of Proposed Rule Making (NPRM) proposes to revise the Commission's rules pursuant to Section 307(e) of the Communications Act of 1934 (the ''Communications Act''), as amended by Section 403(i) of the Telecommunications Act of 1996. With this NPRM, the Commission proposes to revise its rules for the Maritime Services and the Aviation Services to reflect our conclusion that this individual licensing requirement should be removed.

Section 403(i) of the 1996 Telecommunications Act amended Section 307(e)(1) of the Communications Act as follows:

> [I]f the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in . . . (C) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (D) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

Pursuant to this statutory authority, the Commission tentatively concludes that it serves the public interest, convenience, and necessity to authorize, by rule, recreational vessel and aircraft radio stations. Accordingly, the Commission proposes to amend its rules to remove the individual radio licensing requirement for these vessels and aircraft. Under this proposal, the Commission would eliminate the requirement that members of the public have an individual license to operate a marine VHF radio, any type of emergency position indicating radio beacon (EPIRB), and/or radar on board a recreational vessel. Similarly, the Commission would eliminate the requirement that members of the public have an individual license to operate a VHF aircraft radio and/or any type of emergency locator transmitter (ELT) on board a recreational aircraft.

Initial Regulatory Flexibility Analysis

Reason for action. The purpose of this NPRM is to determine, pursuant to the Telecommunications Act of 1996, whether it is in the public interest, convenience, and necessity to amend the rules to remove the individual radio licensing requirement for vessels and aircraft that operate domestically and are not subject to the radio carriage requirements of any statute or treaty.

Objectives. The objective of this NPRM is to request public comment on the proposals made herein.

Legal basis. The authority for this action is the Administrative Procedure Act, 5 U.S.C. § 553; and Sections 4(i), 4(j), 301, 303(r), and 307(e) of the Communications Act of 1934 as amended, 47 U.S.C. §§ 145, 301, 303(r) and 307(e).

Reporting, recordkeeping and other compliance requirements. Compliance requirements would be reduced if the proposal in this NPRM is adopted.

Federal rules which overlap, duplicate or conflict with these rules. None.

Description, potential impact and number of small entities involved. Most applicants for individual recreational licenses are individuals. However, to the extent any are small entities, the proposed rule would eliminate the burden of filing for individual recreational vessel or aircraft licenses.

Significant Alternatives. None.

Ordering Clauses

Accordingly, it is ordered that this Notice of Proposed Rule Making is hereby adopted.

It is further ordered that the Secretary shall mail a copy of this document to the Chief Counsel for Advocacy, Small Business Administration, the Administrator, Federal Aviation Administration, and the Commander, United States Coast Guard Auxiliary.

List of Subjects

47 CFR Part 80

Radio, Vessels.

47 CFR Part 87

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–10162 Filed 4–23–96; 8:45 am]

BILLING CODE 6712–01–P

Reader Aids

Federal Register

Vol. 61, No. 80

Wednesday, April 24, 1996

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–523–5227**

Public inspection announcement line **523–5215**

Laws

Public Laws Update Services (numbers, dates, etc.) **523–6641**

For additional information **523–5227**

Presidential Documents

Executive orders and proclamations **523–5227**

The United States Government Manual **523–5227**

Other Services

Electronic and on-line services (voice) **523–4534**

Privacy Act Compilation **523–3187**

TDD for the hearing impaired **523–5229**

ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. **202–275–0920**

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, APRIL

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

311.....17564
399.....17565

Proposed Rules:

25.....14684
39 .....14269, 14271, 14273, 14275, 14515, 15000, 15002, 15430, 15738, 15903, 15904, 15906, 15908, 16412, 16413, 16414, 16416, 16418, 16420, 17257, 17259, 17261, 17853, 17855
71 .....15432, 15434, 15740, 15742, 16287, 17606, 17607
73.....17608
121.....18099

15 CFR

30.....15697
769.....14243
902.....14465, 15884
922.....14963

16 CFR

303.....16385

Proposed Rules:

239.....14688
254.....14685
406.....14686
700.....14688
701.....14688
702.....14688

17 CFR

200.....15338

Proposed Rules:

228.....17108
229.....17108
240.....17108
242.....17108

18 CFR

Proposed Rules:

35.....17263

20 CFR

404.....18075
422.....18075
498.....18078

Proposed Rules:

348.....16067
416.....17609
656.....17610

21 CFR

Ch. I.....14478, 16422
1.....14244
2.....15699
5.....14375
101.....16423
172.....14481
173.....14481, 17828
175.....14481
176.....14481
177.....14481, 14964
178.....14481
180.....14481
181.....14481
189.....14481
201.....17798
331.....17798
341.....15700
510.....15703, 17565
520.....15185
522.....14482
529.....17829
558 .....14483, 17566, 18081
573.....15703
803.....16043
807.....16043
814.....15186
1310.....17958
1313.....17566
1316.....17566

Proposed Rules:

25.....14922
71.....14690
170.....14690
171.....14690
201.....17807
331.....17807
510.....15003
886.....14277
900 .....14856, 14870, 14884, 14898, 14908

22 CFR

92.....14375
514.....15372

23 CFR

230.....14615
625.....17566
635.....17243

Proposed Rules:

230.....17264
1325.....16729
1327.....16729

24 CFR

0.....15350
4.....14448
12.....14448
100.....14378
103.....14378
109.....14378
200.....14396, 14410
207.....14396
213.....14396
215.....14396, 16172
219.....14396
220.....14396
221.....14396
222.....14396
231.....14396
232.....14396, 14410
233.....14396
234.....14396
236.....14396, 16172
237.....14396
241.....14396, 14410
242.....14396
244.....14396
248.....14396
265.....14396
267.....14396
583.....17245
811.....14456, 16045
813.....16172
913.....16172
950.....16172
990.....17538
3500.....14617

Proposed Rules:

26.....18026
28.....18026
30.....18026
50.....15340
81.....18026
200.....18026
950.....18026
965.....18026
3280.....18014
3500.....18026

25 CFR

151.....18082
1001.....17830

Proposed Rules:

Ch. I.....17857, 18100

26 CFR

1 .....14247, 14248, 15891, 17572
31.....17572
602.....14248, 17572

Proposed Rules:

1 .....14517, 15204, 15743, 17614
31.....17614
35a.....17614
301.....17265, 17614
502.....17614
503.....17614
509.....17614
513.....17614
514.....17614
516.....17614
517.....17614
520.....17614
521.....17614

28 CFR

25.....17575
547.....16374

Proposed Rules:

36.....16232, 16233
74.....17667
553.....14440

29 CFR

1614.....17576
1625.....15374

Proposed Rules:

1904.....15435
1910.....15205
1915.....15205
1926.....15205
1952.....15435
2509.....14690
2520.....14690
2550.....14690
2610.....16387
2619.....16388
2622.....16387
2644.....16391
2676.....16388

30 CFR

756.....17833
914.....15378, 15891
943.....15380

Proposed Rules:

Ch. II.....17266
6.....15743
18.....15743
19.....15743
20.....15743
21.....15743
22.....15743
23.....15743
26.....15743
27.....15743
29.....15743
33.....15743
35.....15743
218.....17266
745.....15005
900.....15005
901.....15005
906.....15005
913.....15005
914.....15435
925.....14517
926.....15005, 15910
931.....15005
934.....15005, 18100
935.....15005, 16731
936.....15005, 15435
944.....15005
946.....15005
948.....15005, 17859
950.....15005

31 CFR

103 .....14248, 14382, 14383, 14386, 18204
535.....15382

Proposed Rules:

321.....14444

32 CFR

40a.....16704
375.....18083
379.....18083
706 .....14966, 14967, 14968, 14969
861.....17840
865.....16046

Proposed Rules:

117.....15437
619.....15010

33 CFR

100 .....14249, 16709, 16711, 17246, 17841
110.....16711
117 .....14970, 17247, 17248
165 .....16714, 16716, 16717, 17249
175.....15162
179.....15162
181.....15162

Proposed Rules:

100 .....16732, 16885, 17269, 17270
110.....17861
117.....16736
165.....14518, 16886

34 CFR

76.....14483
81.....14483
682.....16718

35 CFR

70.....16718

36 CFR

7.....14617
223.....14618
292.....14621
1253.....14971
1275.....17842

Proposed Rules:

242.....15014
1190.....17271
1191 .....16232, 16233, 17271

38 CFR

1.....14596
21.....15190

39 CFR

111.....17190, 17206

Proposed Rules:

111.....15205

40 CFR

9.....16290
51.....16050
52 .....14484, 14487, 14489, 14491, 14493, 14634, 14972, 14974, 14975, 15704, 15706, 15709, 15713, 15715, 15717, 15719, 16050, 16229, 17576
60 .....14634, 15721, 17358
63.....17358
70.....16063, 18083
80.....16391
81.....14496
148.....15566, 15660
167.....14497
180 .....14637, 15192, 15895, 15896, 15900
185.....15893
186.....15192, 15900
260.....16290, 17358
261 .....16290, 17358, 18088
262.....16290
263.....16290
264.....16290, 17358
265.....16290, 17358
266.....16290, 17358
268.....15566, 15660
270.....17358
271.....15566, 17358
273.....16290
300.....15902
403.....15566, 15660
716.....14596

Proposed Rules:

51.....16068
52 .....14520, 14521, 14522, 14694, 15020, 15744, 15745, 15751, 15752, 16050, 16738, 17669, 17675
59.....14531
60.....17358
63.....17358
68.....16598, 16606
80.....16432
81.....14522, 16738
85.....16738
141.....16348
142.....16348
180 .....14694, 15911, 15913, 16740, 16742, 16745, 16747
260.....17358
261.....14696, 17358
262.....17842
264.....17358, 17863
265.....17358, 17863
266.....17358
270.....17358, 17863
271.....17358
300 .....14280, 16068, 16229
440.....15917
721.....17272

41 CFR

101–25.....14978

42 CFR

405.....14640
491.....14640

Proposed Rules:

413.....17677

43 CFR

Group 8400.....15722
10010.....16719

Proposed Rules:

8000.....15753
8300.....15753

44 CFR

64.....14497, 15723
65 .....14658, 14661, 16874, 17251
67.....14665, 16875

Proposed Rules:

62.....14709
67.....14715, 16887

45 CFR

74.....15564
1633.....14250
1634.....14252
1635.....14261

Proposed Rules:

1301.....17754
1303.....17754
1304.....17754
1305.....17754
1306.....17754
1308.....17754

46 CFR

2.....15162
67.....17814
159.....15162, 15868
160.....15162, 15868
514.....14979
572.....17849

Proposed Rules:

10.....15438, 16749
12.....15438, 16749
13.....16749
15.....15438

47 CFR

Ch. I.....14672
0.....14499, 16229
1.....15724
2.....14500, 15382
15.....14500
21.....15387, 18092
61.....15724
63.....15724
64.....14979
73 .....14503, 14676, 14981, 16878, 16879
76 .....15387, 15388, 16396
80.....18226
87.....18226
97.....15382

Proposed Rules:

Ch. I.....14717, 16432, 16890
0.....16424
1.....15439
2.....15206
15.....15206
20.....15753
36.....15208
64.....15020
68.....15441
69.....15208
73 .....14733, 15022, 15439, 15442, 15443, 17864
74.....15439, 17864
76.....16447
80.....18227
87.....18227

48 CFR

207.....16879
225.....16880
231.....16881
242.....16881
252.....16880
1425.....15389
1452.....15389
1516.....14504
1523.....14506
1535.....14264
1552 .....14264, 14504, 14506
1604.....15196
1652.....15196

Proposed Rules:

9.....14946
15.....14944
17.....14944
31.....14944
35.....14946
37.....14946
52.....14944

49 CFR

3.....17577
79.....17578
382.....14677
383.....14677
390.....14677
391.....14677, 17253
392.....14677
395.....14677
533.....14680
538.....14507
541.....15390
583.....17253
800.....14512
1154.....16066

Proposed Rules:

37.....16232, 16234
393.....14733, 18014
544.....15443
571 .....15446, 15449, 15917, 16073
574.....15917
1002.....15208
1100.....14735
1101.....14735
1102.....14735
1103.....14735
1104.....14735
1105.....14735
1106.....14735
1107.....14735
1108.....14735
1109.....14735
1110.....14735
1111.....14735
1112.....14735
1113.....14735
1114.....14735
1115.....14735
1116.....14735
1117.....14735
1118.....14735
1119.....14735
1120.....14735
1121.....14735
1122.....14735
1123.....14735
1124.....14735
1125.....14735
1126.....14735
1127.....14735
1128.....14735
1129.....14735
1130.....14735
1131.....14735
1132.....14735
1133.....14735
1134.....14735
1135.....14735
1136.....14735
1137.....14735
1138.....14735
1139.....14735
1140.....14735
1141.....14735
1142.....14735
1143.....14735
1144.....14735
1145.....14735
1146.....14735
1147.....14735
1148.....14735
1149.....14735
1169.....17579
1313.....17682

50 CFR

216.....15884
228.....15884
251.....14682
611.....14465
620.....16401
625.....15199
641.....14683
649.....16882
650.....15733
655.....14465
663.....14512, 16402
672.....17256
675 .....16883, 17256, 17849

Proposed Rules:

17.....15452
23.....14543
100.....15014
217.....18102
227.....18102
230.....15754
625.....17682
630 .....15212, 16236, 17866
646.....14735, 16076
650.....16237
651 .....14284, 16237, 16892
659.....17866
671.....16456
672.....16456, 18116
674.....16456
675.....16085, 16456
676.....14547, 18116
681.....15452
686.....16076

REMINDERS

The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT TODAY

COMMERCE DEPARTMENT
Export Administration Bureau
Export licensing:
Regulations simplification; published 3-25-96

DEFENSE DEPARTMENT
Organization, functions, and authority delegations:
Assistants to Secretaries of Defense for Public Affairs and Atomic Energy; CFR parts removed; published 4-24-96

ENVIRONMENTAL PROTECTION AGENCY
Hazardous waste:
Identification and listing--
Exclusions; published 4-24-96

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
Sponsor name and address changes--
Hoffmann-La Roche, Inc.; published 4-24-96

INTERIOR DEPARTMENT
Indian Affairs Bureau
Land and water:
Indian tribes' off-reservation land acquisitions; trust status
Final administrative decisions; actions on review requests; published 4-24-96

INTERIOR DEPARTMENT
Minerals Management Service
Outer Continental Shelf oil and gas leasing:
Deepwater royalty relief for new leases; published 3-25-96

SOCIAL SECURITY ADMINISTRATION
Social security benefits:
Earnings and benefit estimates statement; published 4-24-96

TRANSPORTATION DEPARTMENT
Coast Guard
Ports and waterways safety:
Elizabeth River, VA; safety zone; published 4-19-96

TRANSPORTATION DEPARTMENT
Tariffs:
International airline passenger fares; electronic filing; published 4-24-96

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
McDonnell Douglas; published 3-25-96
Practice and procedure:
Technical amendment; published 4-24-96

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Operations Office
Acquisition regulations:
Review and revision; comments due by 4-29-96; published 2-28-96

COMMERCE DEPARTMENT
International Trade Administration
Uruguay Round Agreements Act (URAA); conformance:
Antidumping and countervailing duties; comments due by 4-29-96; published 2-27-96

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic striped bass and weakfish; comments due by 4-29-96; published 3-28-96
Atlantic swordfish; comments due by 5-2-96; published 4-12-96
North Pacific fisheries research plan; implementation; comments due by 4-29-96; published 3-28-96

DEFENSE DEPARTMENT
Privacy Act; implementation; comments due by 4-30-96; published 3-1-96

EDUCATION DEPARTMENT
Postsecondary education:
Foreign language and area studies fellowships program; comments due by 4-29-96; published 3-28-96
Modern foreign language training and area studies, etc.; comments due by 4-29-96; published 3-28-96

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
California; comments due by 5-2-96; published 3-18-96
Illinois; comments due by 5-2-96; published 4-2-96
Indiana; comments due by 5-2-96; published 4-2-96
Kentucky; comments due by 5-2-96; published 4-2-96
Pennsylvania; comments due by 5-2-96; published 4-2-96
Tennessee; comments due by 5-2-96; published 4-2-96
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Michigan; comments due by 5-2-96; published 4-2-96
Superfund program:
National oil and hazardous substances contingency plan--
National priorities list update; comments due by 4-30-96; published 3-28-96
National priorities list update; comments due by 5-1-96; published 4-1-96
Water pollution control:
Ocean dumping; bioassay testing requirements; comments due by 5-1-96; published 3-28-96

FEDERAL COMMUNICATIONS COMMISSION
Practice and procedure:
Regulatory fees (FY 1996); assessment and collection; comments due by 4-29-96; published 4-15-96
Radio and television broadcasting:
Equal employment opportunity rule and policies; revision; comments due by 4-30-96; published 3-12-96
Radio stations; table of assignments:
Colorado; comments due by 5-2-96; published 3-18-96
Illinois et al.; comments due by 4-29-96; published 3-13-96
Louisiana; comments due by 5-2-96; published 3-18-96
New York; comments due by 5-2-96; published 3-18-96
Virgin Islands; comments due by 5-3-96; published 3-18-96
Virginia; comments due by 4-29-96; published 3-13-96
Television stations; table of assignments:
Oklahoma; comments due by 5-3-96; published 3-18-96
Wisconsin; comments due by 4-29-96; published 3-13-96

FEDERAL TRADE COMMISSION
Lubricating oil, previously used; deceptive advertising and labeling; comments due by 5-3-96; published 4-3-96
Private vocational school guides; comments due by 5-3-96; published 4-3-96

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Biological products:
Well-characterized biotechnology products--
Approved application changes reporting; comments due by 4-29-96; published 1-29-96
Approved application changes reporting; guidance availability; comments due by 4-29-96; published 1-29-96
Approved application changes reporting; guidance availability; comments due by 4-29-96; published 1-29-96
Clinical investigators; financial disclosure; comments due by 4-29-96; published 3-5-96
Food for human consumption:
Federal regulatory review and comment request; comments due by 4-29-96; published 12-29-95
Food labeling--
Nutrient content claims; definition of term, healthy; comments due by 4-29-96; published 2-12-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Federal regulatory review:
Fair housing; certification and funding of State and local enforcement agencies; comments due by 4-29-96; published 2-28-96

INTERIOR DEPARTMENT

Fish and Wildlife Service

Federal regulatory review:

Wildlife and plants; lists consolidation; comments due by 5-3-96; published 3-19-96

Meetings:

Endangered Species of Wild Fauna and Flora International Trade Convention; comments due by 4-30-96; published 3-1-96

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Illinois; comments due by 4-29-96; published 3-29-96

Missouri; comments due by 5-2-96; published 4-2-96

LABOR DEPARTMENT

Occupational Safety and Health Administration

Occupational injury and illness; recording and reporting requirements; comments due by 5-2-96; published 2-2-96

Preliminary economic analysis; executive summary; comments due by 5-2-96; published 2-29-96

TRANSPORTATION DEPARTMENT

Coast Guard

Regattas and marine parades:

World's Fastest Lobster Boat Race; comments due by 5-3-96; published 3-4-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

AlliedSignal Inc.; comments due by 4-29-96; published 2-29-96

Michelin Aircraft Tire Corp.; comments due by 4-30-96; published 1-29-96

Class E airspace; comments due by 4-29-96; published 3-18-96

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Rail licensing proceudres:

Abandonment and discontinuance of rail lines and rail transportation; comments due by 5-3-96; published 3-19-96

TREASURY DEPARTMENT

Customs Service

Organization and functions; field organization, ports of entry, etc.:

Columbus, OH; port limits extension; comments due by 4-30-96; published 3-1-96

TREASURY DEPARTMENT

Fiscal Service

Bonds and notes, U.S. Treasury:

Payments by banks and other financial institutions of United States savings bonds and notes (Freedom Shares); comments due by 5-1-96; published 4-1-96

Book-entry Treasury bonds, notes, and bills:

Securities held through financial intermediaries; comments due by 5-3-96; published 3-4-96

VETERANS AFFAIRS DEPARTMENT

Loan guaranty:

Discount points financed in connection with interest rate reduction refinancing loans; limitation; comments due by 4-29-96; published 2-28-96