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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

General Crop Insurance Regulations, Stonefruit Endorsement; and Common Crop Insurance Regulations, Stonefruit Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of stonefruit. The provisions will be used in conjunction with the Common Crop Insurance Policy, Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current stonefruit endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current stonefruit endorsement to the 1998 and prior crop years.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Richard Brayton, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be exempt for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information for this rule have been approved by the Office of Management and Budget (OMB) under control number 0563–0053 through October 31, 2000.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The amount of work required of the insurance companies will not increase because the information used to determine eligibility is already maintained at their office and the other information required is already being gathered as a result of the present policy. No additional actions are required as a result of this action on the part of either the insured or the insurance companies. Additionally, the regulation does not require any action on the part of the small entities than is required on the part of large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

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

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

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

National Performance Review

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

Background

On Tuesday, July 22, 1997, FCIC published a notice of proposed rulemaking in the **Federal Register** at 62 FR 39189–39194 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.159, Stonefruit Crop Insurance Provisions. The new provisions will be effective for the 1999 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring stonefruit found at 7 CFR 401 (Stonefruit Endorsement). FCIC also amends § 401.122 to limit its effect to the 1998 and prior crop years.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions.

A total of 16 comments were received from an insurance service organization and reinsured companies. The comments received and FCIC's responses are as follows:

Comment: A reinsured company expressed a concern that sales closing, production reporting, and acreage reporting all have the same date of January 31. The commenter stated it would be difficult to service these policies when all reporting requirements must be completed at the same time.

Response: FCIC disagrees with the comment. The sales closing and acreage reporting dates have been January 31 in previous years. The production reporting date is March 17, which would be 45 days after the earlier of the cancellation date or the acreage reporting date. This is consistent with other crop policies. Therefore, no change has been made.

Comment: An insurance service organization suggested in the definition of ''good farming practices'' the reference to ''county'' be changed to ''area.''

Response: The term ''area'' is less clear than the term ''county'' and would cause determinations to be more subjective. The actuarial documents are on a county basis. Therefore, no change has been made, except the definition of ''good farming practices'' has been moved to the Basic Provisions.

Comment: An insurance service organization questioned the definition of ''interplanted'' in the proposed rule. The commenter stated that the current stonefruit policy does not consider acreage interplanted unless more than 10% of the insured acreage is planted to another crop.

Response: Although the current stonefruit policies issued by most reinsured companies contain the 10% requirement in the definition of interplanted, the current stonefruit regulation contained in 7 CFR 401.122 does not. All reinsured MPCI policies will be brought to conformance with this regulation. FCIC believes that introducing an exact percentage of acres that must be exceeded before stonefruit is considered interplanted is too restrictive. The definition is consistent with other perennial crop policies. Therefore, no change has been made.

Comment: An insurance service organization questioned the definition of ''lug'' in the proposed rule. The commenter stated the current policy refers to ''average'' net pounds of packed fruit and questioned if the word ''average'' should not be included in the proposed rule.

Response: FCIC agrees and has amended the definition to refer to ''average net pounds of packed fruit.''

Comment: An insurance service organization recommended rewording section 2(a) of the proposed provisions to read: ''In addition to the basic units as defined in section 1 of the Basic Provisions, each stonefruit crop designated in the Special Provisions will be a basic unit.''

Response: FCIC has removed section 2(a) of the proposed provisions which stated, ''A unit as defined in section 1 of the Basic Provisions, will be divided into additional basic units by each stonefruit crop designated in the Special Provisions that you elect to insure.'' FCIC instead has revised section 2 to conform with the new unit language in the Basic Provisions. As defined in the Basic Provisions, each stonefruit crop designated in the Special Provisions will be a basic unit.

Comment: An insurance service organization and a reinsured company expressed concerns with sections 2(f)(3)(i) and (ii) of the proposed rule. One commenter stated the proposed language restricts policyholders to optional units either by non-contiguous land or by type, or by varietal group. The commenter recommended allowing optional units for non-contiguous land and by type or varietal group by changing section 2(f)(3) to read, ''each optional unit must meet at least one of the following criteria, as applicable, unless otherwise specified in the Special Provisions,'' and delete the ''or'' between subparagraphs (i) and (ii). One commenter questioned if optional units are available for non-contiguous land, even if the land is under the same ownership and possibly separated only by another crop.

Response: FCIC agrees that optional units should be offered by non-contiguous land and by type or varietal group and has deleted ''or'' between subparagraphs (i) and (ii) for clarification. Under these proposed provisions, optional units are not available for non-contiguous land, if the land is under the same ownership or separated by another crop.

Comment: An insurance service organization stated that the current 1988–CHIAA 796 policy includes a statement that fresh market stonefruit may be insured as processing stonefruit, with converted or appraised production. The commenter asked if this should be included in the Crop Provisions, or be covered only in the underwriting procedure.

Response: FCIC agrees that the statement on the CHIAA 796 allows any fresh market stonefruit to be insured as processing stonefruit by converting harvested or appraised fresh market stonefruit lugs to processing stonefruit tons. The conversion procedure is covered by underwriting procedures.

Comment: An insurance service organization asked if section 8(b)(2) indicates that anyone who attempts to acquire a new orchard between the cancellation date and the acreage reporting date but is unsuccessful will be considered to have coverage and owe premium.

Response: FCIC believes that the commenter misinterpreted the provisions. Section 8(b)(2) allows a producer to avoid liability for premium in some circumstances for an orchard on which a policy was in force on the cancellation date. Under that section, the insurance can be transferred to a qualified third party under certain circumstances.

Comment: A reinsured company expressed concerns with section 10(b), stating that the direct marketing provisions contained in this section will be difficult to monitor and control.

Response: The producer is required to give notice at least 15 days prior to any production being marketed directly to consumers, and the insurance provider is required to complete the appraisal within that 15 day period. FCIC believes that 15 days is appropriate to meet the needs of both the producer and the insurance provider. Therefore, no change has been made.

Comment: An insurance service organization stated that the language in section 10(c) does not address timely notice of damage or loss if damage is discovered less than 15 days prior to harvest.

Response: The notice requirements in section 10 are in addition to the requirements of section 14 of the Basic Provisions that require notice of loss within 72 hours of initial discovery of damage. If damage is discovered during harvest, notice must be given immediately. FCIC believes that these provisions, as a whole, are adequate as stated. Therefore, no change has been made.

Comment: An insurance service organization stated that section 12 of the proposed provisions, which explains how a claim is settled, is difficult to follow.

Response: Settlement of claims is covered in section 11. Section 11 has been revised to illustrate the calculations of a claim for indemnity, and has been explicitly worded to eliminate any misunderstanding or confusion.

Comment: An insurance service organization stated that section

11(c)(1)(iv) should not allow the insured to defer settlement and wait for a later, generally lower appraisal, especially on crops that have a short ''shelf life.''

Response: A later appraisal will only be necessary if the producer continues to care for the crop. If the producer does not continue to care for the crop, the original appraisal will be used. If the producer does not care for the crop, the original appraisal is used. If the insurance provider believes the original appraisal is accurate, resolution of the dispute may be sought through arbitration or appeal procedures, whichever is applicable. Therefore, no change has been made.

Comment: An insurance service organization stated that section 11(c)(2)(ii) was confusing. The commenter stated the provisions seem to mean that harvested production packed and sold as California Utility grade fresh fruit was not considered production to count if the production was not damaged by an insurable cause. The commenter stated that any production that can be packed and sold as fresh fruit should be included as production to count.

Response: FCIC agrees with the comment and has amended the provisions, redesignated 11(c)(3)(i) and (ii) to clarify the provisions.

Comment: An insurance service organization suggested that sections 12 (a) and (e) be combined since both deal with deadlines to request written agreements. The commenter suggested this provision might be less misleading if the acreage reporting date ''exception'' be incorporated. The insurance service organization also asked that the requirement for annual renewal be removed from 12(d).

Response: Section 12 ''written agreements'' has been removed from the proposed provisions and placed in the Basic Provisions. FCIC believes that the annual renewal date in these provisions are clearly stated, so no change will be made in this regard. Written agreements are intended to supplement policy terms or permit insurance in unusual situations that require modification of the otherwise standard insurance provisions. If such practices continue year to year, they should be incorporated into the policy or Special Provisions. It is important to minimize written agreement exceptions to assure that the insured are well aware of the specific terms of the policy. Therefore, no change has been made to the requirement that written agreements be renewed each year.

In addition to the changes described above, FCIC has made minor editorial changes and has amended the following Stonefruit Crop Provisions:

1. Amended the paragraph preceding section 1 to provide that provisions of any Catastrophic Risk Protection Endorsement take precedence over any conflicting provision in any other policy provision.

2. Section 1—Removed definitions for ''days,'' ''FSA,'' ''good farming practices,'' ''irrigated practice,'' ''non-contiguous,'' ''production guarantee (per acre),'' ''USDA,'' and ''written agreement'' because these definitions now appear in the Basic Provisions. Added a new definition of ''grading standards'' to these provisions for clarification. Added to the definition of lug the weights used for processing apricots, cling peaches, and freestone peaches are in tons.

3. Section 2—Revised the provisions regarding units to conform with new language in the Basic Provisions.

4. Section 9(a)(3) and (6)—Revised the wildlife cause of loss by deleting the language ''unless proper measures to control wildlife have not been taken'' because it is impossible to control wildlife. Also clarified the cause of loss ''failure of the irrigation water supply'' by adding ''if due to a cause of loss contained in sections 9(a) (1) through (5) that occurs during the insurance period'' to be consistent with other crop policies.

5. Section 10(c)—Deleted the limitation on notifying us at least 15 days prior to harvest ''if you previously gave notice so we can inspect the damaged production,'' because notice prior to harvest is required in all cases.

6. Section 11(b)—Revised and added a settlement of claim example for clarity.

7. Section 11(c)(4)—Revised to clarify when harvested production of stonefruit is eligible for quality adjustment when packed and sold as fresh fruit and for all other fresh stonefruit. Also this section has been reformatted for clarity.

8. Section 12—Deleted the written agreement provisions since these have been placed in the Basic Provisions and added a provision that the late and prevented planting provisions of the Basic Provisions are not applicable to stonefruit since stonefruit is a perennial crop.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Stonefruit endorsement, Stonefruit.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1988 THROUGH 1998 CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

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

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

3. Section 401.122 introductory paragraph is revised to read as follows:

§ 401.122 Stonefruit endorsement.

The provisions of the Stonefruit Crop Insurance Endorsement for the 1988 through 1998 crop years are as follows:

* * * * *

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

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

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

5. Section 457.159 is added to read as follows:

§ 457.159 Stonefruit Crop Insurance Provisions.

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

FCIC Policies:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured Policies:

(Appropriate title for insurance provider)

Both FCIC and Reinsured Policies

Stonefruit Crop Insurance Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.

1. Definitions

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

Grading standards. The California Tree Fruit Agreement Marketing Order, or California State Department of Food and Agriculture Code of Regulations in effect for the appropriate crop, type, or varietal group.

Harvest. The picking of mature stonefruit either by hand or machine.

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

Lug. A container of fresh stonefruit of specified weight. Lugs of varying sizes will be converted to standard lug equivalents on the basis of the following average net pounds of packed fruit:

Crop	Pounds per lug
Fresh Apricots	24
Fresh Nectarines	25
Fresh Freestone Peaches	22

Weight for Processing Apricots, Processing Cling Peaches, and Processing Freestone Peaches are specified in tons.

Marketable. Stonefruit production acceptable for processing or other human consumption, even if it fails to meet the State Department of Food and Agriculture minimum grading standard.

Processor. A business enterprise regularly engaged in processing fruit for human consumption that possesses all licenses and permits for processing fruit required by the state in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process contracted fruit within a reasonable amount of time after harvest.

Stonefruit. Any of the following crops grown for fresh market or processing:

(a) Fresh Apricots,
(b) Fresh Freestone Peaches,
(c) Fresh Nectarines,
(d) Processing Apricots,
(e) Processing Cling Peaches, and
(f) Processing Freestone Peaches.

Ton. Two thousand (2,000) pounds avoirdupois.

Type. Class of a stonefruit crop with similar characteristics that are grouped for insurance purposes.

Varietal group. A subclass of type.

2. Unit Division

Notwithstanding the provisions of section 34 of the Basic Provisions that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices, optional units will only be allowed as stated herein or by written agreement.

(a) *Optional Units on Acreage Located on Non-contiguous Land:* Optional units may be established if each optional unit is located on non-contiguous land.

(b) *Optional Units by Type or Varietal Group:* Optional units may be established by type or varietal group if allowed by the Special Provisions.

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

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one price election and coverage level for each crop grown in the county and listed in the Special Provisions that is insured under this policy. If separate price elections are available by type or varietal group of a crop, the price elections you choose for each type or varietal group must have the same percentage relationship to the maximum price offered by us for each type or varietal group. For example, if you choose 100 percent of the maximum price election for one type of cling peaches, you must choose 100 percent of the maximum price election for all other types of cling peaches.

(b) You must report, by the production reporting date designated in section 3 of the Basic Provisions, by type or varietal group, if applicable, for each stonefruit crop:

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

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

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

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

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

(ii) The planting pattern; and

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

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

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is October 31 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are January 31.

6. Insured Crop

In accordance with section 8 of the Basic Provisions, the crop insured will be all of each stonefruit crop you elect to insure, that is grown in the county, and for which premium rates are provided in the actuarial documents:

(a) In which you have a share;

(b) That is grown on trees that:

(1) Were commercially available when the trees were set out;

(2) Is adapted to the area; and

(3) Is grown on a root stock that is adapted to the area;

(c) That is irrigated;

(d) That have produced at least 200 lugs of fresh market production per acre, or at least 2.2 tons per acre for processing crops, in at least 1 of the 3 most recent actual production history crop years, unless we inspect such acreage and give our approval in writing;

(e) That are regulated by the California Tree Fruit Agreement or related crop advisory board for the state (for applicable types);

(f) That are grown in an orchard that, if inspected, is considered acceptable by us; and

(g) That have reached at least the fifth growing season after set out. However, we may agree in writing to insure acreage that has not reached this age if it meets the requirements of subsection (d) of this section.

7. Insurable Acreage

In lieu of the provisions of section 9 of the Basic Provisions that prohibit insurance attaching to a crop planted with another crop, stonefruit interplanted with another perennial crop is insurable unless we inspect the acreage and determine that it does not meet the requirements for insurability contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 of the Basic Provisions:

(1) Coverage begins on February 1 of each crop year, except that for the year of application, if your application is received after January 22 but prior to February 1, insurance will attach on the 10th day after your properly completed application is received in our local office unless we inspect the acreage and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the orchard.

(2) The calendar date for the end of the insurance period for each crop year is:

(i) July 31 for all apricots; and

(ii) September 30 for all nectarines and peaches.

(b) In addition to the provisions of section 11 of the Basic Provisions:

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date of acquisition.

(2) If you lose or relinquish your insurable share on any insurable acreage of stonefruit on or before the acreage reporting date for the crop year and if the acreage was insured by you the previous crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

9. Causes of Loss

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the orchard;

(3) Wildlife;

(4) Earthquake;

(5) Volcanic eruption; or

(6) Failure of the irrigation water supply, if due to a cause of loss contained in sections 9(a)(1) through (5) that occurs during the insurance period.

(b) In addition to the causes of loss excluded by section 12 of the Basic Provisions, we will not insure against damage or loss of production due to:

(1) Disease or insect infestation, unless adverse weather:

(i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(ii) Causes disease or insect infestation for which no effective control mechanism is available;

(2) Split pits regardless of cause; or

(3) Inability to market the insured crop for any reason other than actual physical damage from an insurable cause of loss specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 of the Basic Provisions, the following will apply:

(a) You must notify us within 3 days after the date harvest should have started if the insured crop will not be harvested.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) In addition to section 14 of the Basic Provisions, if you intend to claim an indemnity on any unit, you must give us notice at least 15 days prior to the beginning of harvest. You must not destroy the damaged crop until after we have given you written consent to do so. If you fail to notify us and such failure results in our inability to inspect the damaged production, we may consider all such production to be undamaged and include it as production to count.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for each type or varietal group by its respective production guarantee;

(2) Multiplying each result of section 11(b)(1) by the respective price election for the type or varietal group;

(3) Totaling the results of section 11(b)(2). (If there is only one type or varietal group, the result of (3) will be the same as the result of (2));

(4) Multiplying the total production to count (see section 11(c)), for each type or varietal group, by the respective price election;

(5) Totaling the results of section 11(b)(4);

(6) Subtracting the result of section 11(b)(5) from the result of section 11(b)(2). (If there is only one type or varietal group, the result of (6) will be the same as the result of (5)); and

(7) Multiplying the result of section 11(b)(6) by your share.

For example:

You have a 100 percent share in 50 acres of varietal group A stonefruit in the unit, with a guarantee of 500 lugs per acre and a price election of $6.00 per lug. You are only able to harvest 5,000 lugs. Your indemnity would be calculated as follows:

(1) 50.0 acres × 500 lugs = 25,000 lugs guarantee;

(2) and (3) 25,000 lugs × $6.00 price election = $150,000.00 value of guarantee;

(4) 5,000 lugs × $6.00 price election = $30,000.00 value of production to count;

(5) and (6) $150,000.00—$30,000.00 = $120,000.00 loss; and

(7) $120,000.00 × 100 percent = $120,000 indemnity payment.

You also have a 100 percent share in 50 acres of varietal group B stonefruit in the unit, with a guarantee of 300 lugs per acre and a price election of $3.00 per lug. You are only able to harvest 3,000 lugs. Your indemnity would be calculated as follows:

(1) 50.0 acres × 500 lugs varietal group A = 25,000 lugs guarantee; and 50.0 acres × 300 lugs varietal group B = 15,000 lugs guarantee;

(2) 25,000 lugs × $ 6.00 price election = $150,000.00 value of guarantee for varietal group A; and 15,000 lugs × $3.00 price election = $45,000.00 value of guarantee for varietal group B;

(3) $150,00.00 + $45,000.00 = $195,000.00 total value of guarantee;

(4) 5,000 lugs varietal group A × $6.00 price election = $30,000.00 value of production to count; and 3,000 lugs varietal group B × $3.00 price election = $9,000.00 value of production to count; and

(5) $30,000.00 + $9,000.00 = $39,000.00 total value of production to count;

(6) $195,000.00—$39,000.00 = $156,000.00 loss

(7) $156,000.00 loss × 1.000 = $156,000 indemnity payment.

(c) The total production to count (in lugs or tons) from all insurable acres on a unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is sold by direct marketing if you fail to meet the requirements contained in section 10;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production that would be marketable if harvested; and

(iv) Potential production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the insured crop. We will then make another appraisal when you notify us if any further damage or that harvest is general in the area unless you harvested the crop. If you harvest the crop we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from the insurable acreage.

(3) The quantity of harvested production will be reduced if the following conditions apply:

(i) The value of the damaged production is less than 75 percent of the marketable value of undamaged production due to an insured cause of loss; and

(ii) For stonefruit insured as fresh fruit only, the stonefruit either is packed and sold as fresh fruit and meets only the utility grade requirements of the applicable grading standards, or fails to meet the applicable grading standards but is or could be sold for any use other than fresh packed stonefruit.

(4) Harvested production of stonefruit that is eligible for quality adjustment as specified in section 11(c)(3) will be reduced as follows:

(i) When packed and sold as fresh fruit or when insured as a processing crop, by dividing the marketable value per lug or ton by the highest price election (for the applicable coverage level) and multiplying the result (not to exceed 1.00) by the quantity of such production; or

(ii) For all other fresh stonefruit, multiplying the number of tons that could be marketed by the value per ton (for the applicable coverage level) and dividing that result by the highest price election available for that type.

12. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

Signed in Washington, D.C., on May 20, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 98–14545 Filed 6–1–98; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1485

Agreements for the Development of Foreign Markets for Agricultural Commodities

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations applicable to the Market Access Program (MAP) authorized by section 203 of the Agricultural Trade Act of 1978. This rule incorporates into the MAP allocation process the level of export contributions, including brand promotion cost-share contributions, made by U.S. industry participants; authorizes reimbursement of certain travel expenses for brand participants and certain necessary packaging and labeling design expenses; extends the activity payment deadline following the end of an activity plan year; establishes a 5-year limit, per country, on CCC assistance for brand promotion by single companies, and permits reimbursement to participants based upon issuance of a credit memo as an alternative to a transfer of funds.

EFFECTIVE DATE: June 2, 1998. See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Kent Sisson or Denise Fetters at (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. It has been determined that this final rule will not have an annual economic effect in excess of $100 million; will not cause a major increase in costs to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have an adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule would have preemptive effect with respect to any State or local laws, regulations or policies which conflict with such provisions or which otherwise impede their full implementation; does not have retroactive effect; and does not require administrative proceedings before suit may be filed.

Executive Order 12372

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

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because CCC is not required by any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The information collection requirements for participating in the MAP were approved for use by the Office of Management and Budget (OMB) through April 30, 2000, and assigned OMB No. 0551–0027. This final rule does not impose new information collection requirements.

Background

The MAP is authorized by section 203 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. 5623), which directs the Commodity Credit Corporation (CCC) to establish ''a program to encourage the development, maintenance, and expansion of commercial markets for agricultural commodities through cost-share assistance to eligible trade organizations.'' CCC implements this provision by entering into agreements with non-profit trade associations, private organizations, State agencies, and cooperatives. These agreements provide for sharing the costs of overseas advertising, technical assistance, and other export promotion activities, and may include either generic or brand promotions.

Summary and Analysis of Comments

On February 25, 1998, CCC published a rule in the **Federal Register** (63 FR 9451) proposing several changes to the regulations which govern the operations of the MAP. That rule also requested interested parties to submit comments by March 27, 1998. CCC received 17 comments on the proposed rule. Following is a summary of the comments which specifically address the proposed rule and CCC's responses to these comments. General comments relating to the value of the program, editorial suggestions, and non-substantive comments have been omitted.

State and Industry Contributions

CCC received 14 comments on this issue. None of these opposed the inclusion of state and industry contributions in the allocation process.

Comment: Matching funds provided by companies for brand promotion should be included as industry contributions, and, in turn, be considered in the MAP allocation process.

Response: CCC agrees with the commenters that company expenditures on brand promotion should be included as industry contributions. The focus of this program has shifted somewhat, with more emphasis being placed on market entry and access for agricultural cooperatives and small companies. For the first time, the 1998 MAP will include reimbursement for brand promotion undertaken by only cooperatives and small companies; large companies are no longer eligible to participate. By recognizing the contributions to the program made by such entities, and including those contributions in the allocation process, CCC expects that a greater number of cooperatives and small businesses will receive assistance through the MAP. Therefore, CCC is amending the final rule by removing § 1485.13(c)(3)(i), which disallows all non-administrative brand promotion expenditures as eligible contributions. We also agree that these non-administrative costs should be included in the allocation process in order to reflect the true industry contribution to the market development effort.

Comment: MAP participants should not be held responsible for shortfalls in industry or State contributions. Under certain economic situations (e.g., crop failure) it is prudent for an industry to scale back its promotional efforts, and penalizing a participant for its industry's wisdom would be illogical.

Response: MAP applicants compete against each other for funds based, in part, on the contributions promised in their MAP applications. To maintain the integrity of the competitive process, the level of contributions specified in each participant's MAP application must be met, regardless of the source of the contributions. Because it is the participant which applies for funding and enters into the program agreement with CCC, the participant must be held responsible for reaching the contribution level specified in the application.

Comment: Contribution levels are proposed in conjunction with allocation

requests. When funds are allocated at less than requested levels, the proposed contribution levels should not be considered commitments. CCC should use a contribution rate rather than an absolute level.

Response: Each applicant has the option of submitting in the application its contribution level in the form of a percentage of CCC resources expended or an absolute dollar value. When an applicant chooses to submit a contribution level as a percentage of CCC resources expended, the applicant is not required to spend an absolute dollar amount, but a specified percentage of the resources reimbursed by CCC. When an applicant chooses to submit an absolute dollar value in its application, the absolute dollar value prevails irrespective of the amount reimbursed by CCC. If a participant is not able to meet its percentage contribution requirement, it has two options available. The first is to curtail expenditures of CCC resources in order to maintain the specified ratio of contributions to expenditures. The second option is to repay CCC the difference between the amount it has contributed and the amount specified. Therefore, CCC is adopting the rule as proposed.

Packaging, Labeling, and Origin Identification

CCC received 10 comments on this issue.

Comment: If market-specific labels are required and developed, can the company claim production costs in perpetuity for all reprints?

Response: No, companies can claim only costs for production of labels to be used during the activity plan year in which the expenditure is made. CCC has revised the final rule to clarify this point.

Comment: Where package and label design changes are implemented to comply with local laws, it is difficult to isolate those costs attributable solely to regulation compliance from those attributed to ''creative artwork and design''.

Response: Because other comments indicated that isolating such costs was possible and no evidence was provided in this comment to show otherwise, the proposed rule is adopted in this regard. To clarify, this rule allows for reimbursement of costs associated with the design and production of packaging, labeling, and origin identification when changes are necessary to meet another country's importing requirements. Any costs of design and production which are not necessary to meet such requirements are not reimbursable.

Comment: A written statement from an importer detailing packaging, labeling, or origin identification requirements, rather than copies of actual laws or regulations, should be considered sufficient documentation of a foreign country's import requirements.

Response: In order to keep reimbursement of these expenses auditable, participants will need to maintain copies of foreign government documents detailing packaging, labeling, or origin identification requirements. Other comments indicated that acquiring such documentation would be possible. A written statement from an importer may be helpful in understanding the requirements, but such a statement cannot be considered adequate documentation to support a reimbursement claim.

Comment: Importers sometimes reimburse costs of this type. It is inappropriate for this program to reimburse costs that importers already cover.

Response: If an importer reimburses or will reimburse such a cost, requesting reimbursement from CCC would violate § 1485.16(a)(3), which provides that a participant may seek reimbursement for expenditures on activities if there has not been and will not be reimbursement from another source. Also, § 1485.13(a)(2)(i)(G) requires participants to certify that MAP funds will not be used to supplant any other contributions to program activities. Consequently, this provision only applies to situations in which a participant would not be reimbursed by any other source and the funds would not supplant any other contributions to program activities.

Extension of Deadline for Transferring Payments After Completion of Activity Plan Year

CCC received 6 comments on this issue, all of which favored the proposed change.

Comment: Does this extension apply to both generic and brand promotion?

Response: Yes; unless otherwise specified, the reimbursement rules apply to both generic and brand promotion activities. The rule is adopted as proposed.

Trade Show Travel for Brand Participants

CCC received 11 comments on this issue, all of which favored the proposed change.

Comment: CCC needs to be cautious that companies don't claim trade show travel that would have been performed with or without assistance.

Response: Again, § 1485.13(a)(2)(i)(G) requires participants to certify that MAP funds will not be used to supplant any other contributions to program activities. However, many small companies have said that the high costs associated with international travel have prevented their participation in foreign trade shows. For such companies, this rule change facilitates market access.

Comment: Requirements such as trip reports, keeping original tickets, and mandatory use of U.S. carriers should be eliminated because they would be burdensome on small companies. Also, trip reports would contain business confidential information.

Response: Trip reports are essential to maintaining sufficient records for program evaluation. CCC believes it is in the best interest of the program as a whole to file a report of activities during trade show participation. CCC will protect business confidential information to the extent permitted by law. Travel would not be so frequent, or records so voluminous, as to constitute a burden on small business. CCC applies the U.S. Federal Travel Regulations and the Fly America Act, which generally require the use of U.S. carriers. Thus, the rule is adopted as proposed.

Comment: What must brand representatives do at a foreign trade show for their travel expenses to qualify for reimbursement?

Response: CCC intends to reimburse travel and per diem costs only for those company representatives (maximum of two) who devote their time and efforts to exhibiting their company's products at a booth at the trade show. The booth could be for the company alone or for a group including the company, but the representatives must be exhibiting their own products, not the products of other companies. CCC will not reimburse company representatives who attend trade shows as visitors. CCC has revised the final rule to clarify this point.

Comment: CCC should allow for reimbursement of overland transportation costs to trade shows, not just airfare. Sometimes it is easier and less expensive to get to a trade show by other means.

Response: CCC agrees with this comment and will amend the proposed regulation to provide for reimbursement, consistent with the U.S. Federal Travel Regulations, of other means of transportation to international trade shows. For consistency, CCC will also amend § 1485.16(c)(8) to provide reimbursement for other means of international travel for generic promotion activities.

Five Year Brand Graduation

CCC received 9 comments on this issue. Eight of these opposed the rule.

Comment: The rule proposes to limit brand promotion assistance to a company in a country to five years. Does ''assistance'' refer to reimbursements or allocations?

Response: Assistance refers to the MAP as a whole. CCC will not approve or reimburse activities for the same company for brand promotions in the same country for more than five years. No further clarification is required in the final rule.

Comment: Because market entry and growth cannot always be achieved in five years, particularly for companies with multiple products, the proposal to move to a five year assistance limit per company should be rejected.

Response: CCC recognizes that individual companies may not achieve market entry or growth for all products in a country within five years. However, CCC must operate and manage this program with limited resources. In order to provide the opportunity for the greatest number of companies to reap the benefits of the MAP, it is necessary to graduate companies from countries after five years of assistance.

Comment: Some branded participants have formulated their marketing strategies and plans believing that their companies would be able to remain in their current markets by switching their promoted products after five years. Thus, promotional activities which occurred prior to the 1998 activity plan year should not be counted toward the five year company limit.

Response: The MAP is administered on a year-to-year basis. Funding and program commitments are made on a program year basis. Although some participants may make plans assuming a continuing program, CCC has not made commitments beyond one program year. Companies may, of course, continue to promote their products in the country after five years; however, such activities must be supported with their own resources. Therefore, CCC is adopting the rule as proposed.

Use of Credit Memos as Proof of Eligible Promotion Expenditures

CCC received 9 comments on this issue, all of which favor the proposed change. The final rule is adopted accordingly.

This rule includes other conforming and clarifying changes to accompany the substantive changes discussed herein.

Effective Date

This rule is effective June 2, 1998 but it only applies to authorized activities beginning with the 1998 program. Therefore, present participants will not be required to revise previously approved activity plans in order to comply with the new rules.

List of Subjects in 7 CFR Part 1485

Agricultural commodities, Exports.

In consideration of the foregoing, 7 CFR part 1485 is amended as follows:

PART 1485—COOPERATIVE AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR AGRICULTURAL COMMODITIES

1. The authority citation for 7 CFR 1485 continues to read as follows:

Authority: 7 U.S.C. 5623; 7 U.S.C. 5662–5663 and sec. 1302, Pub. L. 103–66, 107 Stat. 330.

Subpart B—Market Access Program

2. Section 1485.11 is amended by deleting the paragraph designations and adding the following two new definitions in alphabetical order:

§ 1485 Definitions.

* * * * *

Credit memo—a notice that a vendor has decreased an amount owned for promotional expenditures at the time the notice is issued.

* * * * *

Expenditure—either the transfer of funds, or payment via a credit memo in lieu of a transfer of funds.

* * * * *

3. In section 1485.13, paragraph (c)(3)(i) is removed and paragraphs (c)(3)(ii) through (c)(3)(xii) are redesignated as paragraphs (c)(3)(i) through (c)(3)(xi) respectively.

4. Section 1485.14 is amended by removing paragraph (d)(3) and revising paragraphs (c)(4) and the first sentence of (d)(2) to read as follows:

§ 1485.14 Application approval and formation of agreements.

* * * * *

(c) * * *

(4) Level of participant's, State's, and industry's contributions;

* * * * *

(d) * * *

(2) CCC will not provide assistance to a single company for brand promotion in a single country for more than five years. * * *

* * * * *

Section 1485.16 is amended by removing paragraph (a)(2); redesignating paragraph (a)(3) as paragraph (a)(2); adding paragraph (b)(11); and revising paragraphs (a)(1), (b)(6), (b)(7), (b)(9), (c)(8), (c)(25), (d)(3), and (h)(3) to read as follows:

§ 1485.16 Reimbursement rules.

(a) * * *

(1) The expenditure was made in furtherance of an approved activity; and

* * * * *

(b) * * *

(b) Expenditures, other than travel expenditures, associated with retail, trade, and consumer exhibits and shows; seminars; and educational training; including participation fees, booth construction, transportation of related materials, rental of space and equipment, and duplication of related printed materials;

(7) International air travel, not to exceed the full fare economy rate, or other means of international transportation, and per diem, as allowed under the U.S. Federal Travel Regulations (41 CFR parts 301 through 304) for no more than two representatives of a single brand participant to exhibit their company's products at a foreign trade show.

* * * * *

(9) Part-time contractors such as demonstrators, interpreters, translators and receptionists to help with the implementation of promotional activities such as trade shows, in-store promotions, food service promotions, and trade seminars;

* * * * *

(11) The design and production of packaging, labeling or origin identification, to be used during the activity plan in which the expenditure is made, if such packaging, labeling or origin identification are necessary to meet the importing requirements in a foreign country; and

(c) * * *

(8) International travel expenses plus passports, visas and inoculations subject to the limitation that CCC will not reimburse any portion of air travel in excess of the full fare economy rate or when the participant fails to notify the Attache/Counselor in the destination country in advance of the travel unless the Deputy Administrator determines its was impractical to provide such notification;

* * * * *

(25) Travel expenditures associated with trade shows, seminars, and educational training conducted in the United States; and

* * * * *

(d) * * *

(3) The design and production of packaging, labeling or origin identification, except as described in paragraph (b)(11) of this section.

* * * * *

(h) * * *

(3) All expenditures were made for the activity within 6 months following the end of the activity plan year.

6. Section 1485.20 is amended by revising paragraph (a)(3)(vi) to read as follows:

§ 1485.20 Financial management, reports, evaluations and appeals.

(a) * * *

(3) * * *

(vi) Documentation with accompanying English translation supporting each reimbursement claim, including original evidence to support the financial transactions such as canceled checks, receipted paid bills, contracts or purchase orders, per diem calculations, travel vouchers, and credit memos; and

* * * * *

7. Section 1485.21 is revised to read as follows:

§ 1485.21 Failure to make required contribution.

An MAP participant's contribution requirement will be specified in the MAP allocation letter and the activity plan approval letter. The amount specified will be the amount of contribution to be furnished by the applicant and other sources as directed in the participant's application. The MAP participants shall pay CCC in dollars the difference between the amount actually contributed and the amount specified in the allocation approval letter. An MAP participant shall remit such payment within 90 days after the end of its activity plan year.

Signed at Washington, DC, on May 11, 1998.

Lon Hatamiya,

Adminstrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 98–14522 Filed 6–1–98; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF ENERGY

10 CFR Part 600

RIN 1991–AB4I

Assistance Regulations: Technical Amendment

AGENCY: Department of Energy (DOE).

ACTION: Final rule; Technical amendment.

SUMMARY: The Department of Energy is amending the Department of Energy Assistance Regulations, 10 CFR Part 600, to remove provisions dealing with the audit of State and local government recipients of financial assistance that were rendered obsolete by a common rule published on August 29, 1997 (62 FR 45937). The common rule, which DOE incorporated through an amendment to Part 600, implements the Single Audit Act Amendments of 1996 and subsequent revisions to the Office of Management and Budget (OMB) Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

EFFECTIVE DATE: This final rule will be effective June 2, 1998.

FOR FURTHER INFORMATION CONTACT: Richard Langston, Department of Energy, Office of Procurement and Assistance Policy, HR–51, 1000 Independence Ave. SW., Washington, D.C. 20585–0705, (202) 586–8247.

SUPPLEMENTARY INFORMATION:

I. Explanation of Revisions.
II. Procedural Requirements.
A. Review Under Executive Order 12612.
B. Review Under Executive Order 12866.
C. Review Under Executive Order 12988.
D. Review Under the National Environmental Policy Act.
E. Review Under the Paperwork Reduction Act.
F. Review Under the Regulatory Flexibility Act.
G. Review Under the Small Business Regulatory Enforcement Fairness Act.
H. Review Under the Unfunded Mandates Act.

I. Explanation of Revisions

The Department of Energy Assistance Regulations, 10 CFR part 600, Subpart E—Audits of State and Local Governments, implemented the Single Audit Act of 1984 and OMB Circular A–128, Single Audits of State and Local Governments. The Single Audit Act Amendments of 1996 (Pub. L. 104–156, 110 Stat. 1396) and the June 24, 1997, revision of OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations,'' (62 FR 35278), required agencies to adopt the standards in revised Circular A–133 by August 29, 1997, so that they would apply to audits of fiscal years beginning after June 30, 1996. Agencies, including DOE, promulgated a common rule on August 29, 1997 (62 FR 45937) to codify the new requirements. DOE accomplished this, for state and local governments, by amending 10 CFR 600.226 (Subpart C—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). As a consequence of these changes, existing Subpart E was rendered obsolete. This final rule removes 10 CFR part 600, Subpart E, from the Code of Federal Regulations.

II. Procedural Requirements

A. Review Under Executive Order 12612

Executive Order 12612, entitled ''Federalism,'' 52 FR 41685 (October 30,1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

B. Review Under Executive Order 12866

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

C. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7,1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4)

specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in right of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the regulations meet the relevant standards of Executive Order 12988.

D. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*). Pursuant to Appendix A of Subpart D of 10 CFR 1021, National Environmental Policy Act Implementing Procedures (Categorical Exclusion A6), DOE has determined that this rule is categorically excluded from the need to prepare an environmental impact statement or environmental assessment because it is strictly procedural.

E. Review Under the Paperwork Reduction Act

No new information collection or record keeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

F. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, directs agencies to prepare a regulatory flexibility analysis whenever an agency is required to publish a general notice of proposed rulemaking for a rule. The Department is not required to publish a general notice of proposed rulemaking for this technical amendment of 10 CFR Part 600, which is a matter relating to financial assistance or grants, 5 U.S.C. 553(a)(2). Therefore, DOE has not prepared a regulatory flexibility analysis for this final rule.

G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of the rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(3).

H. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a detailed assessment of costs and benefits of any rule imposing a Federal mandate with costs to State, local or tribal governments, or to the private sector, of $100 million or more. The Department has determined that this rulemaking does not impose a Federal mandate on State, local, or tribal governments or on the private sector.

List of Subjects in 10 CFR Part 600

Accounting, Administrative practice and procedure, Grant programs, Loan programs, Penalties, Reporting and recordkeeping requirements.

Issued in Washington, D.C. on May 27, 1998.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set forth in the preamble, Part 600 of Title 10 of the Code of Federal Regulations, is amended as set forth below.

PART 600—[AMENDED]

1. The authority citation for part 600 continues to read as follows:

Authority: 42 U.S.C. 7254, 7256, 13525; 31 U.S.C. 6301–6308, unless otherwise noted.

Subpart E—Audits of State and Local Governments

Subpart E—[Removed and Reserved]

2. Subpart E, consisting of Sections 600.400 through 600.417, is removed and reserved.

[FR Doc. 98–14530 Filed 6–1–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–17]

Establishment of Class E Airspace; Stevensville, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E Airspace at Stevensville, MT. The establishment of Class E airspace is necessary for the development of a new Standard Instrument Approach Procedure (SIAP) utilizing the Global Positioning System (GPS) at the Stevensville Airport, Stevensville, MT. Controlled airspace extending upward from 700 feet above ground level (AGL) is needed to accommodate this SIAP and for Instrument Flight Rules (IFR) operations to the airport. The area would be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 97–ANM–17, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On February 25, 1998, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by establishing the Stevensville, MT, Class E airspace area (63 FR 9461). The proposal provided the airspace necessary to encompass a GPS SIAP for the Stevensville Airport, Stevensville, MT. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, 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 14 CFR part 71 establishes Class E airspace at Stevensville, MT. This rule provides the airspace necessary to fully encompass the transitions for the GPS–A SIAP to the Stevensville, Airport, Stevensville, MT. This is accomplished by establishing a 700-foot Class E area around the airport, with an extension to the northwest and an extension to the southeast. The establishment of this airspace is necessary to meet criteria for aircraft transitioning between the terminal and en route environments. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to

promote safe flight operations under IFR at the Stevensville Airport and between the terminal and en route transition stages.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ANM MT E5 Stevensville, MT [New]

Stevensville Airport, MT
(Lat. 46°31′30″ N, long. 114°03′04″ W)

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at lat. 46°46′00″ N, long. 114°07′00″ W; to lat. 46°46′00″ N, long. 113°58′00″ W; to lat. 46°40′00″ N, long. 113°50′00″ W; to lat. 46°30′00″ N, long. 113°50′00″ W; to lat. 46°24′00″ N, long. 113°58′00″ W; to lat. 46°24′00″ N, long. 114°10′00″ W; to lat. 46°40′00″ N, long. 114°10′00″ W; thence to point of beginning, excluding that portion within the Missoula, MT Class E airspace area.

* * * * *

Issued in Seattle, Washington, on May 21, 1998.

Joe E. Gingles,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–14540 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–21]

Amendment of Class E Airspace; Cedar City, UT

AGENCY: Fedral Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Cedar City, UT, Class E airspace by providing additional controlled airspace to accommodate the development of new and revised Standard Instrument Approach Procedures (SIAP) at Cedar City Regional Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 97–ANM–21, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number; (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On March 17, 1998, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by revising the Cedar City, UT, Class E airspace area (63 FR 13015). This revision provides the additional airspace necessary to encompass new and revised SIAP for the Cedar City Regional Airport, Cedar City, UT. This action also corrects the coordinates for the Cedar City Regional Airport which were updated since the proposal and are corrected herein. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, 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 14 CFR part 71 modifies Class E airspace at Cedar City, UT, by providing the additional airspace necessary to fully contain new and revised flight procedures at Cedar City Regional Airport. This modification of airspace allows the missed approach, the holding procedure, and the transition procedure for the new or revised SIAP to be fully encompassed within controlled airspace. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Cedar City Regional Airport and between the terminal and en route transition stages.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 72 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ANM UT E5 Cedar City, UT [Revised]

Cedar City Regional Airport, UT
(Lat. 37°42′03″ N, long. 113°05′55″ W)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 38°03′00″ N, long. 113°13′30″ W; to lat. 38°05′30″ N, long.112°58′30″ W; to lat. 37°58′30″ N, long. 112°45′30″ W; to lat 35°45′00″ N, long. 112°56′45″ W; to lat. 37°47′30″ N, long. 113°15′30″ W; thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 38°00′00″ N, long. 113°45′30″ W; to lat. 38°19′00″ N, long. 112°51′30″ W; to lat. 37°58′30″ N, long. 112°45′30″ W; to lat. 37°37′00″ N, long. 112°56′30″ W; to lat. 37°38′15″ N, long. 113°22′18″ W; thence to point of beginning, excluding Federal airways, the Milford, UT, and the St. George, UT, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, on May 21, 1998.

Joe E. Gingles,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–14539 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ANM–02]

Amendment of Class E Airspace; Cortez, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Cortez, CO, Class E airspace by providing additional controlled airspace to accommodate the development of new Standard Instrument Approach Procedures (SIAP) at Cortez Municipal Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 98–ANM–02, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On March 30, 1998, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by revising the Cortez, CO, Class E airspace area (63 FR 15111). This revision provides the additional airspace necessary to encompass two new SIAP's for the Cortez Municipal Airport, Cortez, CO. This action also makes two corrections. The first is the Cortez Airport VOR coordinates, which were updated since the proposal and are corrected herein. The other correction is the deletion of a coordinate which was inadvertently added to the legal description in the proposal and is corrected herein. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for the airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.7. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Cortez, CO, by providing the additional airspace necessary to fully contain two new flight procedures at Cortez Municipal Airport. This modification of airspace allows the holding patterns, and the transition procedure for the new SIAP's, to be fully encompassed within controlled airspace. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Cortez Municipal Airport and between the terminal and en route transition stages.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ANM CO E5 Cortez, CO [Revised]

Cortez Municipal Airport, CO
(Lat. 37°18′11″ N, long. 108°37′41″ W)
Cortez VOR/DME
(Lat. 37°23′24″ N, long. 108°33′42″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Cortez Municipal Airport, and within 3.1 miles each side of the Cortez VOR/DME 184° and 004° radials extending from the 7-mile radius to 10.1 miles north of the VOR/DME; that airspace extending upward from 1,200 feet above the surface beginning at lat. 36°34′50″ N, long. 109°00′00″ W; to lat. 36°51′00″ N, long. 108°59′00″ W; to lat. 37°04′00″ N, long. 108°57′00″ W; to lat. 37°16′00″ N, long. 108°50′00″ W; to lat. 37°30′00″ N, long. 109°03′00″ W; to lat. 37°47′00″ N, long. 109°03′00″ W; to lat. 37°52′00″ N, long. 108′52°00″ W; to lat. 38°02′00″ N, long. 108°33′00″ W; to lat. 38°00′00″ N., long. 108°19′00″ W; to lat. 37°16′00″ N, long. 108°22′00″ W; to lat. 36°49′00″ N, long. 107°57′00″ W; to lat. 36°36′00″ N, long. 108°06′00″ W; to lat. 36°52′00″ N, long. 108°38′00″ W; to lat.

36°31′00″ N, long. 108°35′00″ W; thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on May 21, 1998.

Joe E. Gingles,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–14538 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 2

[Docket No. 980515130–8130–01]

RIN 0690–AA29

Procedures for Handling and Settlement of Claims Under the Federal Tort Claims Act

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is amending its procedures for handling and settlement of claims under the Federal Tort Claims Act. The amendments will bring the regulations into conformity with present practice and statutory and organizational changes that have taken place since the regulations were previously amended in 1983.

EFFECTIVE DATE: June 2, 1998.

FOR FURTHER INFORMATION CONTACT: Donald Reed or M. Timothy Conner at 202–482–1067.

SUPPLEMENTARY INFORMATION: On March 7, 1967, the Department of Commerce (DOC) published procedures in accordance with the Attorney General's regulations at 28 CFR Part 14 which apply to claims asserted under the Federal Tort Claims Act. The DOC regulations delegated authority to settle or deny claims to the General Counsel and established procedures for the administrative adjudication of such claims. When the DOC regulations were issued, the Assistant General Counsel for Administration was responsible for all procedures concerning such claims. The Assistant General Counsel for Finance and Litigation now has this responsibility. In addition, paragraph (d) of section 2.2 is removed to make the regulations consistent with amendments made by Pub. L. 100–694 to the Federal Tort Claims Act. These amendments, at Section 2679, provided that employees acting within the scope of their employment have full personal immunity from all common law torts, not just motor vehicle accidents. Paragraph (f) of section 2.2 is removed because it is outdated and no longer necessary, and Section 2.7 is removed because an annual report is no longer a Departmental requirement.

Rulemaking Requirements

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule of agency organization, procedure and practice is exempt from all requirements of section 553 of the Administrative Procedure Act (5 U.S.C. 553), including the requirements of notice and comment and delayed effective date. Because a notice of proposed rulemaking is not required by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

This rule does not contain information collection requirements subject to the procedures of the Paperwork Reduction Act.

List of Subjects in 15 CFR Part 2

Administrative practice and procedure, Claims, Law.

For the reasons set forth in the preamble, 15 CFR Part 2 is amended as follows:

PART 2—PROCEDURES FOR HANDLING AND SETTLEMENT OF CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT

1. The authority for 15 CFR part 2 is revised to read as follows:

Authority: 28 U.S.C. 2672.

§ 2.2 [Amended]

2. In § 2.2, remove paragraphs (d) and (f) and redesignate paragraph (e) as (d) and (g) as (e), respectively.

§ 2.4 [Amended]

3. In § 2.4, in paragraphs (b) and (c) remove the word ''Administration'' and add in its place ''Finance and Litigation''.

§ 2.5 [Amended]

4. In § 2.5, in paragraphs (a) and (b) remove the word ''Administration'' and add in its place ''Finance and Litigation''.

§ 2.7 [Amended]

5. Remove § 2.7 and redesignate §2.8 as §2.7.

6. In the newly redesignated § 2.7, in paragraphs (a) and (b) remove the word ''Administration'' and add in its place ''Finance and Litigation''.

7. In addition to the amendments set forth above, in the newly redesignated § 2.7, in paragraph (a) remove the word ''he'' and add in its place ''he/she''.

8. In addition to the amendments set forth above, in the newly redesignated § 2.7, in paragraph (b) remove the word ''his'' and add in its place ''his/her''.

Dated: May 22, 1998.

Alden Abbott,

Assistant General Counsel for Finance and Litigation.

[FR Doc. 98–14505 Filed 6–1–98; 8:45 am]

BILLING CODE 3510–BW–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

15 CFR Part 2013

Developing and Least-Developed Country Designations under the Countervailing Duty Law

AGENCY: Office of the United States Trade Representative.

ACTION: Interim Final Rule and Request for Comments.

SUMMARY: This rule designates a list of members of the World Trade Organization (''WTO'') that are eligible for special *de minimis* countervailable subsidy and negligible import volume standards under the countervailing duty law.

DATES: This rule is effective June 2, 1998. Comments on the Interim Final Rule should be submitted by July 31, 1998.

ADDRESSES: Comments may be submitted to William D. Hunter, Office of General Counsel, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508. Attn: Eligible Country List.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, (202) 395–3582, whunter@ustr.gov.

SUPPLEMENTARY INFORMATION:

General Background

In the Uruguay Round Agreements Act (''URAA''), Pub. L. No. 103–465, Congress amended the countervailing duty (''CVD'') law to conform to U.S. obligations under the Agreement on Subsidies and Countervailing Measures (''SCM Agreement'') administered by the WTO. Under the SCM Agreement, WTO members that have not yet reached the status of a developed country are entitled to special treatment for purposes of countervailing measures. Specifically, imports from such Members are subject to different standards for purposes of determining whether countervailable subsidies are *de minimis* and whether import volumes are negligible.

Under section 771(36) of the Tariff Act of 1930, as amended (''the Act''), 19

U.S.C. 1677(36), Congress delegated to the United States Trade Representative (''USTR'') the responsibility for designating those WTO members whose imports are subject to these special standards. In addition, section 771(36)(D) requires USTR to publish a list of such designations (hereinafter referred to as ''the list''), updated as necessary, in the **Federal Register**. The list that is set forth and described below implements the requirements of section 771(36)(D).

Explanation of the List

Introduction

For purposes of countervailing measures, the SCM Agreement extends special and differential treatment to developing and least-developed members in the following manner:

- De Minimis Thresholds: Under Article 11.9, authorities must terminate a countervailing duty (''CVD'') investigation if the amount of the subsidy is *de minimis*, which normally is defined as less than 1 percent ad valorem. Under Article 27.10(a), however, for a developing member the *de minimis* standard is 2 percent or less. In addition, under Article 27.11, the *de minimis* standard is 3 percent or less for (a) a least-developed member; or (b) a developing member that has eliminated its export subsidies prior to the expiry of the 8-year phase-out period provided for in Article 27.4
- Negligible Import Volumes: Under Article 11.9, authorities must terminate a CVD investigation if the volume of subsidized imports from a country is negligible. Under the CVD law, imports from an individual country normally are considered negligible if they are less than 3 percent of total imports of a product into the United States. Imports are not considered negligible if the aggregate volume of imports from all countries whose individual volumes are less than 3 percent exceeds 7 percent of all such merchandise. However, under Article 27.10(b), imports from a developing or least-developed member are considered negligible if the import volume is less than 4 percent of total imports, unless the aggregate volume of imports from countries whose individual volumes are less than 4 percent exceeds 9 percent.

In the URAA, Congress incorporated these standards into the CVD law. Section 703(b)(4)(B)-(D) of the Act, 19 U.S.C. 1671b(b)(4)(B)(-(D), incorporates the *de minimis* standards, while section 771(24)(B), 19 U.S.C. 1677(24)(B), incorporates the negligible import standards. However, in the statute itself, Congress did not identify by name those WTO members eligible for such special treatment. Instead, section 267 of the URAA added section 771(36) to the Act, which delegates to USTR the responsibility for designating those WTO members subject to special *de minimis* and negligible import volume standards. In addition, section 771(36) requires USTR to publish in the **Federal Register,** and update as necessary, a list of those members designated by USTR as eligible for special treatment under the CVD law.

The effect of these designations is limited to Title VII of the Act. Specifically, section 771(36)(E) of the Act provides that the fact that a WTO member is designated in the list as developing or least-developed has no effect on how that member may be classified with respect to any other law.

Data Sources

In making the designations set forth in the list, USTR relied on data on per capita gross national product (GNP) and certain social development indicators contained in the World Bank's Selected World Development Indicators, and on trade data contained in the International Monetary Fund's *Direction of Trade Statistics.*

Designation of TWO Members Eligible for 3 Percent *De Minimis* Standard [1]

Section 771(36)(B) of the Act describes those WTO members eligible for a 3 percent *de minimis* standard by incorporating the standards contained in Annex VII to the SCM Agreement. Annex VII provides that the following categories of members are eligible for a 3 percent *de minimis* standard:

- WTO members designated as least-developed countries by the United Nations (Annex VII(a)); and
- A WTO member named in Annex VII(b), provided its per capita GNP has not reached $1,000 per annum.

Applying Annex VII, the following WTO members are eligible for a 3 percent *de minimis* standard:

TABLE 1

Column A WTO Members Included in the UN's List of ''The 48 Least Developed Countries'' [1]		Column B WTO Members Included In Annex VII(b) with per capita GNP of less than $1,000 [2]	
Angola	Maldives	Bolivia	$800
Bangladesh	Mali	Cameroon	650
Benin	Mauritania	Congo	680
Burkina Faso	Mozambique	Côte d'Ivoire	660
Burma	Niger	Egypt	790
Burundi	Rwanda	Ghana	390
Central African Republic	Sierra Leone	Guyana	590
Chad	Solomon Islands	India	340
Djibouti	Tanzania	Indonesia	980
Gambia	Togo	Kenya	280
Guinea	Uganada	Nicaragua	380
Guinea-Bisseau	Zambia	Nigeria	260
Haiti	Dem. Rep. of the Congo	Pakistan	460
Lesotho		Senegal	600
Madagascar		Sri Lanka	700
Malawi		Zimbabwe	540

[1] *United Nations Statistical Yearbook: Forty-First Issue,* pp. 869–870 (1996), referring to General Assembly Resolution 49/133.
[2] *Selected World Development Indicators (1997), <http://www.worldbank.org/html/iecdd/wdipdf.htm≤*

[1] The discussions in this section and in the following section address the 2 and 3 percent *de minimis* standards only. However, a WTO member that is eligible for either the 2 or 3 percent *de minimis* standard also is eligible for the special negligible import standard under section 771(24)(B) of the Act.

In addition to those WTO members described in Annex VII to the SCM Agreement, under section 703(b)(4)(C)(ii) of the Act, if USTR notifies the Department of Commerce that a developing member has eliminated its export subsidies on an expedited basis, that member is eligible for the 3 percent *de minimis* standard. Under section 771(36)(C)(i), the list must identify any such members. Currently, no developing member of the WTO meets this criterion. Therefore, no such member is included in the list on the basis of that section.

Designation of WTO Members Eligible for 2 Percent De Minimis Standard

Introduction

Based on section 771(36)(D) of the Act, in determining which WTO members should be considered as developing and, thus, eligible for the 2 percent *de minimis* standard, USTR has considered appropriate economic, trade and other factors, including the level of economic development of a country (based on a review of the country's per capita GNP) and a country's share of world trade. USTR developed the list of members eligible for the 2 percent *de minimis* standard based primarily on per capita GNP due to the availability of reliable indices, with share of world trade and other factors used as supplemental analytical tools in determining whether a particular member should be moved from one GNP-based classification to another.

Per Capita GNP

In developing its interim final list, USTR relied on the World Bank's dividing line separating ''high income'' countries from those with lower per capita GNPs.[4] This means that WTO members with per capita GNP's below $9,386 were treated as eligible for the 2 percent *de minimis* standard, subject to possible change based on other factors as discussed below. The advantages of this approach are that it (1) is straightforward to apply; (2) is based on a recognized GNP dividing line between developed and developing countries for purposes of the world's primary multilateral lending institution; and (3) conforms to the test for beneficiary developing country status set out in the U.S. Generalized System of Preferences statute, section 502(e) of the Trade Act of 1974.

Share of World Trade

USTR considered whether any of the countries with per capita GNPs below $9,386 account for a significant share of world trade and, thus, should be treated as ineligible for the 2 percent *de minimis* standard. USTR considered a share of world trade of 2 percent or more to be ''significant'' for these purposes because the Administration committed in the Statement of Administration Action (''SAA'') approved by the Congress along with the URAA that Hong Kong, Korea, and Singapore would be ineligible for developing country treatment, and each of these countries accounts for a share of world trade in excess of 2 percent.

There are no current WTO members with per capita GNPs close to $9,386 that account for a share of world trade above 2 percent. Accordingly, while USTR finds that share of world trade is a relevant factor to consider, at present this factor does not warrant any changes to the designations based on per capita GNP.

Social Development Indicators

Because the URAA and the SAA do not limit USTR to an analysis of per capita GNP and world trade shares, USTR also took into account the social development indicators of infant mortality rates, adult illiteracy rates, and life expectancy at birth, as reported in *Selected World Development Indicators (1997).* However, in the case of those WTO members with per capita GNPs below $9,386, these social development indicators do not provide a sufficient basis for finding such members to be ineligible for the 2 percent *de minimis* standard.

Other Factors

Section 771(36)(D) contemplates that USTR may consider additional factors. To that end, for purposes of this interim final list, USTR took into account membership in the European Union (''EU''). Membership in the EU indicates a relatively high level of economic development. In addition, under section 771(3) of the Act, the EU may be treated as a single country for purposes of the CVD law and, while not common, there have been CVD investigations against merchandise from the ''European Communities.'' Because the EU is indisputably ineligible for the 2 percent *de minimis* standard, it would be anomalous to treat an individual EU member as eligible for that standard. Accordingly, USTR has concluded that all EU members be designated as developed for CVD purposes. Thus, Greece is ineligible for the 2 percent *de minimis* standard, notwithstanding the fact that, based on the most recent World Bank data, Greece's per capita GNP is below $9,386.

USTR also took into account OECD membership. The characterization of the OECD as a grouping of developed countries has been confirmed throughout its existence in a number of published OECD documents, and the OECD consistently has been viewed as, and acts itself in the capacity of, the principal organization developed economies worldwide. Thus, by joining the OECD, a country effectively has declared itself to be developed. Consistent with this self-designation, USTR has determined that an OECD member should not be eligible for the 2 percent *de minimis* standard.

Furthermore, USTR has not included in this interim final list WTO members that in the past have been (or could have been) considered as nonmarket economy countries not subject to the CVD law. Because there are no pending CVD investigations involving any of these members, USTR has not designated such countries at this time.

Immediate Effect and Request for Comments

USTR has determined that there is good cause for the publication of this rule with an immediate effective date and without prior notice and comment. Publication of the rule implements treaty obligations of the United States under the Marrakesh Agreement Establishing the WTO. Delay in the effective date of the rule may adversely affect the trade relations of the United States with countries subject to designation under this section. In addition, the absence of a rule designating countries under the URAA may prevent another Federal agency from being able to timely adjudicate one or more pending CVD proceedings on its docket. Due to these factors, and because prior notice and other public procedures with respect to this action are impracticable, USTR finds good cause under 5 U.S.C. 553 to make the rule effective upon publication in the **Federal Register**.

Because this action is in the form of an interim final rule, comments are invited on the rule. Interested persons are invited to comment on this rule by submitting such written comments by July 31, 1998. Each person submitting a comment should include his or her name and address, and give reasons for any recommendations. After the comment period closes, USTR will publish in the **Federal Register** a final rule on this subject, together with a discussion of comments received and any amendments made to the interim rule as a result of the comments.

To simplify the processing and consideration of comments, commenters

[4] The most recent World Bank data set this dividing line at $9,386.

are encouraged to submit documents in electronic form accompanied by an original and two paper copies. All documents submitted in electronic form should be on DOS formatted 3.5″ diskettes, and should be prepared in either WordPerfect format or a format that the WordPerfect program can convert and import into WordPerfect.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), USTR certifies that this regulation will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Executive Order 12866

This rule has been and reviewed by the Office of Management and Budget in accordance with Executive Order 12866, Sec. 1(b), Principles of Regulation.

Executive Order 12612

This notice does not contain federalism implications described in Executive Order 12612 warranting the preparation of a Federalism Assessment.

Small Business Regulatory Enforcement Fairness Act of 1996

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

List of Subjects in 15 CFR Part 2013

Countervailing duties, Foreign trade, Imports

Dated: May 29, 1998.

Charlene Barshefsky.

United States Trade Representative.

For the reasons stated, a new Part 2013 is added to 15 CFR Chapter XX to read as follows:

PART 2013 DEVELOPING AND LEAST—DEVELOPING COUNTRY DESIGNATIONS UNDER THE COUNTERVAILING DUTY LAW

Authority: Section 267, Pub. L. 103–465; 108 Stat. 4915 (19 U.S.C. 1677(36))

§ 2013.1 Designations.

In accordance with section 771(36) of the Tariff Act of 1930, as amended, 19 U.S.C. 1677(36), imports from members of the World Trade organization are subject to *de minimis* standards and negligible import standards as set forth in the following list:

De Minimis=3%; Negligible Imports=4%; Section 771(36)(B):

Angola
Bangladesh
Benin
Bolivia
Burkina Faso
Burma
Burundi
Cameroon
Cent. Afr. Rep.
Chad
Congo
Côte d'Ivoire
Dem. Rep. of the Congo
Djibouti
Egypt
Gambia
Ghana
Guinea
Guinea-Bissau
Guyana
Haiti
India
Indonesia
Kenya
Lesotho
Madagascar
Malawi
Maldives
Mali
Mauritania
Mozambique
Nicaragua
Niger
Nigeria
Pakistan
Rwanda
Senegal
Sierra Leone
Solomon Isl.
Sri Lanka
Tanzania
Togo
Uganda
Zambia
Zimbabwe

De Minimus=2%; Negligible Imports=4%; Section 771(36)(A):

Antigua & Barbuda
Argentina
Bahrain
Barbados
Belize
Botswana
Brazil
Chile
Colombia
Costa Rica
Dominica
Dominican Republic
Ecuador
El Salvador
Fiji
Gabon
Grenada
Guatemala
Honduras
Jamaica
Malaysia
Malta
Mauritius
Morocco
Namibia
Panama
Papua New Guinea
Paraguay
Peru
Philippines
South Africa
St. Kitts & Nevis
St. Lucia
St. Vincent & Grenadines
Slovenia
Suriname
Swaziland
Thailand
Tunisia
Trinidad & Tobago
Uruguay
Venezuela

De Minimis=1%; Negligible Imports=3%:

Australia
Austria
Belgium
Brunei
Canada
Cyprus
Denmark
European Communities
Finland
France
Germany
Greece
Hong Kong
Iceland
Ireland
Israel
Italy
Japan
Korea
Kuwait
Liechtenstein
Luxembourg
Macao
Mexico
Netherlands
New Zealand
Norway
Portugal
Qatar
Singapore
Spain
Sweden
Switzerland
Turkey
United Arab Emirates
United Kingdom

[FR Doc. 98–14737 Filed 5–29–98; 2:48 pm]

BILLING CODE 3190–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Final Rule: Requirements for Child-Resistant Packaging; Household Products With More Than 50 mg of Elemental Fluoride and More Than 0.5 Percent Elemental Fluoride; and Modification of Exemption for Oral Prescription Drugs with Sodium Fluoride

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is issuing a rule to require child-resistant (''CR'') packaging for household products containing more than the equivalent of 50 mg of elemental fluoride *and* more than the equivalent of 0.5 percent elemental fluoride (on a weight-to-volume (''w/v'') or weight-to-weight (''w/w'') basis). For consistency, the Commission is also modifying the oral prescription drug exemption for sodium fluoride preparations. Instead of exempting drugs with no more than 264 mg of sodium fluoride per package as the current rule does, the Commission will exempt such drugs with either 50 mg or less of the equivalent of elemental fluoride (110 mg or less of sodium fluoride) per package or no more than the equivalent of 0.5 percent elemental fluoride on a w/v or w/w basis. The Commission determines that child-resistant packaging is necessary to protect children under 5 years of age from serious personal injury and serious illness resulting from handling or ingesting a toxic amount of elemental fluoride. The Commission takes this action under the authority of the Poison Prevention Packaging Act of 1970.

DATES: The rule will become effective on March 2, 1999, and applies to products packaged on or after that date.

FOR FURTHER INFORMATION CONTACT: Laura Washburn, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0400 ext. 1452.

SUPPLEMENTARY INFORMATION:

A. Background

1. Household Products Containing Fluoride

Fluorides are ingredients in such household products as cleaning solutions for metal, tile, brick, cement, wheels, radiators, siding, toilets, ovens and drains. Fluorides are also found in rust and water stain removers, silver solder and other welding fluxes, etching compounds, laundry sour, air conditioner coil cleaners and floor polishes. The fluorides that may be ingredients in these products and are potentially toxic are hydrofluoric acid (''HF''), ammonium bifluoride, ammonium fluoride, potassium bifluoride, sodium bifluoride, sodium fluoride and sodium fluosilicate.[1][1&3] [2]

Many dental products also contain fluorides, but at lower levels. In general, the concentrations of elemental fluoride in household cleaners and surface preparation agents are 10 to 1,000-fold higher than concentrations found in dental products.[2]

2. Relevant Statutory and Regulatory Provisions

The Poison Prevention Packaging Act of 1970 (''PPPA''), 15 U.S.C. 1471–1476, authorizes the Commission to establish standards for the ''special packaging'' of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance.

Special packaging, also referred to as ''child-resistant (CR) packaging,'' is (1) designed or constructed to be significantly difficult for children under 5 years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for ''normal adults'' to use properly. 15 U.S.C. 1471(4). Household substances for which the Commission may require CR packaging include (among other categories) foods, drugs, or cosmetics as these terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). 15 U.S.C. 1471(2)(B). The Commission has performance requirements for special packaging. 16 CFR 1700.15, 1700.20.

Section 4(a) of the PPPA, 15 U.S.C. 1473(a), allows the manufacturer or packer to package a nonprescription product subject to special packaging standards in one size of non-CR packaging only if the manufacturer (or packer) also supplies the substance in CR packages of a popular size, and the non-CR packages bear conspicuous labeling stating: ''This package for households without young children.'' 15 U.S.C. 1473(a), 16 CFR 1700.5.

3. Existing PPPA Requirements for Fluoride-Containing Products

The Commission currently requires CR packaging for oral prescription drugs with fluoride, but it exempts those in liquid or tablet form that contain no more than 264 mg of sodium fluoride (equivalent to 120 mg fluoride) per package. 16 CFR 1700.14(10)(vii). The Commission based this exemption level on the lack of serious adverse human experience associated with such drugs at that time and a recommendation by the American Dental Association that no more than 264 mg of sodium fluoride should be dispensed at one time. 45 FR 78630. As discussed below, the Commission is revising the exemption to a new level that is based on current information concerning the toxicity of fluoride and is consistent with the CR requirement for fluoride-containing household products.

4. The Proposed Rule

On November 20, 1997, the Commission issued a notice of proposed rulemaking (''NPR'') that would require CR packaging for household products containing more than the equivalent of 50 mg of elemental fluoride and more than the equivalent of 0.5 percent elemental fluoride (w/v or w/w). The Commission also proposed to adjust the oral prescription drug exemption so that it would be consistent. 62 FR 61928. The Commission received four comments in response to the proposed rule.

One commenter noted that the language of the revised exemption needed to be clarified. The Commission intended that products satisfying either one of the criteria specified would qualify for the exemption. Accordingly, the Commission has clarified the final rule so that it exempts sodium fluoride drug preparations that contain no more than 50 mg of the equivalent of elemental fluoride (110 mg or less of sodium fluoride) per package *or* no more than the equivalent of 0.5 percent elemental fluoride on a w/w or w/v basis.

The Commission received a letter from the American Dental Association stating that it does not object to the proposed rule. The third comment came from the Art and Creative Materials Institute, a non-profit association of manufacturers of art and creative materials, expressing support for the

[1] The percentage of elemental fluoride in any compound is determined by dividing the molecular weight of fluoride (~619 grams/mole) by the molecular weight of the compound (e.g., the molecular weight of sodium fluoride = 42 grams/mole). Sodium fluoride contains 45% elemental fluoride ($^{19}/_{42} \times 100 = 45\%$).

[2] Numbers in brackets refer to documents listed at the end of this notice.

proposed rule. The Chemical Manufacturers Association also commented in support of the proposed rule.

B. Toxicity of Fluoride

Most available toxicity information on fluoride relates to acute toxicity of hydrofluoric acid (''HF''). However, other water soluble fluoride-containing compounds can cause fluoride poisoning. The fluoride ion is systemically absorbed almost immediately. It is highly penetrating and reactive and can cause both systemic poisoning and tissue destruction. Fluoride ions, once separated from either HF or fluoride salts, penetrate deep into tissues, causing burning at sites deeper than the original exposure site. The process of tissue destruction can continue for days.[2]

Fluoride absorption can produce hyperkalemia (elevated serum potassium), hypocalcemia (lowered serum calcium), hypomagnesemia (lowered serum magnesium), and metabolic and respiratory acidosis. These disturbances can then bring on cardiac arrhythmia, respiratory stimulation followed by respiratory depression, muscle spasms, convulsions, central nervous system (''CNS'') depression, possible respiratory paralysis or cardiac failure, and death. Fluoride may also inhibit cellular respiration and glycolysis, alter membrane permeability and excitability, and cause neurotoxic and adverse GI effects.[2]

When exposure is through inhalation, fluorides can cause severe chemical burns to the respiratory system. Inhalation can result in difficulty breathing (dyspnea), bronchospasms, chemical pneumonitis, pulmonary edema, airway obstruction, and tracheobronchitis. The severity of burns from dermal absorption can vary depending on the concentration of fluoride available, duration of the exposure, the surface area exposed, and the penetrability of the exposed tissue. Ocular exposure can result in serious eye injury.[2]

Ingestion of fluoride can result in mild to severe GI symptoms. Reports suggest that ingesting 3 to 5 milligrams of fluoride per kilogram of body weight (mg/kg) causes vomiting, diarrhea, and abdominal pain. Ingestion of more than 5 mg/kg may produce systemic toxicity. A retrospective poison control center study of fluoride ingestions reported that symptoms, primarily safely tolerated GI symptoms that tended to resolve within 24 hours, developed following ingestions of 4 to 8.4 mg/kg of fluoride.[2] According to the medical literature, a safely tolerated dose (''STD'') and a certainly lethal dose (''CLD'') were determined from 600 fluoride poisoning deaths. The CLD was determined to be 32 to 64 mg/kg and the STD was estimated at one fourth that, or 8 to 16 mg/kg. These values were statistically determined and are not identical to the actual lowest toxic or lethal levels of fluoride. The lowest documented lethal dose for fluoride is 16 mg/kg in a 3-year-old child. There were complicating factors in this death. The child may have taken other medications and he suffered from Crohn's disease (an inflammatory disorder of the GI tract) that may have contributed to his death.[2]

C. Injury Data

Medical Literature. There are many reports in the medical literature of deaths and injuries involving fluoride-containing products. A retrospective study conducted by the American Association of Poison Control Centers (''AAPCC'') of hydrofluoric acid burns from rust stain removers applied to clothing found 619 such cases in 1990. Five of these required hospitalization.[2] Other reports gathered from the medical literature are discussed in the notice of proposed rulemaking and the accompanying briefing package. 62 FR 61928.

CPSC Databases. CPSC has several databases for poison incidents. The staff reviewed cases from 1988 to May 1997 in the National Electronic Injury Surveillance System (''NEISS''), the Injury or Potential Injury Incident files, Death Certificate (''DCRT'') database, and In-Depth-Investigation (''INDP'') files.

From 1988 to 1996, NEISS had reports of 31 incidents involving products documented to contain fluoride. Two of these were accidental ingestions by children under 5 years old. Most other injuries involved chemical burns of the hands.[2] In addition, 1997 NEISS reports show six adults experienced burns while using fluoride-containing products. In 1997, NEISS had reports of an additional five cases involving children under 5 years old ingesting products containing fluoride. For 1997, NEISS also reported an additional three cases of children under 5 years old involving products that might have contained fluoride.[7]

The INDP files contain numerous injury reports. For example, a 50-year-old woman was using a water stain remover with 6 percent HF when it leaked through her rubber gloves and to her skin. She developed intense pain 4 hours later when the fluoride ion penetrated through to the bones of her forearm. Four months after the incident she had only partial use of her arm and hand. Three reports in the INDP files involve children under 5 years old who died after ingesting fluoride-containing products. A 3-year old child ingested an unknown product with HF. The second case involved a 2-year-old child who ingested a toilet bowl stain remover that contained 15.9 percent ammonium bifluoride. The most recent case was an 18-month-old child who ingested an unknown amount of air conditioner coil cleaner with 8 percent HF and 8 percent phosphoric acid.[2]

Since 1995, there were six reports of fluoride poisoning in children under 5 years of age from a wheel cleaning product. The product contains ammonium bifluoride and ammonium fluoride salts, reportedly containing at least 15 percent fluoride. Before December, 1996, it was marketed for household use in non-CR packaging. Since that date it has been packaged in CR packaging, and in September 1997 it was recalled by the manufacturer.[2]

Three deaths from fluoride-containing products were documented in 1997 after the staff had completed the briefing package for the proposed rule. Two involved children under 5 years old. In one case, a 3-year-old female died from cardiac arrest after ingesting the recalled wheel cleaner described above. The second death involved a 19-month-old female who ingested a rust remover with hydrofluoric acid and ammonium bifluoride. Finally, a 38-year-old male died from cardiac arrest after unintentional ingestion of a rust remover with ammonium bifluoride.[6]

AAPCC Data. The staff reviewed AAPCC ingestion data involving children under 5 years old and products known to, or that may, contain fluoride. (The actual number of fluoride exposures cannot be determined because some products that contain fluoride are not identified as such and therefore may be coded to generic categories such as acidic cleaning products or other unknown cleaning products.) From 1993 to 1995, there were no reported fatalities in this age group. Out of a total of 499 exposures to products known to contain HF, there were 2 major[3] outcomes and 24 moderate[4] outcomes. The AAPCC data

[3] Major outcome—The patient exhibited signs or symptoms which were life-threatening or resulted in significant residual disability or disfigurement.

[4] Moderate outcome—The patient exhibited signs and symptoms that were more pronounced, more prolonged, or more of a systemic nature. Usually some form of treatment was required. Symptoms were not life-threatening and the patient had no residual disability or disfigurement.

also show 23 major outcomes and 188 moderate outcomes for other acid household products. Some of these may have contained fluoride. The frequency of injury for dental treatments was much lower than that for household products containing HF. Of approximately 23,000 exposures to such dental products, there were 34 moderate outcomes, and the only documented major outcome was a miscoded incident where the child experienced an allergic reaction to the product rather than systemic toxicity from an overdose.[2]

The 1996 AAPCC data report 136 exposures to products known to contain HF involving children under 5 years old. Four of these resulted in moderate outcomes. There were no major outcomes or deaths reported with this age group in 1996.[7]

The staff also compiled data from AAPCC annual reports for all ages and all routes of exposure for the years 1985 to 1995. During this time period, there were about 25,000 exposures to products containing HF. Of these, 2,881 resulted in moderate outcomes and 275 in major outcomes. There were also injuries from dental products, fluoride mineral/electrolyte products, and vitamins with fluoride. A total of 18 deaths were reported in the HF category. Two deaths involved children under 5 years old. One ingested an ammonium bifluoride toilet stain remover (described above) and the other child died after ingesting a toilet cleaner with HF. Generally, these AAPCC data suggest that household products with HF pose a more serious risk of injury than other classes of fluoride products. Moderate to serious outcomes developed in 12.8 percent of the exposures to HF compared to only 0.4 percent of the exposures to anticaries products.[2]

The 1996 AAPCC data for all ages and all routes of exposure show that for 1996 there were about 2944 exposures to products containing HF. Of these, 742 resulted in moderate outcomes and 27 in major outcomes. Four deaths were reported involving HF.[7]

D. Level of Regulation for Household Products Containing Fluoride

The Commission is issuing a rule that requires special packaging for household products containing more than the equivalent of 50 mg of elemental fluoride and more than the equivalent of 0.5 percent elemental fluoride on a w/v basis for liquids or a w/w basis for non-liquids.[1,2&5] This is the same level as the Commission proposed.

There is no well defined lethal dose for fluoride. In the medical literature, one source cites a minimum lethal dose in humans of 71 mg/kg and another specifies a lethal oral dose in the range of 70 to 140 mg/kg. The staff considers these values too high based on documented cases of fluoride toxicity. There is one documented death from ingestion of 16 mg/kg fluoride, but as discussed above, other medical factors may have contributed to that death. Most evidence suggests that the lower limit of the calculated CLD of 32 mg/kg is a reasonable estimate for a minimum lethal dose.[2]

Similarly, there is no established toxic dose for fluoride. Generally, greater than 6 percent HF can cause dermal burns and more than 0.5 percent can lead to serious eye injury. Several reports suggest ingestion of 3 to 5 mg/kg produces symptoms and that more than 5 mg/kg (50 mg in a 10 kg child) can produce systemic toxicity. Additionally, some medical professionals advise medical observation following ingestions of more than 5 to 8 mg/kg. Based on this information, the Commission determined a level for regulation that would include all household products with more than 50 mg of elemental fluoride and more than 0.5 percent elemental fluoride on a w/v basis for liquids or a w/w basis for non-liquids. There is no evidence that 50 mg or less of elemental fluoride or concentrations less than 0.5 percent cause serious systemic toxicity or serious burns.[1,2&5]

E. Level of Regulation for Oral Prescription Drugs Containing Sodium Fluoride

Based on the toxicity information discussed above, the Commission believes that the current exemption for oral prescription drugs with no more than 264 mg of sodium fluoride should be modified. To be consistent with the level for household products containing fluoride, the Commission is revising the level for the oral prescription drug exemption to exempt products that have either no more than the equivalent of 50 mg of elemental fluoride (110 mg sodium fluoride) per package or no more than a concentration of 0.5 percent elemental fluoride on a w/v basis for liquids or a w/w basis for non-liquids.[1,2&5]

The Commission does not believe that changing the level of exemption for prescription drugs containing sodium fluoride will impact any of the currently exempted dental products with more than 50 mg of fluoride because these products have 0.5 percent or less fluoride.[1] In its comment, the American Dental Association confirmed this.[5]

F. Statutory Considerations

1. Hazard to Children

As noted above, the toxicity data concerning children's ingestion of fluoride demonstrate that fluoride can cause serious illness and injury to children. Moreover, it is available to children in common household products. Although some products currently use CR packaging, others do not. The Commission concludes that a regulation is needed to ensure that products subject to the regulation will be placed in CR packaging by any current as well as future manufacturers.[1,2&5]

The same hazard posed to children by toxic amounts of fluoride in household products also exists from such levels of fluoride in oral prescription drugs. Therefore, the Commission is modifying the existing exemption for such drugs with sodium fluoride to reflect current toxicity data and be consistent with the level for fluoride-containing household products.[1&2]

Pursuant to section 3(a) of the PPPA, 15 U.S.C. 1472(a), the Commission finds that the degree and nature of the hazard to children from handling or ingesting fluoride is such that special packaging is required to protect children from serious illness. The Commission bases this finding on the toxic nature of these products, described above, and their accessibility to children in the home.

2. Technical Feasibility, Practicability, and Appropriateness

In issuing a standard for special packaging under the PPPA, the Commission is required to find that the special packaging is ''technically feasible, practicable, and appropriate.'' 15 U.S.C. 1472(a)(2). Technical feasibility may be found when technology exists or can be readily developed and implemented to produce packaging that conforms to the standards. Practicability means that special packaging complying with the standards can utilize modern mass production and assembly line techniques. Packaging is appropriate when complying packaging will adequately protect the integrity of the substance and not interfere with its intended storage or use.[4,9]

Some OTC fluoride-containing household products are packaged in containers with non-CR continuous threaded closures. The Commission also is aware of such products packaged in aerosols and mechanical pumps. Various types and designs of senior friendly CR packaging can be readily obtained that would be suitable for fluoride-containing products.[3&4]

Two manufacturers currently use senior-friendly continuous threaded CR packaging for their fluoride-containing household products. Another manufacturer uses a senior-friendly trigger mechanical pump mechanism for its product. This shows that these types of CR packages are technically feasible, practicable and appropriate for fluoride-containing products. The Commission knows of at least one fluoride product that uses a non-CR aerosol package. The manufacturer of another regulated product is currently using a senior-friendly CR aerosol overcap. Thus, this kind of CR packaging could be used for fluoride-containing products. Finally, various designs of senior-friendly snap type reclosable CR packaging that would be appropriate for non-liquid fluoride-containing products are available. Thus, appropriate senior-friendly CR packaging is available for products marketed in continuous threaded, snap, aerosols, and trigger spray packaging.[4] Therefore, the Commission concludes that CR packaging for fluoride-containing products is technically feasible, practicable, and appropriate.

3. Other Considerations

In establishing a special packaging standard under the PPPA, the Commission must consider the following:

a. The reasonableness of the standard;

b. Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

c. The manufacturing practices of industries affected by the PPPA; and

d. The nature and use of the household substance. 15 U.S.C. 1472(b).

The Commission has considered these factors with respect to the various determinations made in this notice, and finds no reason to conclude that the rule is unreasonable or otherwise inappropriate.

G. Effective Date

The PPPA provides that no regulation shall take effect sooner than 180 days or later than one year from the date such final regulation is issued, except that, for good cause, the Commission may establish an earlier effective date if it determines an earlier date to be in the public interest. 15 U.S.C. 1471n.

Senior-friendly special packaging is currently commercially available for most types of CR packaging.[9] Therefore, the Commission believes that an effective date of 9 months after publication of the final rule is reasonable. The Commission proposed a 9 month effective date and received no comments on this issue. If companies do find that they need more time, they can request a stay of enforcement for the minimum period needed to obtain adequate supplies of senior-friendly CR packaging.

A final rule would apply to products that are packaged on or after the effective date.

H. Regulatory Flexibility Act Certification

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, generally requires the agency to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

In connection with the proposed rule, the Commission's Directorate for Economic Analysis prepared a preliminary assessment of the impact of a rule to require special packaging for household products containing fluoride with more than 50 mg elemental fluoride and more than 0.5 percent elemental fluoride (w/v or w/w). The staff also considered the impact of a rule modifying the current exemption for oral prescription drugs containing sodium fluoride so that it would be consistent with the level proposed for household products.[3]

Based on this assessment, the Commission concluded that the proposed requirement for fluoride-containing household products would not have a significant impact on a substantial number of small businesses or other small entities. Despite making a specific request in the NPR, the Commission received no comments concerning the potential impact on small businesses, and the Commission is unaware of any information that would alter its conclusion that the rule will not have a significant impact on a substantial number of small entities.[8]

The Commission reached the same conclusion concerning the proposed modification in the level for exemption of oral prescription drugs containing sodium fluoride.[3] No additional information was provided to alter the Commission's conclusion that the modification to the exemption for oral prescription drugs containing sodium fluoride would not have a significant impact on a substantial number of small businesses or other small entities.[8]

I. Environmental Considerations

Also in connection with the proposed rule and pursuant to the National Environmental Policy Act, the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission assessed the possible environmental effects associated with the proposed PPPA requirements for fluoride-containing products.[3] The Commission concluded that the proposed rule would have no adverse effect on the environment, and neither an environmental assessment nor an environmental impact statement would be required. No additional information alters this conclusion.[8]

J. Executive Orders

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations.

The PPPA provides that, generally, when a special packaging standard issued under the PPPA is in effect, ''no State or political subdivision thereof shall have any authority either to establish or continue in effect, with respect to such household substance, any standard for special packaging (and any exemption therefrom and requirement related thereto) which is not identical to the [PPPA] standard.'' 15 U.S.C. 1476(a). A State or local standard may be excepted from this preemptive effect if (1) the State or local standard provides a higher degree of protection from the risk of injury or illness than the PPPA standard; and (2) the State or political subdivision applies to the Commission for an exemption from the PPPA's preemption clause and the Commission grants the exemption through a process specified at 16 CFR part 1061. 15 U.S.C. 1476(c)(1). In addition, the Federal government, or a State or local government, may establish and continue in effect a non-identical special packaging requirement that provides a higher degree of protection than the PPPA requirement for a household substance for the Federal, State or local government's own use. 15 U.S.C. 1476(b).

Thus, with the exceptions noted above, the rule requiring CR packaging for household products containing fluoride above the regulated level and modifying the exemption level for oral prescription drugs with sodium fluoride would preempt non-identical state or local special packaging standards for such fluoride containing products.

In accordance with Executive Order 12612 (October 26, 1987), the Commission certifies that the rule does

not have sufficient implications for federalism to warrant a Federalism Assessment.

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

For the reasons given above, the Commission amends 16 CFR part 1700 as follows:

PART 1700—[AMENDED]

1. The authority citation for part 1700 continues to read as follows:

Authority: Secs 1700.1 and 1700.14 also issued under Pub. L. 92–573, sec. 30(a), 88 Stat. 1231. 15 U.S.C. 2079(a).

2. Section 1700.14 is amended to revise paragraph (a)(10)(vii) and to add paragraph (a)(27) to read as follows (the introductory text of paragraphs (a) and (10) are republished without change for context):

§ 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging meeting the requirements of § 1700.20(a) is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription or a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15(a), (b), and (c), except for the following:

* * * * *

(vii) Sodium fluoride drug preparations including liquid and tablet forms, containing not more than 110 milligrams of sodium fluoride (the equivalent of 50 mg of elemental fluoride) per package or not more than a concentration of 0.5 percent elemental fluoride on a weight-to-volume basis for liquids or a weight-to-weight basis for non-liquids and containing no other substances subject to this § 1700.14(a)(10).

* * * * *

(27) *Fluoride.* Household substances containing more than the equivalent of 50 milligrams of elemental fluoride per package and more than the equivalent of 0.5 percent elemental fluoride on a weight-to-volume basis for liquids or a weight-to-weight basis for non-liquids shall be packaged in accordance with the provisions of § 1700.15(a), (b) and (c).

* * * * *

Dated: May 27, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

List of Relevant Documents

1. Briefing memorandum from Jacqueline Ferrante, Ph.D., EH, to the Commission, ''Proposed Rule to Require Child-Resistant Packaging for Household Products with Fluoride,'' September 30, 1997.
2. Memorandum from Susan C. Aitken, Ph.D., EH, to Jacqueline Ferrante, Ph.D., EH, ''Toxicity of Household Products Containing Fluoride,'' August 4, 1997.
3. Memorandum from Marcia P. Robins, EC, to Jacqueline Ferrante, Ph.D., EH, ''Market Data, Economic Considerations and Environmental Effects of a Proposal to Require Child-Resistant Packaging for Household Products Containing Fluoride,'' June 20, 1997.
4. Memorandum from Charles Wilbur, EH, to Jacqueline Ferrante, Ph.D., EH, ''Technical Feasibility, Practicability, and Appropriateness Determination for the Proposed Rule to Require Child-Resistant Packaging for OTC Products Containing Fluoride,'' June 27, 1997.
5. Briefing memorandum from Jacqueline Ferrante, Ph.D., EH, to the Commission, ''Final Rule to Require Child-Resistant Packaging for Household Products with Fluoride,'' May 6, 1998.
6. Memorandum from Susan C. Aitken, Ph.D., EH, to Jacqueline Ferrante, Ph.D., EH, ''Update on Injuries Due to Products Containing Fluoride,'' October 9, 1997.
7. Memorandum from Susan C. Aitken, Ph.D., EH, to Jacqueline Ferrante, Ph.D., EH, ''Injuries Due to Products Containing Fluoride,'' April 20, 1998.
8. Memorandum from Marcia P. Robins, EC, to Jacqueline Ferrante, Ph.D., EH, ''Final Rule: Child-Resistant Packaging for Household Products Containing Fluorides,'' April 8, 1998.
9. Memorandum from Charles Wilbur, EH, to Jacqueline Ferrante, Ph.D., EH, ''Technical Feasibility, Practicability, and Appropriateness Determination for the Final Rule to Require Special Packaging for Products Containing Fluoride,'' March 10, 1998.

[FR Doc. 98–14449 Filed 6–1–98; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T. D. 98–52]

RIN 1515–AC18

Procedural Change Regarding American Shooks and Staves

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by requiring the submission of a Customs Form (CF) 4455, Certificate of Registration, rather than a CF 3311, Declaration for Free Entry of Returned American Products, when shooks and staves produced in the United States are exported from the United States with the intention that they will be returned to the United States, exempt from duty, in the form of complete boxes or barrels in use as usual containers of merchandise. When boxes or barrels made from the exported American shooks and staves, for which a CF 4455 has been submitted, are imported, the importer of the boxes or barrels must use the CF 4455 as well to make such a claim. Shooks and staves produced in the United States that are exported and so returned are exempt from customs duties provided their identity is established by the proper submission of the CF 4455. The amendment helps to clarify the procedures regarding the free entry of such American produced shooks and staves returned to the United States.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Wygant, Office of Field Operations, 202–927–1167.

SUPPLEMENTARY INFORMATION:

Background

Section 10.5, Customs Regulations (19 CFR 10.5) provides that shooks and staves produced in the United States and returned in the form of complete boxes or barrels in use as the usual containers of merchandise are exempt from any duties imposed by the tariff laws upon similar containers made of foreign shooks or staves, provided their identity is established under the regulations.

Paragraph (d) of § 10.5 provides that an exporter of shooks or staves in respect of which free entry is to be claimed when returned as boxes or barrels shall file a notice of intent to export on a Customs Form (CF) 3311 in triplicate with the director of the port of

exportation at least 6 hours before the lading of the articles on the exporting vessel. The CF 3311 is a Declaration for Free Entry of Returned American Products.

Paragraph (e) of § 10.5 provides that the certification of exportation block of CF 3311 shall be completed in triplicate by the port director after verification from the manifest of the exporting vessel and the return of the lading officer. The original shall be forwarded by the port director to the consignee. The duplicate copy shall be given to the exporter and the triplicate copy shall be retained.

Paragraph (f) of § 10.5 provides that whenever boxes or barrels alleged to have been manufactured from American shooks or staves are shipped to the United States from a person abroad other than the one to whom the shooks and staves were exported from the United States, the importer shall be required to obtain from the foreign consignee to whom the shooks or staves were originally exported the CF 3311s covering the exportation of the shooks or staves from the United States, or an extract therefrom signed by such consignee, showing the number of shooks or staves covered by such CF 3311s, together with the number of superficial feet of such shooks or staves. Such CF 3311 or extract therefrom, shall be filed by the importer in connection with the entry of the boxes or barrels.

Section 10.6, Customs Regulations (19 CFR 10.6), provides that an importer, seeking an exemption from duty on account of boxes or barrels made from American shooks or staves, must make such a claim on a CF 3311 at the time of filing the entry.

It has come to Customs attention that the CF 3311 may no longer be the best form available for Customs to track the exportation of United States-produced shooks and staves intended to be returned to the United States in the form of complete boxes or barrels and the importation of the boxes or barrels made from those shooks and staves. Further, as the CF 3311 was modified in 1990 and no longer contains the certification of exportation block, which is specifically mentioned in § 10.5(e), the regulations regarding shooks and staves are unclear as to the procedures.

After consideration of the best way of tracking the exportation of shooks and staves and the importation of boxes or barrels made from United States-produced shooks and staves, Customs has determined that the CF 4455, the Certificate of Registration, is the best vehicle. Accordingly, Customs is amending §§ 10.5 and 10.6 to require the CF 4455 rather than the CF 3311 for tracking shooks and staves.

Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act do not apply.

This document does not meet the criteria for a significant regulatory action under Executive Order (E.O.) 12866.

Inapplicability of Public Notice and Comment Requirements

Inasmuch as this amendment merely substitutes one Customs Form for another, pursuant to 5 U.S.C. 553(a)(2) and (b)(B), good cause exists for dispensing with the notice and public procedure thereon as unnecessary.

Drafting Information

The principal author of this document was Janet Johnson, Regulations Branch, Office of Regulations and Rulings, U. S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 10

Caribbean Basin Initiative, Customs duties and inspection, Exports, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth in the preamble, part 10 of the Customs Regulations (19 CFR part 10) is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

2. Section 10.5 is amended by:

a. Revising the heading;

b. Removing in paragraph (d) the words ''a notice of intent to export, Customs Form 3311'' and by adding the words ''a Certificate of Registration, Customs Form 4455'' in their place;

c. Revising the first sentence of paragraph (e); and

d. Removing the Customs Form number ''3311'' wherever it appears in paragraphs (f) and (g) and by adding in its place ''4455''.

The revisions read as follows:

§ 10.5 Shooks and staves; cloth boards; port director's account.

* * * * *

(e) The Certificate of Registration, CF 4455, shall be completed in triplicate by the port director after verification from the manifest of the exporting vessel and the return of the lading officer. * * *

* * * * *

§ 10.6 [Amended]

3. Section 10.6 is amended by removing the Customs Form number ''3311'' and by adding in its place ''4455''.

Approved: May 5, 1998.

Samuel H. Banks,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–14511 Filed 6–1–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–98–015]

RIN 2115–AE47

Drawbridge Operating Regulation; Clear Creek, TX

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the operating regulation for the Southern Pacific railroad bridge across Clear Creek, mile 1.0, at Seabrook, Texas. The bridge was removed in 1997 and the regulation governing its operation is no longer applicable. Notice and public procedure have been omitted from this action because the bridge the regulation formerly governed no longer exists.

DATES: This regulation becomes effective on June 2, 1998.

ADDRESSES: Documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. Commander (ob) maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT:

Mr. David Frank, Bridge Administration Branch, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION:

Background

The Southern Pacific railroad bridge across Clear Creek, mile 1.0, at Seabrook, Texas, was removed in 1997. The elimination of this drawbridge necessitates the removal of the drawbridge operation regulation that pertained to this draw. This rule removes the regulation for this bridge in § 117.961.

The Coast Guard has determined that good cause exists under the Administrative Procedure Act (5 U.S.C. 553) to forego notice and comment for this rulemaking because the bridge is no longer in existence, eliminating the need for the regulation.

The Coast Guard, for the reason just stated, has also determined that good cause exists for this rule to become effective upon publication in the **Federal Register**.

Regualtory Evaluation

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

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include (1) small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and (2) governmental jurisdictions with populations of less than 50,000.

Since the Southern Pacific Railroad bridge across Clear Creek, mile 1.0, at Seabrook, Texas has been removed, the rule governing the bridge is no longer appropriate. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

this final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under Figure 2–1, CE # 32(e) of the NEPA Implementing Procedures, COMDINST M16475.IC, this final rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations, as follows:

PAR 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 105 Stat. 5039.

§ 117.961 [Removed]

2. Section 117.961 is removed.

Dated: May 11, 1998.

Paul J. Pluta,

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

[FR Doc. 98–14451 Filed 6–1 –98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC–036–2011; FRL–6103–3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting conditional approval of a State Implementation Plan (SIP) revision submitted by the District of Columbia. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance (I/M) program throughout the District. The intended effect of this action is to conditionally approve the District of Columbia enhanced motor vehicle I/M program. EPA is granting approval of this SIP revision, conditioned upon the District meeting the April 30, 1999 start date committed to and contained in its enhanced I/M SIP revision.

EFFECTIVE DATES: This final rule is effective on July 2, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Programs Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti 215–566–2174, at the EPA Region III address above, or via e-mail at magliocchetti. catherineepamail. epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 30, 1998 (63 FR 15118), EPA published a notice of proposed rulemaking (NPR) for the District of Columbia. The NPR proposed conditional approval of the enhanced I/M program, submitted on November 25, 1997 by the District of Columbia Department of Health (DoH). A description of the District's submittal and EPA's rationale for its proposed action were presented in the NPR and will not be restated here.

II. Public Comments/Response to Public Comments

There were no comments submitted during the public comment period on this notice.

III. Conditional Approval

Under the terms of EPA's March 30, 1998 notice of proposed rulemaking (63 FR 15118), the District's enhanced I/M program is conditionally approved, pending full implementation of the program on or before April 30, 1998. All other aspects of the District's plan were considered approvable by EPA, in accordance with the Clean Air Act (CAA) and the federal I/M rule requirements.

IV. Final Rulemaking Action

EPA is conditionally approving the District's enhanced I/M program as a revision to the District of Columbia SIP, based upon the District commitment to begin full implementation of the program by April 30, 1999. Should the District fail to fulfill this condition by April 30, 1999, this conditional approval will convert to a disapproval pursuant to CAA section 110(k). In that event, EPA would issue a letter to notify the District that the condition had not been met, and that the approval had converted to a disapproval.

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

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

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

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for 0the appropriate circuit by August 3, 1998. Filing a petition for reconsideration by the Administrator of this final rule to conditionally approve the District of Columbia enhanced I/M SIP does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Administrative Procedures Act).

F. Executive Order 13045

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

This rule is not subject to E.O. 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' because this is not an ''economically significant'' regulatory action as defined by E.O. 12866, and

because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 18, 1998.

William T. Wisniewski,

Acting Regional Administrator, Region III.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart J—District of Columbia

2. Section 52.473 is added to read as follows:

§ 52.473 Conditional approval.

The District of Columbia's November 25, 1997 submittal, for an enhanced motor vehicle inspection and maintenance (I/M) program, is conditionally approved pending full implementation of the program by April 30, 1999. Should the District fail to fulfill this condition by April 30, 1999, this conditional approval will convert to a disapproval pursuant to CAA section 110(k). In that event, EPA would issue a letter to notify the District that the condition had not been met, and that the approval had converted to a disapproval.

[FR Doc. 98–14158 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN82–2; FRL–6013–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This document contains corrections to final rules which were published on June 26, 1997 and October 23, 1997. These revisions related to items listed as incorporated in the Indiana State Implementation Plan as part of the State's photochemical oxidant control strategy which is designated as § 52.777 Control strategy: Photochemical oxidants (hydrocarbons), Subpart P—Indiana, part 52, chapter 1, title 40 of the Code of Federal Regulations.

EFFECTIVE DATE: June 2, 1998.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano at (312)886–6036.

SUPPLEMENTARY INFORMATION: On October 23, 1997 (62 FR 55173), when the United States Environmental Protection Agency (EPA) approved the addition of a 1-year extension of the ozone attainment date in the Indiana portion of the Louisville moderate ozone nonattainment area which consists of Clark and Floyd Counties, EPA erroneously codified its approval at 40 CFR 52.777(q). Paragraph (q) had already been utilized to codify EPA's June 26, 1997 (62 FR 34406), approval of an addition to the Indiana SIP in the form of a transportation control measure for Vanderburgh County.

Need for Correction

This duplicate use of paragraph 52.777(q) makes citation to this paragraph confusing and unclear as well as imprecise. For this reason EPA is publishing this Technical Amendment to avoid further confusion.

Administrative Procedure Act

This action will be effective immediately upon publication in the **Federal Register** pursuant to the Administrative Procedure Act, 5 U.S.C. 533(d)(1) and (3)(APA) for good cause. This action which merely redesignates a paragraph used to codify EPA's approval of a one-year ozone attainment date extension for Clark and Floyd Counties in Indiana is too minor to be of interest to the general public. Holding a public comment period on this action is unnecessary. The thirty day delay of the effective date of this action generally required by the APA is unwarranted in that it does not serve the public interest to unnecessarily delay the effective date of this action.

Executive Order 12866

Under Executive Order 12866, this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition this action does not impose annual costs of $100 million or more, will not significantly or uniquely affect small governments, and is not a significant Federal intergovernmental mandate. The EPA thus has no obligations under sections 202, 203, 204 and 205 of the Unfunded Mandates Reform Act. Moreover, since this action is not subject to notice-and-comment requirements under the APA or any other statute, it is not subject to sections 603 or 604 of the Regulatory Flexability Act.

Children's Health Protection

This rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Transportation control measure.

Dated: April 29, 1998.

Barry C. DeGraff,

Acting Regional Administrator.

Accordingly, part 52, chapter I, title 40 of the Code of Federal Regulations is corrected by making the following Technical Amendment:

PART 52—[AMENDED]

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

Authority: 452 U.S.C. 7401 et seq.

Subpart P—Indiana

2. Section 52.777 is amended by redesignating the second paragraph(q) as (r).

[FR Doc. 98–14290 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 97–82, ET Docket No. 94–32; FCC 97–413]

Competitive Bidding Proceeding

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a portion of the Commission's competitive bidding rules for auctions that were published in the **Federal Register** of January 15, 1998 (63 FR 2315).

EFFECTIVE DATE: June 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Becker, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–7532.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document adopting uniform competitive bidding rules for all future auctions in the **Federal Register** of January 15, 1998 (63 FR 2315). This document makes a minor correction to the final rules adopted in the *Third Report and Order, Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660–4685 MHZ,* as it appeard in the **Federal Register** of January 15, 1998.

1. On page 2341, in the third column, § 1.2105 is corrected to add paragraph (a)(2)(x) before ''Note to paragraph (a)'' to read as follows:

§ 1.2105 Bidding application and certification procedures; prohibition of collusion.

(a) * * *

(2) * * *

(x) Certification that the applicant is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency.

* * * * *

Federal Communications Commission.

Amy J. Zoslov,

Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau.

[FR Doc. 98–14600 Filed 6–1–98; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 63, No. 105
Tuesday, June 2, 1998

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ANM–10]

Proposed Revision of Class E Airspace; Akron, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal would amend the Akron, CO, Class E areas and provide additional controlled airspace to accommodate the development of a new Standard Instrument Approach Procedure (SIAP) utilizing the Global Positioning System (GPS) at the Akron-Washington County Airport.

DATES: Comments must be received on or before July 17, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 98–ANM–10, 1601 Lind Avenue, SW, Renton, Washington 98055–4056.

The official docket may be examined in the office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 98–ANM–10, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested parties are invited to participate in this proposal rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–ANM–10.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) to establish Class E airspace at Akron, CO, in order to accommodate a new GPS SIAP to the Akron-Washington County Airport. This amendment would provide additional airspace by enlarging the surface area to meet current criteria standards while also adding a ten mile extension to the southeast in order to contain an associated SIAP holding pattern. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Akron-Washington County Airport and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from the surface of the earth, and from 700 feet or more above the surface of the earth, are published in Paragraph 6002 and Paragraph 6005, respectively, of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 Class E airspace designated as a surface areas for an airport.

* * * * *

ANM CO E2 Akron, CO [Revised]

Akron-Washington County Airport; CO
(Lat. 40°10′32″N, long. 103°13′19″W)
Akron VORTAC
(Lat. 40°09′20″N, long. 103°10′47″W)

Within a 4.1-mile radius of the Akron-Washington County Airport, and within 3.5 miles of each side of the Akron VORTAC 123° radial extending from the 4.1-mile radius to 9.6 miles southeast of the VORTAC.

* * * * *

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

* * * * *

ANM CO E5 Akron, CO [Revised]

Akron-Washington County Airport, CO
(Lat. 40°10′32″, long. 103°13′19″)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Akron-Washington County Airport, and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 40°06′35″N, long 102°37′19″W; to lat. 39°48′00″N, long 102°37′00″W; to lat. 39°42′28″N, long. 102°58′15″W; to lat. 40°00′15″N, long. 103°33′32″W; to lat. 40°24′30″N, long. 103°13′52″W; thence to point of beginning; excluding Federal airways and the Denver and Sterling, CO, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, on May 19, 1998.

Joe E. Gingles,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–14537 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AWP–11]

Proposed Establishment of Class E Airspace; Safford, AZ

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class E airspace area at Safford, AZ. The development of a Global Positioning System (GPS) Runway (RWY) 12 and GPS RWY 30 Standard Instrument Approach Procedure (SIAP) at Safford Municipal Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the GPS RWY 12 and GPS RWY 30 SIAP to Safford Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Safford Municipal airport, Safford, AZ.

DATES: Comments must be received on or before July 6, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 96–AWP–11, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, 90261.

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

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

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725n6531.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AWP–11.'' The post card will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 by establishing a Class E airspace area at Safford, AZ. The development of a GPS RWY 12 and GPS 30 SIAP at Safford Municipal Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the GPS RWY 12 and GPS RWY SIAP to Safford Municipal. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS RWY 12 and RWY 30 SIAP at

Safford Municipal Airport, Safford, AZ, Class E airspace area designations are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREA; ROUTES; AND REPORTING POINTS

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.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, 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 Safford, AZ [New]

Safford Municipal Airport, AZ

(lat. 32°51′17″ N, long. 109°38′07″ W)

Williams Gateway Airport, AZ

(lat. 33°32′06″ N, long. 111°22′59″ W)

That airspace extending upward from 700 feet above the surface with a 6.5-mile radius of the Safford Municipal Airport. That airspace extending upward from 1200 feet above the surface bounded on the south by a line beginning at lat. 32°25′00″ N, long. 109°11′30″ W; to lat. 32°25′00″ N, long. 109°26′00″ W; to lat. 32°23′00″ N, long. 109°26′00″ W; extending along the northern boundary of V–94 to the 100-mile radius of the Williams Gateway Airport; and on the west by the 100-mile radius of the Williams Gateway Airport to Lat. 33°00′00″ N; and on the north by lat. 33°00′00″ N; and on the east to lat. 33°00′00″ N, long. 109°37′00″ W; to lat. 32°40′00″ N, long. 109°17′00″ W, thence to the point of beginning.

* * * * *

Issued in Los Angeles, California, on May 19, 1998.

Sherry Avery,

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

[FR Doc. 98–14542 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209373–81]

RIN 1545–AT71

Election To Amortize Start-Up Expenditures; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations providing rules and procedures for electing to amortize start-up expenditures under section 195.

DATES: The public hearing originally scheduled for Tuesday, June 2, 1998, beginning at 10:00 a.m. is cancelled.

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

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 195 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Tuesday, January 13, 1998 (63 FR 1933), announced that the public hearing on proposed regulations under section 195 of the Internal Revenue Code would be held on Tuesday, June 2, 1998, beginning at 10:00 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington D.C.

The public hearing scheduled for Tuesday, June 2, 1998, is cancelled.

Cynthia E. Grigsby,

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

[FR Doc. 98–14491 Filed 6–1–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–98–029]

RIN 2115–AE47

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albermarle and Chesapeake Canal

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the City of Chesapeake, the Coast Guard is proposing to change the regulations that govern the operation of the Centerville Turnpike Drawbridge (SR 170) across the Atlantic Introcoastal Waterway, Albermarle and Chesapeake Canal, mile 15.2, in Chesapeake, Virginia. The proposed rule would restrict bridge openings during the boating season's weekly morning and evening rush hours and reduce the frequency of bridge openings outside the rush-hour restrictions. This change is intended to reduce vehicular delays while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before August 3, 1998.

ADDRESSES: Comments may be mailed to Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222. Comments will become part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann Deaton, Bridge Administrator, Fifth Coast Guard District, (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses and identify this rulemaking (CGD05–98–029). Commenters should identify the specific section of this proposed rule to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If that is not practical, and second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address listed under **ADDRESSES.** The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

33 CFR 117.997(h) currently requires the Centerville Turnpike Drawbridge, (SR 170), mile 15.2, across the Atlantic Intracoastal Waterway (AICW), Albemarle and Chesapeake Canal (A&C Canal), to open on signal, except that from 7 a.m. to 7 p.m. the draw only opens on the hour and half hour seven days a week year-round for pleasure craft. Commercial vessels may pass through this bridge at any time.

The City of Chesapeake has requested that the Coast Guard change the operating schedule of the Centerville Turnpike Drawbridge by restricting bridge openings during the morning and evening rush hours, Monday through Friday, including Federal holidays during the boating season. The rush-hour restrictions would eliminate drawbridge openings for all types of vessels, except those involved in emergency situations. The City of Chesapeake also requested restricting bridge openings to all vessel traffic from April 1 to November 30, from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, including Federal holidays. the remainder of the time the bridge would open on signal every hour on the half hour for vessels waiting to pass. Federal, State, and local government vessels used for public safety, vessels in distress where a delay would endanger life or property, commercial vessels engaged in rescue or emergency salvage operations, and vessels seeking shelter from severe weather will be provided passage through the drawbridge on demand regardless of the operating schedule of the draw. This is required in accordance with Title 33 Code of Federal Regulations, 117.31 (b)(1) through (b)(4).

The City of Chesapeake has based their request on traffic data that revealed highway traffic at this bridge has increased since 1992 from 13,700 vehicles per day to 16,000 vehicles per day. During peak hour traffic, vehicular traffic has increased to over 1,200 vehicles during the morning rush hours and to over 1,700 during the evening rush hours.Highway traffic has increased significantly since the current restrictions were placed on this bridge in 1992. The drawlogs for April 1 to November 30 of 1995 and 1996 were reviewed. In 1995, the drawbridge opened 531 times during the morning rush hours and 673 times during the evening rush hours. In 1996, it opened 532 times during the morning rush hours and 728 times during the evening rush hours. this review revealed that the morning and evening restrictions should apply only on the weekdays from April 1 through November 30 and not year-round.

Even though this drawbridge is located across the AICW, one of the busiest waterways on the Atlantic Coast, it is not uncommon to impose bridge lift restrictions on bridges crossing this waterway during rush hours to help alleviate highway traffic congestion. The majority of drawbridges across the AICW already have rush-hour restrictions in effect. The Coast Guard's goal is to provide practical and feasible scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges. the Coast Guard believes that this proposed rule would reduce motor vehicle traffic delays and congestion related to rush hour traffic while still providing for the reasonable needs of navigation.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard has reached this conclusion based on the fact that the proposed changes will not prevent mariners from transiting the bridge, but merely require mariners to plant their transits in accordance with the scheduled bridge openings.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the U.S. Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.b and item (32)(e) of Figure 2–1 of Commandant Instruction M16475.1C dated November 14, 1997, this proposed rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.997(h) is revised to read as follows:

§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal.

* * * * *

(h) The draw of the Centerville Turnpike (SR 170) bridge across the Albemarle and Chesapeake Canal, mile 15.2, at Chesapeake, shall open on signal every hour on the half hour except that, from April 1 to November 30, Monday through Friday, including Federal holidays, from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., the draw need not open for the passage of vessels.

Dated: May 18, 1998.

J. Carmichael,

Acting Captain, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 98–14452 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6105–3]

National Emission Standards for Hazardous Air Pollutants for Source Categories: National Emission Standards for Primary Copper Smelters: Proposed Rule—Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The EPA is extending the public comment period on the Notice of Proposed Rulemaking (NPRM) for hazardous air pollutants emissions from primary copper smelters, which was published in the **Federal Register** on April 20, 1998 (63 FR 19582). The purpose of this document is to extend the end of the comment period from June 19, 1998 to July 20, 1998, in order to provide commenters adequate time to review the NPRM and extensive supporting materials.

DATES: The EPA will accept comments on the NPRM until July 20, 1998.

ADDRESSES: Comments should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–96–22, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below (Mr. Eugene Crumpler). The docket may be inspected at the above address between 8:00 a.m. and 5:30 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the NPRM, contact Mr. Eugene Crumpler, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–0881; electronic mail address crumpler.gene@epa.gov.

Dated: May 28, 1998.

Richard D. Wilson,

Acting Assistant Administrator.

[FR Doc. 98–14584 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL SCIENCE FOUNDATION

45 CFR Part 670

RIN 3145–AA34

Conservation of Antarctic Animals and Plants

AGENCY: National Science Foundation (NSF).

ACTION: Proposed rule.

SUMMARY: NSF proposes to revise its existing regulations for the conservation and protection of Antarctic animals and plants. These revisions implement amendments to the Antarctic Conservation Act of 1978 contained in the Antarctic Science Tourism and Conservation Act of 1996.

DATES: Comments must be received by August 3, 1998.

ADDRESSES: Comments should be sent to Anita Eisenstadt, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Anita Eisenstadt, Office of the General Counsel, at 703–306–1060.

SUPPLEMENTARY INFORMATION:

Background

The Antarctic Treaty of 1959 establishes a framework for promoting international cooperation in scientific research in Antarctica and ensuring that Antarctica will be used only for peaceful purposes. The Antarctic environment has been an important concern to the Treaty Parties and over the years the Parties have adopted a series of measures to protect Antarctic living resources.

At the Third Consultative Meeting in 1964, the Antarctic Treaty Parties adopted the Agreed Measures for the Conservation of Antarctic Fauna and Flora. The measures recommended establishment of a permit system for various activities in Antarctica and designation of certain Antarctic mammals and geographic areas as requiring special protection. These measures were implemented in the United States through the Antarctic Conservation Act of 1978 (ACA) (16 U.S.C. 2401 *et seq.*). Under the Antarctic Conservation Act and through its implementing regulations, NSF established a regulatory framework to conserve and protect the native mammals, birds, and plants of Antarctica. A permit system allows certain activities, otherwise prohibited, when performed within prescribed restrictions for scientific and other valid purposes. Activities requiring a permit include entry into specially protected areas, taking of fauna and flora, import into and export from the United States of fauna and flora, and introduction of non-indigenous species.

Recognizing the value of establishing a comprehensive regime for protecting the Antarctic environment and its associated ecosystems, the Antarctic Treaty Parties adopted in 1991 the Protocol on Environmental Protection to the Antarctic Treaty and five annexes (Protocol). The Protocol consolidates, updates, and strengthens the environmental provisions previously adopted by the parties. Annex II of the Protocol contains provisions of conservation of Antarctic plants and animals. Annex V contains provisions for the protection of specially designated areas. Annex II and Annex V incorporate and expand the Agreed Measures of 1964.

On October 2, 1996, the President implemented the Protocol by signing into law the Antarctic Science, Tourism, and Conservation Act of 1996 (ASTCA) (Pub. L. 104–227). Section 6 of the ACA, (16 U.S.C. 2405), as amended by the ASTCA, directs the Director of the National Science Foundation to issue such regulations as are necessary and

appropriate to implement Annexes II and V to the Protocol. NSF is therefore revising its existing ACA regulations protecting animals and plants in order to implement Annexes II and V of the Protocol, as required by the ASTCA amendments to the ACA.

Revisions to the Existing ACA Regulations

These amendments revise NSF's existing regulations for the conservation of Antarctic animals and plants to meet the technical requirements of the Protocol. The revisions do not materially alter the permit system that has been in place since 1979 to implement the Agreed Measures. Permits will continue to be required for entry into specially protected areas, taking of birds and mammals, export into and import from the United States of birds, mammals, and certain plants, and introduction of non-indigenous plants and animals into Antarctica. The permit requirement for native plants has been slightly modified. Permits were previously required for collecting native plants within Antarctic Specially Protected Areas. The revised regulations require a permit to remove or damage native plants anywhere within Antarctica if the quantity plants removed or damaged would significantly affect the species' local distribution or abundance (16 U.S.C. 2402(20) and 16 U.S.C. 2403(b)(4)). The revised regulations also require a permit for engaging in harmful interference with native plants, mammals, birds, and invertebrates (16 U.S.C. § 2402(5) and 16 U.S.C. 2403(b)(4)).

The revised regulations also implement the Protocol's revised nomenclature of protected areas. Areas previously designated as Specially Protected Areas and Sites of Special Scientific Interest are now referred to as Antarctic Specially Protected Areas (16 U.S.C. 2402(3)). Some technical revisions have also been made to the definitions used in the regulations to conform to the revised definitions in the ACA. Finally, in accordance with Annex II of the Protocol, dogs may no longer be introduced into Antarctica. Consequently, the provision allowing their introduction by permit has been deleted from the regulations.

Summary of Provisions

Subpart A of these regulations states their purpose and scope and defines terms used in the regulations. Prohibited acts and exceptions to them are discussed in Subpart B. The procedures for obtaining a permit and the terms and conditions of such permits are set forth in Subpart C. Subpart D designates mammals, birds and plants native to Antarctica. More restrictive permit requirements for mammals, birds, and plants designated as Specially Protected Species are set forth in Subpart E. Areas of outstanding scientific and ecological value are designated in Subpart F. Entry into these areas is prohibited without a permit. Conditions under which Antarctic birds, mammals, and certain Antarctic plants may be imported into or exported from the United States are set forth in Subpart G. Subpart H sets forth conditions where the introduction into Antarctica of non-indigenous plants and animals can be permitted.

Determinations

NSF has determined, under the criteria set forth in Executive Order 12866, that this rule is not a significant regulatory action requiring review by the Office of Information and Regulatory Affairs. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on a substantial number of small businesses. For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the permit application and reporting collection of information requirements are nearly identical to those required by NSF's existing regulations. However, because this rule will necessitate minor technical changes to NSF's current ACA permit application form, NSF is simultaneously publishing a Proposed Reinstatement of Information Collection with Changes in today's issue of the **Federal Register**. Finally, NSF has reviewed this rule in light of section 2 of Executive Order 12778 and I certify for the National Science Foundation that this rule meets the applicable standards provided in sections 2(a) and 2(b) of that order.

List of Subjects in 45 CFR Part 670

Administrative practice and procedure, Antarctica, Exports, Imports, Reporting and recordkeeping requirements, Wildlife.

Dated: May 21, 1998.

Lawrence Rudolph,

General Counsel, National Science Foundation.

For the reasons set forth in the preamble, the National Science Foundation proposes to revise 45 CFR part 670 to read as follows:

PART 670—CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS

Subpart A—Introduction

Sec.
670.1 Purpose of regulations.
670.2 Scope.
670.3 Definitions.

Subpart B—Prohibited Acts, Exceptions

670.4 Prohibited acts.
670.5 Exceptions in extraordinary circumstances.
670.6 Prior possession exception.
670.7 Food exception.
670.8 Foreign permit exception.
670.9 Antarctic Conservation Act enforcement exception.
670.10 [Reserved]

Subpart C—Permits

670.11 Applications for permits.
670.12 General issuance criteria.
670.13 Permit administration.
670.14 Conditions of permits.
670.15 Modification, suspension and revocation.
670.16 [Reserved]

Subpart D—Native Mammals, Birds, Plants, and Invertebrates

670.17 Specific issuance criteria.
670.18 Content of permit applications.
670.19 Designation of native mammals.
670.20 Designation of native birds.
670.21 Designation of native plants.
670.22 [Reserved]

Subpart E—Specially Protected Species of Mammals, Birds, and Plant

670.23 Specific issuance criteria.
670.24 Content of permit applications.
670.25 Designation of specially protected species of native mammals, birds and plants.
670.26 [Reserved]

Subpart F—Antarctic Specially Protected Areas

670.27 Specific issuance criteria.
670.28 Content of permit applications.
670.29 Designation of Antarctic specially protected areas.
670.30 [Reserved]

Subpart G—Import into and export from the United States

670.31 Specific issuance criteria for imports.
670.32 Specific issuance criteria for exports.
670.33 Content of permit applications.
670.35 Entry and exit ports.
670.35 [Reserved]

Subpart H—Introduction of Non-Indigenous Plants and Animals

670.36 Specific issuance criteria.
670.37 Content of permit applications.
670.38 Conditions of permits.
670.39 [Reserved]

Authority: 16 U.S.C. 2405, as amended.

Subpart A—Introduction

§ 670.1 Purpose of regulations.

The purpose of the regulations in this part is to conserve and protect the native mammals, birds, plants, and invertebrates of Antarctica and the ecosystem upon which they depend and to implement the Antarctic Conservation Act of 1978, Public Law 95–541, as amended by the Antarctic Science, Tourism, and Conservation Act of 1996, Public Law 104–227.

§ 670.2 Scope.

The regulations in this part apply to:

(a) Taking mammals, birds, or plants native to Antarctica.

(b) Engaging in harmful interference of mammals, birds, invertebrates, or plants native to Antarctica.

(c) Entering or engaging in activities within Antarctic Specially Protected Areas.

(d) Receiving, acquiring, transporting, offering for sale, selling, purchasing, importing, exporting or having custody, control, or possession of any mammal, bird, or plant native to Antarctica that was taken in violation of the Act.

(e) Introducing into Antarctica any member of a non-native species.

§ 670.3 Definitions.

In this part:

Act means the Antarctic Conservation Act of 1978, Public Law 95–541 (16 U.S.C. 2401 *et seq.*) as amended by the Antarctic Science, Tourism, and Conservation Act of 1996, Public Law 104–227.

Antarctic Specially Protected Area means an area designated by the Antarctic Treaty Parties to protect outstanding environmental, scientific, historic, aesthetic, or wilderness values or to protect ongoing or planned scientific research, designated in Subpart F.

Antarctica means the area south of 60 degrees south latitude.

Director means the Director of the National Science Foundation, or an officer or employee of the Foundation designated by the Director.

Harmful interference means—

(a) Flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds or seals;

(b) Using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals;

(c) Using explosives or firearms in a manner that disturbs concentrations of birds or seals;

(d) Willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot;

(e) Significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means; and

(f) Any activity that results in the significant adverse modification of habitats of any species or population of native mammal, native bird, native plant, or native invertebrate.

Import means to land on, bring into, or introduce into, or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the United States, including the 12-mile territorial sea of the United States, whether or not such act constitutes an importation within the meaning of the customs laws of the United States.

Management plan means a plan to manage the activities and protect the special value or values in an Antarctic Specially Protected Area designated by the United States as such a site consistent with plans adopted by the Antarctic Treaty Consultative Parties.

Native bird means any member, at any stage of its life cycle, of any species of the class Aves which is indigenous to Antarctica or occurs there seasonally through natural migrations, that is designated in subpart D of this part. It includes any part, product, egg, or offspring of or the dead body or parts thereof excluding fossils.

Native invertebrate means any terrestrial or freshwater invertebrate, at any stage of its life cycle, which is indignenous to Antarctica. It includes any part thereof, but excludes fossils.

Native mammal means any member, at any stage of its life cycle, of any species of the class Mammalia, which is indigenous to Antarctica or occurs there seasonally through natural migrations, that is designated in subpart D of this part. It includes any part, product, offspring of or the dead body or parts thereof but excludes fossils.

Native plant means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi, and algae, at any stage of its life cycle which is indigenous to Antarctica that is designated in subpart D of this part. It includes seeds and other propagules, or parts of such vegetation, but excludes fossils.

Person has the meaning given that term in section 1 of title 1, United States Code, and includes any person subject to the jurisdiction of the United States and any department, agency, or other instrumentality of the Federal Government or of any State or local government.

Protocol means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, including any future amendments to which the United States is a Party.

Specially Protected Species means any native species designated as a Specially Protected Species that is designated in subpart E of this part.

Take or taking means to kill, injure, capture, handle, or molest a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected or to attempt to engage in such conduct.

Treaty means the Antarctic Treaty signed in Washington, D.C. on December 1, 1959.

United States means the several states of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and other commonwealth, territory, or possession of the United States.

Subpart B—Prohibited Acts, Exceptions

§ 670.4 Prohibited acts.

Unless a permit has been issued pursuant to subpart C of this part or unless one of the exceptions stated in §§ 670.5 through 670.9 is applicable, it is unlawful to commit, attempt to commit, or cause to be committed any of the acts described in paragraphs (a) through (g) of this section.

(a) *Taking of native mammal, bird or plants.* It is unlawful for any person to take within Antarctica a native mammal, a native bird, or native plants.

(b) *Engaging in harmful interference.* It is unlawful for any person to engage in harmful interference in Antarctica of native mammals, native birds, native plants or native invertebrates.

(c) *Entry into Antarctic specially designated areas.* It is unlawful for any person to enter or engage in activities within any Antarctic Specially Protected Area.

(d) *Possession, sale, export, and import of native mammals, birds, and plants.* It is unlawful for any person to receive, acquire, transport, offer for sale, sell, purchase, export, import, or have custody, control, or possession of, any native bird, native mammal, or native plant which the person knows, or in the exercise of due care should have known, was taken in violation of the Act.

(e) *Introduction of non-indigenous animals and plants into Antarctica.* It is unlawful for any person to introduce into Antarctica any animal or plant which is not indigenous to Antarctica or

which does not occur there seasonally through natural migrations, as specified in subpart H of this part, except as provided in §§ 670.7 and 670.8.

(f) *Violations of regulations.* It is unlawful for any person to violate the regulations set forth in this part.

(g) *Violation of permit conditions.* It is unlawful for any person to violate any term or condition of any permit issued under subpart C of this part.

§ 670.5 Exception in extraordinary circumstances.

(a) *Emergency exception.* No act described in § 670.4 shall be unlawful if the person committing the act reasonably believed that the act was committed under emergency circumstances involving the safety of human life or of ships, aircraft, or equipment or facilities of high value, or the protection of the environment.

(b) *Aiding or salvaging native mammals or native birds.* The prohibition on taking shall not apply to any taking of native mammals or native birds if such action is necessary to:

(1) Aid a sick, injured or orphaned specimen;

(2) Dispose of a dead specimen; or

(3) Salvage a dead specimen which may be useful for scientific study.

(c) *Reporting.* Any actions taken under the exceptions in this section shall be reported promptly to the Director.

§ 670.6 Prior possession exception.

(a) *Exception.* Section 670.4 shall not apply to:

(1) Any native mammal, bird, or plant which is held in captivity on or before October 28, 1978; or

(2) Any offspring of such mammal, bird, or plant.

(b) *Presumption.* With respect to any prohibited act set forth in § 670.4 which occurs after April 29, 1979, the Act creates a rebuttable presumption that the native mammal, native bird, or native plant involved in such act was not held in captivity on or before October 28, 1978, or was not an offspring referred to in paragraph (a) of this section.

§ 670.7 Food exception.

Paragraph (e) of § 670.4 shall not apply to the introduction of animals and plants into Antarctica for use as food as long as animals and plants used for this purpose are kept under carefully controlled conditions. This exception shall not apply to living species of animals. Unconsumed poultry or its parts shall be removed from Antarctica unless incinerated, autoclaved or otherwise sterilized.

§ 670.8 Foreign permit exception.

Paragraphs (d) and (e) of § 670.4 shall not apply to transporting, carrying, receiving, or possessing native mammals, native plants, or native birds or to the introduction of non-indigenous animals and plants when conducted by an agency of the United States Government on behalf of a foreign national operating under a permit issued by a foreign government to give effect to the Protocol.

§ 670.9 Antarctic Conservation Act enforcement exception.

Paragraphs (a) through (d) of § 670.4 shall not apply to acts carried out by an Antarctic Conservation Act Enforcement Officer (designated pursuant to 45 CFR 672.3) if undertaken as part of the Antarctic Conservation Act Enforcement Officer's official duties.

§ 670.10 [Reserved]

Subpart C—Permits

§ 670.11 Applications for permits.

(a) *General content of permit applications.* All applications for a permit shall be dated and signed by the applicant and shall contain the following information:

(1) The name and address of the applicant;

(i) Where the applicant is an individual, the business or institutional affiliation of the applicant must be included; or

(ii) Where the applicant is a corporation, firm, partnership, or institution, or agency, either private or public, the name and address of its president or principal officer must be included.

(2) Where the applicant seeks to engage in a taking,

(i) The scientific names, numbers, and description of native mammals, native birds or native plants to be taken; and

(ii) Whether the native mammals, birds, or plants, or part of them are to be imported into the United States, and if so, their ultimate disposition.

(3) Where the applicant seeks to engage in a harmful interference, the scientific names, numbers, and description of native birds or native seals to be disturbed; the scientific names, numbers, and description of native plants to be damaged; or the scientific names, numbers, and description of native invertebrates, native mammals, native plants, or native birds whose habitat will be adversely modified;

(4) A complete description of the location, time period, and manner in which the taking or harmful interference would be conducted, including the proposed access to the location;

(5) Where the application is for the introduction of non-indigenous plants or animals, the scientific name and the number to be introduced;

(6) Whether agents as referred to in § 670.13 will be used; and

(7) The desired effective dates of the permit.

(b) *Content of specific permit applications.* In addition to the general information required for permit applications set forth in this subpart, the applicant must submit additional information relating to the specific action for which the permit is being sought. These additional requirements are set forth in the sections of this part dealing with the subject matter of the permit applications as follows:

Native Mammals, Birds, Plants, and Invertebrates—§ 670.17
Specially Protected Species—§ 670.23
Specially Protected Areas—§ 670.27
Import and Export—§ 670.31
Introduction of Non-Indigenous Plants and Animals—§ 670.36

(c) *Certification.* Applications for permits shall include the following certification:

I certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. Any false statement will subject me to the criminal penalties of 18 U.S.C. 1001.

(d) *Address to which applications should be sent.* Each applications shall be in writing, addressed to:

Permit Officer, Office of Polar Programs, National Science Foundation, Room 755, 4201 Wilson Boulevard, Arlington, Virginia 22230.

(e) *Sufficiency of application.* The sufficiency of the application shall be determined by the Director. The Director may waive any requirement for information, or request additional information as determined to be relevant to the processing of the application.

(f) *Withdrawal.* An applicant may withdraw an application at any time.

(g) *Publication of permit applications.* The Director shall publish notice in the **Federal Register** of each application for a permit. The notice shall invite the submission by interested parties, within 30 days after the date of publication of the notice, of written data, comments, or views with respect to the application. Information received by the Director as a part of any application shall be available to the public as a matter of public record.

§ 670.12 General issuance criteria.

Upon receipt of a complete and properly-executed application for a

permit and the expiration of the applicable public comment period, the Director will decide whether to issue the permit. In making the decision, the Director will consider, in addition to the specific criteria set forth in the appropriate subparts of this part:

(a) Whether the authorization requested meets the objectives of the Act and the requirements of the regulations in this part;

(b) The judgment of persons having expertise in matters germane to the application; and

(c) Whether the applicant has failed to disclose material information required or has made false statements about any material fact in connection with the application.

§ 670.13 Permit administration.

(a) *Issuance of the permits.* The Director may approve any application in whole or part. Permits shall be issued in writing and signed by the Director. Each permit may contain such terms and conditions as are consistent with the Act and this part.

(b) *Denial.* The applicant shall be notified in writing of the denial of any permit request or part of a request and of the reason for such denial. If authorized in the notice of denial, the applicant may submit further information or reasons why the permit should not be denied. Such further submissions shall not be considered a new application.

(c) *Amendment of applications or permits.* An applicant or permit holder desiring to have any term or condition of his application or permit modified must submit full justification and supporting information in conformance with the provisions of this subpart and the subpart governing the activities sought to be carried out under the modified permit. Any application for modification of a permit that involves a material change beyond the terms originally requested will normally be subject to the same procedures as a new application.

(d) *Notice of issuance or denial.* Within 10 days after the date of the issuance or denial of a permit, the Director shall publish notice of the issuance or denial in the **Federal Register**.

(e) *Agents of the permit holder.* The Director may authorize the permit holder to designate agents to act on behalf of the permit holder.

(f) *Marine mammals, endangered species, and migratory birds.* If the Director receives a permit application involving any native mammal which is a marine mammal as defined by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(5)), any species which is an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.* or any native bird which is protected under the Migratory Bird Treaty Act (16 U.S.C. 701 *et seq.*), the Director shall submit a copy of the application to the Secretary of Commerce or to the Secretary of the Interior, as appropriate. If the appropriate Secretary determines that a permit should not be issued pursuant to any of the cited acts, the Director shall not issue a permit. The director shall inform the applicant of any denial by the appropriate Secretary and no further action shall be taken on the application. If, however, the appropriate Secretary issues a permit pursuant to the requirements of the cited acts, the Director still must determine whether the proposed action is consistent with the Act and the regulations in this part.

§ 670.14 Conditions of permits.

(a) *Possession of permits.* Permits issued under the regulations in this part, or copies of them, must be in the possession of persons to whom they are issued and their agents when conducting the authorized action.

(b) *Display of permits.* Any permit issued shall be displayed for inspection upon request to the Director, designated agents of the Director, or any person with enforcement responsibilities.

(c) *Filing of Reports.* Permit holders are required to file reports of the activities conducted under a permit. Reports shall be submitted to the Director not later than June 30 for the preceding 12 months.

§ 670.15 Modification, suspension, and revocation.

(a) The Director may modify, suspend, or revoke, in whole or in part, any permit issued under this subpart.

(1) In order to make the permit consistent with any change to any regulation in this part made after the date of issuance of this permit;

(2) If there is any change in conditions which make the permit inconsistent with the purpose of the Act and the regulations in this part; or

(3) In any case in which there has been any violation of any term or condition of the permit, any regulation in this part, or any provision of the Act.

(b) Whenever the Director proposes any modifications, suspension, or revocation of a permit under this section, the permittee shall be afforded opportunity, after due notice, for a hearing by the Director with respect to such proposed modification, suspension or revocation. If a hearing is requested, the action proposed by the Director shall not take effect before a decision is issued by him after the hearing, unless the proposed action is taken by the Director to meet an emergency situation.

(c) Notice of the modification, suspension, or revocation of any permit by the Director shall be published in the **Federal Register**, within 10 days from the date of the Director's decision.

§ 670.16 [Reserved]

Subpart D—Native Mammals, Birds, Plants and Invertebrates

§ 670.17 Specific issuance criteria.

With the exception of specially protected species of mammals, birds, and plants designated in subpart E of this part, permits to engage in a taking or harmful interference:

(a) May be issued only for the purpose of providing—

(1) Specimens for scientific study or scientific information; or

(2) Specimens for museums, zoological gardens, or other educational or cultural institutions or uses; or

(3) For unavoidable consequences of scientific activities or the construction and operation of scientific support facilities; and

(b) Shall ensure, as far as possible, that—

(1) No more native mammals, birds, or plants are taken than are necessary to meet the purposes set forth in paragraph (a) of this section;

(2) No more native mammals or native birds are taken in any year than can normally be replaced by net natural reproduction in the following breeding season;

(3) The variety of species and the balance of the natural ecological systems within Antarctica are maintained; and

(4) The authorized taking, transporting, carrying, or shipping of any native mammal or bird is carried out in a humane manner.

§ 670.18 Content of permit applications.

In addition to the information required in subpart C of this part, an applicant seeking a permit to take a native mammal or native bird shall include a complete description of the project including the purpose of the proposed taking, the use to be made of the native mammals or native birds, and the ultimate disposition of the native mammals and birds. An applicant seeking a permit to engage in a harmful interference shall include a complete description of the project including the purpose of the activity which will result in the harmful interference. Sufficient information must be provided to establish that the taking, harmful

interference, transporting, carrying, or shipping of a native mammal or bird shall be humane.

§ 670.19 Designation of native mammals.

The following are designated native mammals:

Pinnipeds:
- Crabeater seal—*Lobodon carcinophagus*
- Southern elephant seal—*Mirounga leonina.*
- Souther fur seals—*Arctocephalus spp.*[1]
- Leopard seal—*Hydrurga leptonyx.*
- Ross seal—*Ommatophoca rossi.*[1]
- Weddell seal—*Leptonychotes weddelli.*

Large Cetaceans (Whales):
- Blue whale—*Balaenoptera musculus*
- Pygmy blue whale—*Balaenoptera musculus brevicauda*
- Fin whale—*Balaenoptera physalus*
- Humpback whale—*Megaptera novaeangliae*
- Minke whale—*Balaenoptera acutrostrata*
- Sei whale—*Balaenoptera borealis*
- Southern right whale—*Balaena glacialis australis*
- Sperm whale—*Physeter macrocephalus*

Small Cetaceans (Dolphins and porpoises):
- Arnoux's beaked whale—*Berardius arnuxii.*
- Commerson's dolphin—*Cephalorhynchus commersonii*
- Dusky dolpin—*Lagenorhynchus obscurus*
- Hourglass dolphin—*Lagenorhynchus cruciger*
- Killer whale—*Orcinus orca*
- Long-finned pilot whale—*Globicephala melaena*
- Southern right whale dolpin—*Lissodelphis peronii*
- Southern bottlenose whale—*Hyperoodon planifrons.*
- Spectacled porpoise—*Phocoena dioptrica*

§ 670.20 Designation of native birds.

The following are designated native birds:

Albatross:
- Black-browed—*Diomedea melanophris.*
- Gray-head—*Diomedea chrysostoma.*
- Light-mantled sooty—*Phoebetria palpebrata.*
- Wandering—*Diomedea exulans.*

Fulmer:
- Northern Giant—*Macronectes halli.*
- Southern—*Fulmarus glacialoides.*
- Souther Giant—*Macronectes giganteus.*

Gull:
- Southern Black-backed—*Larus dominicanus.*

Jaeger:
- Parasitic—*Stercorarius parasiticus.*
- Pomarine—*Stercorarius pomarius.*

Penguin:
- Adelie—*Pygoscelis adeliae.*
- Chinstrap—*Pygoscelis antarctica.*
- Emperor—*Aptenodytes forsteri.*
- Gentoo—*Pygoscelis papua.*
- King—*Aptenodytes patagonicus.*
- Macaroni—*Eudyptes chrysolophus.*
- Rockhopper—*Eudyptes crestatus.*

Petrel:
- Antarctic—*Thalassocia antarctica.*
- Black-bellied Storm—*Fregatta tropica.*
- Blue—*Halobaena caerulea.*
- Gray—*Procellaria cinerea.*
- Great-winged—*Pterodroma macroptera.*
- Kerguelen—*Pterodroma brevirostris.*
- Kerguelen—*Pterodroma macroptera.*
- Mottled—*Pterodroma inexpectata.*
- Snow—*Pagodroma nivea.*
- Soft-plumged—*Pterodroma mollis.*
- South-Georgia Diving—*Pelecanoides georgicus.*
- White-bellied Storm—*Fregetta grallaria.*
- White-chinned—*Procellaria aequinoctialis.*
- White-headed—*Pterodroma lessonia.*
- Wilson's Storm—*Oceanites oceanicus.*

Pigeon:
- Cape—*Daption capense.*

Pintail:
- South American Yellow-billed—*Anas georgica spinicauda.*

Prion:
- Antarctic—*Pachyptila desolata.*
- Narrow-billed—*Pachyptila belcheri.*

Shag:
- Blue-eyed—*Phalacrocorax atriceps.*

Shearwater:
- Sooty—*Puffinus griseus.*

Sheathbill:
- American—*Chionis alba.*

Skua:
- Brown—*Catharacta lonnbergi.*
- South Polar—*Catharacta maccormicki.*

Swallow:
- Barn—*Hirundo rustica.*

Tern:
- Antarctic—*Sterna vittata.*
- Arctic—*Sterna paradisaea.*

§ 670.21 Designation of native plants.

All plants whose normal range is limited to, or includes Antarctica are designated native plants, including:

Bryophytes
Freshwater algae
Fungi
Lichens
Marine algae
Vascular Plants

§ 670.22 [Reserved]

Subpart E—Specially Protected Species of Mammals, Birds and Plants

§ 670.23 Specific issuance criteria.

Permits authorizing the taking of mammals, birds, or plants designated as a Specially Protected Species of mammals, birds, and plants in § 670.25 may only be issued if:

(a) There is a compelling scientific purpose for such taking;

(b) The actions allowed under any such permit will not jeopardize the existing natural ecological system, or the survival of the affected species or population;

(c) The taking involves non-lethal techniques, where appropriate; and

(d) The authorized taking, transporting, carrying or shipping will be carried out in a humane manner.

§ 670.24 Content of permit applications.

In addition to the information required in subpart C of this part, an applicant seeking a permit to take a Specially Protected Species shall include the following in the application:

(a) A detailed scientific justification of the need for taking the Specially Protected Species, including a discussion of possible alternative species;

(b) Information demonstrating that the proposed action will not jeopardize the existing natural ecological system or the survival of the affected species or population; and

(c) Information establishing that the taking, transporting, carrying, or shipping of any native bird or native mammal will be carried out in a humane manner.

§ 670.25 Designation of specially protected species of native mammals, birds and plants.

The following two species have been designated as Specially Protected Species by the Antarctic Treaty Parties and are hereby designated Specially Protected Species.

Common Name and Scientific Name
Kerguelen Fur Seal—*Arctocephalus tropicales gazella.*
Ross Seal—*Ommatophoca rossi.*

§ 670.26 [Reserved]

Subpart F—Antarctic Specially Protected Areas

§ 670.27 Specific issuance criteria.

Permits authorizing entry into any Antarctic Specially Protected Area designated in § 670.29 may only be issued if:

(a) The entry and activities to be engaged in are consistent with an approved management plan, or

(b) A management plan relating to the area has not been approved by the Antarctic Treaty Parties, but

(1) There is a compelling scientific purpose for such entry which cannot be served elsewhere, and

(2) The actions allowed under the permit will not jeopardize the natural ecological system existing in such area.

§ 670.28 Content of permit applications.

In addition to the information required in subpart C of this part, an applicant seeking a permit to enter an Antarctic Specially Protected Area shall include the following in the application:

(a) A detailed justification of the need for such entry, including a discussion of alternatives;

[1] These species of mammals have been designated as specially protected species and are subject to subpart E of this part.

[1] These species of mammals have been designated as specially protected species and are subject to subpart E of this part.

(b) Information demonstrating that the proposed action will not jeopardize the unique natural ecological system in that area; and

(c) Where a management plan exists, information demonstrating the consistency of the proposed actions with the management plan.

§ 670.29 Designation of Antarctic specially protected areas.

The following areas have been designated by the Antarctic Treaty Parties for special protection and are hereby designated as Antarctic Specially Protected Areas. Detailed maps and descriptions of the sites and complete management plans can be obtained from the National Science Foundation, Office of Polar Programs, National Science Foundation, Room 755, 4201 Wilson Boulevard, Arlington, Virginia 22230.

ASPA 101, Taylor Rookery, MacRobertson Land.
ASPA 102, Rookery Islands, Holme Bay.
ASPA 103, Ardrey Island and Odbert Island, Budd Coast.
ASPA 104, Sabrina Island, Balleny Islands.
ASPA 105, Beaufort Island, Ross Sea.
ASPA 106, Cape Hallett, Victoria Land.
ASPA 107, Dion Islands, Marguerite Bay, Antarctic Peninsula.
ASPA 108, Green Island, Berthelot Islands, Antarctic Peninsula.
ASPA 109, Moe Island, South Orkney Islands.
ASPA 110, Lynch Island, South Orkney Islands.
ASPA 111, Southern Powell Island and adjacent islands, South Orkney Islands.
ASPA 112, Coppermine Peninsula, Robert Island.
ASPA 113, Litchfield Island, Arthur Harbor, Palmer Archipelago.
ASPA 114, North Coronation Island, South Orkney Islands.
ASPA 115, Lagotellerie Island, Marguerite Bay.
ASPA 116, New College Valley, Caughley Beach, Cape Bird, Ross Island.
ASPA 117, Avian Island, Northwest Marguerite Bay.
ASPA 118, Cryptogam Ridge, Mount Melbourne, Victoria Land.
ASPA 119, Forlidas Pond and Davis Valley Ponds.
ASPA 120, Pointe-Geologie Archipelago.
ASPA 121, Cape Royds, Ross Island.
ASPA 122, Arrival Heights, Hut Point Peninsula, Ross Island.
ASPA 123, Barwick Valley, Victoria Land.
ASPA 124, Cape Crozier, Ross Island.
ASPA 125, Fildes Peninsula, King George Island, South Shetland Islands.
ASPA 126, Byers Peninsula, Livingston Island, South Shetland Islands.
ASPA 127, Haswell Island.
ASPA 128, Western Shore of Admiralty Bay, King George Island.
ASPA 129, Rothera Point, Adelaide Island.
ASPA 130, Tramway Ridge, Mt. Erebus, Ross Island.
ASPA 131, Canada Glacier, Lake Fryxell, Taylor Valley, Victoria Land.
ASPA 132, Potter Peninsula, King Georgia Island, South Shetland Island.
ASPA 133, Harmony Point.
ASPA 134, Cierva Point and nearby islands, Danco Coast, Antarctic Peninsula.
ASPA 135, Bailey Peninsula, Budd Coast, Wilkes Land.
ASPA 136, Clark Peninsula, Budd Coast, Wilkes Land.
ASPA 137, Northwest White Island, McMurdo Sound.
ASPA 138, Linnaeus Terrace, Asquard Range, Victoria Land.
ASPA 139, Biscoe Point, Anvers Island, Palmer Archipelago.
ASPA 140, Shores of Port Foster, Deception Island, South Shetland Islands.
ASPA 141, Yukidori Valley, Langhovde, Lutzow-Holm Bay.
ASPA 142, Svarthamaren Mountain, Muhlig-Hofmann Mountains, Queen Maud Land.
ASPA 143, Marine Plain, Mule Peninsula, Vestfold Hills, Princess Elizabeth Land.
ASPA 144, Chile Bay (Discovery Bay), Greenwich Island, South Shetland Islands.
ASPA 145, Port Foster, Deception Island, South Shetland Islands.
ASPA 146, South Bay, Doumer Island, Palmer Archipelago.
ASPA 147, Ablation Point-Ganymede Heights, Alexander Island.
ASPA 148, Mount Flora, Hope Bay, Antarctic Peninsula.
ASPA 149, Cape Shirreff, Livingston Island, South Shetland Islands.
ASPA 150, Ardley Island, Maxwell Bay, King George Island, South Shetland Islands.
ASPA 151, Lions Rump, King George Island, South Shetland Islands.
ASPA 152, Western Bransfield Strait, off Low Island, South Shetland Islands.
ASPA 153, East Dallmann Bay, off Brabant Island.
ASPA 154, Cape Evans Historic Site.
ASPA 155, Lewis Bay Tomb

§ 670.30 [Reserved]

Subpart G—Import Into and Export From the United States

§ 670.31 Specific issuance criteria for imports.

Subject to compliance with other applicable law, any person who takes a native mammal, bird, or plant under a permit issued under the regulations in this part may import it into the United States unless the Director finds that the importation would not further the purpose for which it was taken. If the importation is for a purpose other than that for which the native mammal, bird, or plant was taken, the Director may permit importation upon a finding that importation would be consistent with the purposes of the Act, the regulations in this part, or the permit under which they were taken.

§ 670.32 Specific issuance criteria for exports.

The Director may permit export from the United States of any native mammal, bird, or native plants taken within Antarctica upon a finding that exportation would be consistent with the purposes of the Act, the regulations in this part, or the permit under which they were taken.

§ 670.33 Content of permit applications.

In addition to the information required in subpart C of this part, an applicant seeking a permit to import into or export from the United States a native mammal, a native bird, or native plants taken within Antarctica shall include the following in the application:

(a) Information demonstrating that the import or export would further the purposes for which the species was taken;

(b) Information demonstrating that the import or export is consistent with the purposes of the Act or the regulations in this part;

(c) A statement as to which U.S. port will be used for the import or export, and

(d) Information describing the intended ultimate disposition of the imported or exported item.

§ 670.34 Entry and exit ports.

(a) Any native mammal, native bird, or native plants taken within Antarctica that are imported into or exported from the United States must enter or leave the United States at ports designated by the Secretary of Interior in 50 CFR part 14. The ports currently designated are:

(1) Los Angeles, California.
(2) San Francisco, California.
(3) Miami, Florida.
(4) Honolulu, Hawaii.
(5) Chicago, Illinois.
(6) New Orleans, Louisiana.
(7) New York, New York.
(8) Seattle, Washington.
(9) Dallas/Forth Worth, Texas.
(10) Portland, Oregon.
(11) Baltimore, Maryland.
(12) Boston, Massachusetts.
(13) Atlanta, Georgia.

(b) Permits to import or export at non-designated ports may be sought from the Secretary of Interior pursuant to subpart C, 50 CFR part 14.

§ 670.35 [Reserved]

Subpart H—Introduction of Non-Indigenous Plants and Animals

§ 670.36 Specific issuance criteria.

For purposes consistent with the Act, only the following plants and animals may be considered for a permit allowing their introduction into Antarctica:

(a) Domestic plants; and

(b) Laboratory animals and plants including viruses, bacteria, yeasts, and fungi.

Living non-indigenous species of birds shall not be introduced into Antarctica.

§ 670.37 content of permit applications.

Applications for the introduction of plants and animals into Antarctica must describe:

(a) The species, numbers, and if appropriate, the age and sex, of the animals or plants to be introduced into Antarctica;

(b) The need for the plants or animals,

(c) What precautions the applicant will take to prevent escape or contact with native fauna and flora, and

(d) How the plants or animals will be removed from Antarctica or destroyed after they have served their purposes.

§ 670.38 Conditions of permit.

All permits allowing the introduction of non-indigenous plants and animals will require that the animal or plant be kept under controlled conditions to prevent its escape or contact with native fauna and flora and that after serving its purpose the plant or animal shall be removed from Antarctica or be destroyed in manner that protects the natural system of Antarctica.

§ 670.39 [Reserved]

[FR Doc. 98–14474 Filed 6–1–98; 8:45 am]

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Notices

Federal Register
Vol. 63, No. 105
Tuesday, June 2, 1998

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

Newspapers Used for Publication of Legal Notice, Comment and Appeal of Decisions for Pacific Northwest Region, Oregon and Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Two changes have been made to this listing since the May 10, 1996 **Federal Register** notice (61 FR 21438). These changes are for the Paisley Ranger District on the Fremont National Forest (Oregon) and Paulina Ranger District on the Ochoco National Forest (Oregon). This updated notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Pacific Northwest Region to publish legal notice of all decisions subject to appeal under 36 CFR Parts 215 and 217 and to publish notice for public comment and notice of decisions subject to the provisions of 36 CFR Part 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish the legal notice for public comment or decision. This allows the public to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeal process.

DATES: Publication of legal notices in the listed newspapers will begin with proposals for public comment or decisions subject to appeal that are made on or after June 1, 1998. The list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jim L. Schuler, Regional Appeals Coordinator, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208–3623, phone: (503) 326–2322.

SUPPLEMENTARY INFORMATION: Responsible Officials in the Pacific Northwest Region will give legal notice of decisions that may be subject to appeal under 36 CFR Parts 215 and 217 in the following newspapers which are listed by Forest Service administrative units. Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper, which shall be used to constitute legal evidence that the agency has given timely and constructive notice for comment and for decisions that may be subject to administrative appeal. The timeframe for appeal shall be based on the date of publication of a notice of decision in the principal newspaper.

The newspapers to be used are as follows:

Pacific Northwest Regional Office

Pacific Northwest Regional Forester decisions on Oregon National Forests:
The Oregonian, Portland, Oregon
Pacific Northwest Regional Forester decisions on Washington National Forests:
The Seattle Post-Intelligencer, Seattle, Washington
Columbia Gorge National Scenic Area Manager decisions:
The Oregonian, Portland, Oregon

Oregon National Forests

Deschutes National Forest

Deschutes Forest Supervisors decisions:
The Bulletin, Bend, Oregon
Bend District Ranger decisions:
The Bulletin, Bend, Oregon
Crescent District Ranger decisions:
The Bulletin, Bend, Oregon
Fort Rock District Ranger decisions:
The Bulletin, Bend, Oregon
Sister District Ranger decisions:
Sisters Nugget, Sisters, Oregon
Bend Pine Nursery Managers decisions:
The Bulletin, Bend, Oregon
Redmond Air Center Managers decisions:
The Bulletin, Bend, Oregon

Fremont National Forest

Fremont Forest Supervisor decisions:
Herald and News, Klamath Falls, Oregon
Newspapers providing additional notice of forest supervisor decisions:
Lake County Examiner, Lakeview, Oregon
The Bulletin, Bend, Oregon
Bly District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Lakeview District Ranger decisions:
Lake County Examiner, Lakeview, Oregon
Paisley District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Silver Lake District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Newspaper providing additional notice of ranger decisions:
The Bulletin, Bend, Oregon

Malheur National Forest

Malheur Forest Supervisor decisions:
Blue Mountain Eagle, John Day, Oregon
Bear Valley District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon
Burns District Ranger decisions:
Burns Times Herald, Burns, Oregon
Long Creek District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon
Prairie City District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon

Mt. Hood National Forest

Mt. Hood Forest Supervisor decisions:
The Oregonian, Portland, Oregon
Barlow District Ranger decisions:
The Oregonian, Portland, Oregon
Bear Springs District Ranger decisions:
The Oregonian, Portland, Oregon
Clackamas District Ranger decisions:
The Oregonian, Portland, Oregon
Columbia Gorge District Ranger decisions:
The Oregonian, Portland, Oregon
Estacada District Ranger decisions:
The Oregonian, Portland, Oregon
Hood River District Ranger decisions:
The Oregonian, Portland, Oregon
Zigzag District Ranger decisions:
The Oregonian, Portland, Oregon

Ochoco National Forest

Ochoco forest Supervisor decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of forest supervisor decisions:
Burns Times/Herald, Burns, Oregon
Central Oregonian, Prineville, Oregon
Big Summit District Ranger decisions:
The Bulletin, Bend, Oregon
Crooked River National Grassland District Ranger decisions:
The Bulletin, Bend, Oregon

Newspaper providing additional notice of ranger decisions:
Madras Pioneer, Madras, Oregon
Paulina District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of ranger decisions:
Blue Mountain Eagle, John Day, Oregon
The Times-Journal, Condon, Oregon
Prineville District Ranger decisions:
The Bulletin, Bend, Oregon
Newspaper providing additional notice of ranger decisions:
Central Oregonian, Prineville, Oregon
Snow Mountain District Ranger decisions:
The Bulletin, Bend, Oregon
Newspaper providing additional notice of ranger decisions:
Burns Times/Herald, Burns, Oregon

Rogue River National Forest

Rogue River Forest Supervisor decisions:
Mail Tribune, Medford, Oregon
Applegate District Ranger decisions:
Mail Tribune, Medford, Oregon
Ashland District Ranger decisions:
Mail Tribune, Medford, Oregon
Butte Falls District Ranger decisions:
Mail Tribune, Medford, Oregon
J. Herbert Stone Nursery Managers decisions:
Mail Tribune, Medford, Oregon
Prospect District Ranger decisions:
Mail Tribune, Medford, Oregon

Siskiyou National Forest

Siskiyou Forest Supervisor decisions:
Grants Pass Courier, Grants Pass, Oregon
Chetco District Ranger decisions:
Curry Coastal Pilot, Brookings, Oregon
Galice District Ranger decisions:
Grants Pass Courier, Grants Pass, Oregon
Gold Beach District Ranger decisions:
Curry County Reporter, Gold Beach, Oregon
Illinois Valley District Ranger decisions:
Grants Pass Courier, Grants Pass, Oregon
Powers District Ranger decisions:
The World, Coos Bay, Oregon
Newspaper providing additional notice of ranger decisions:
Curry County Reporter, Gold Beach, Oregon

Siuslaw National Forest

Siuslaw Forest Supervisor decisions:
Corvallis Gazette-Times, Corvallis, Oregon
Alsea District Ranger decisions:
Corvallis Gazette-Times, Corvallis, Oregon
Hebro District Ranger decisions:
Headlight Herald, Tillamook, Oregon
Mapleton District Ranger decisions:
Siuslaw News, Florence, Oregon
Oregon Dunes National Recreation Area Manager decisions:
The World, Coos Bay, Oregon
Waldport District Ranger decisions:
Newport News Times, Newport, Oregon

Umatilla National Forest

Umatilla Forest Supervisor decisions:
East Oregonian, Pendleton, Oregon
Heppner District Ranger decisions:
East Oregonian, Pendleton, Oregon
North Fork John Day District Ranger decisions:
East Oregonian, Pendleton, Oregon
Pomeroy District Ranger decisions:
East Oregonian, Pendleton, Oregon
Walla Walla District Ranger decisions:
East Oregonian, Pendleton, Oregon

Umpqua National Forest

Umpqua Forest Supervisor decisions:
The News-Review, Roseburg, Oregon
Cottage Grove District Ranger decisions:
The New-Review, Roseburg, Oregon
Diamond Lake District Ranger decisions:
The News-Review, Roseburg, Oregon
North Umpqua District Ranger decisions:
The News-Review, Roseburg, Oregon
Tiller District Ranger decisions:
The News-Review, Roseburg, Oregon
Dorena Tree Improvement Center Manager decisions:
The News-Review, Roseburg, Oregon

Wallowa-Whitman National Forest

Wallowa-Whitman Forest Supervisor decisions:
Baker City Herald, Baker City, Oregon
Baker District Ranger decisions:
Baker City Herald, Baker City, Oregon
Eagle Cap District Ranger decisions:
Wallowa County Chieftain, Enterprise, Oregon
Hells Canyon National Recreation Area Ranger decisions:
Occurring in Oregon—
Wallowa County Cheiftain, Enterprise, Oregon
Occurring in Idaho—
Lewiston Morning Tribune, Lewiston, Idaho
LaGrande District Ranger decisions:
The Observer, La Grande, Oregon
Pine District Ranger decisions:
Baker City Herald, Baker City, Oregon
Unity District Ranger decisions:
Baker City Herald, Baker City, Oregon
Wallowa Valley District Ranger decisions:
Wallowa County Chieftain, Enterprise, Oregon

Willamette National Forest

Williamette Forest Supervisor decisions:
Register-Guard, Eugene, Oregon
Blue River District Ranger decisions:
Register-Guard, Eugene, Oregon
Detroit District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspaper providing additional notice of ranger decisions:
Salem Statement-Journal, Salem, Oregon
Middle Fork District Ranger decisions:
Register-Guard, Eugene Oregon
McKenzie District Ranger decisions:
Register-Guard, Eugene, Oregon
Sweet Home District Ranger decisions:
Register-Guard, Eugene, Oregon

Winema National Forest

Winema Forest Supervisor decisions:
Herald and News, Klamath Falls, Oregon
Chemult District Ranger Decisions:
Herald and News, Klamath Falls, Oregon
Chiloquin District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Klamath District Ranger decisions:
Herald and News, Klamath Falls, Oregon

Washington National Forests

Colville National Forest

Colville Forest Supervisor decisions:
Statesman-Examiner, Colville, Washington
Colville District Ranger decisions:
Statesman-Examiner, Colville, Washington
Kettle Falls District Ranger decisions:
Statesman-Examiner, Colville, Washington
Newport District Ranger decisions:
Newport Miner, Newport, Washington
Republic District Ranger decisions:
Republic News Miner, Republic, Washington
Sullivan Lake District Ranger decisions:
Newport Miner, Newport, Washington

Gifford Pinchot National Forest

Gifford Pinchot Forest Supervisor decisions:
Columbian, Vancouver, Washington
Mount St. Helens National Volcanic Monument Manager decisions:
Columbian, Vancouver, Washington
Mt. Adams District Ranger decisions:
Enterprise, White Salmon, Washington
Packwood District Ranger decisions:
Chronicle, Chehalis, Washington
Randle District Ranger decisions:
Chronicle, Chehalis, Washington
Wind River District Ranger decisions:
Columbian, Vancouver, Washington

Mt. Baker-Snoqualmie National Forest

Mt. Baker-Snoqualmie Forest Supervisor decisions:

Seattle Post-Intelligencer, Seattle, Washington
Darrington District Ranger decisions:
Everett Herald, Everett, Washington
Mt. Baker District Ranger decisions:
Skagit Valley Herald, Mt. Vernon, Washington
North Bend District Ranger decisions:
Valley Record, North Bend, Washington
Skykomish District Ranger decisions:
Everett Herald, Everett, Washington
White River District Ranger decisions:
Enumclaw Courier Herald, Enumclaw, Washington

Okanagon National Forest

Okanagon Forest Supervisor decisions:
The Wenatchee World, Wenatchee, Washington
Tonasket District Ranger decisions:
The Gazette-Tribune, Oroville, Washington
Twisp District Ranger decisions:
Methow Valley News, Twisp, Washington
Winthrop District Ranger decisions:
Methow Valley News, Twisp, Washington

Olympic National Forest

Olympic Forest Supervisor decisions:
The Olympian, Olympia, Washington
Newspapers providing additional notice of forest supervisor decisions:
Mason County Journal, Shelton, Washington
Daily World, Aberdeen, Washington
Peninsula Daily News, Port Angeles, Washington
Bremerton Sun, Bremerton, Washington
Hood Canal District Ranger decisions:
Mason County Journal, Shelton, Washington
Quilcene District Ranger decisions:
Penninsula Daily News, Port Angeles, Washington
Newspaper providing additional notice of ranger decisions:
Bremerton Sun, Bremerton, Washington
Quinault District Ranger decisions:
The Daily World, Aberdeen, Washington
Soleduck District Ranger decisions:
The Forks Forum, Forks, Washington

Wenatchee National Forest

Wenatchee Forest Supervisor decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of forest supervisor decisions:
The Yakima Herald-Republic, Yakima, Washington
Chelan District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of ranger decisions:
The Yakima Herald-Republic, Yakima, Washington
Cle Elum District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of ranger decisions:
The Yakima Herald-Republic, Yakima, Washington
Entiat District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of ranger decisions:
The Yakima Herald-Republic, Yakima, Washington
Lake Wenatchee District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of ranger decisions:
The Yakima Herald-Republic, Yakima, Washington
Leavenworth District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of ranger decisions:
The Yakima Herald-Republic, Yakima, Washington
Naches District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of ranger decisions:
The Yakima Herald-Republic, Yakima, Washington.

Dated: May 26, 1998.

Richard A. Ferraro,

Deputy Regional Forester.

[FR Doc. 98–14503 Filed 6–1–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

McKenzie Creek Watershed—Wayne, Iron, and Reynolds Counties, Missouri

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the McKenzie Creek Watershed—Wayne, Iron, and Reynolds Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Roger A. Hansen, State Conservationist, Natural Resources Conservation Service, Parkade Center, Suite 250, 601 business Loop 70 West, Columbia, Missouri, 65203, (573) 876–0901.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Roger A. Hansen, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are flood damage reduction, reduction of erosion and sediment, recreational development, and enhancement of fish and wildlife habitats. The planned works of improvement include voluntary acquisition of 105 floodplain properties, demolition or relocation of buildings from the acquisition area, development of greenway (recreational) facilities in the resulting open spaces, installation of streambank protection and restoration measures, and restoration of riparian areas to benefit fish and wildlife habitats.

The Notice Of A Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Michael D. Wells, Assistant State Conservationist at (573) 876–0900.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials)

Roger A. Hansen,

State Conservationist.

[FR Doc. 98–14502 Filed 6–1–98; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Task Force on Agricultural Air Quality

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of meeting cancellation.

SUMMARY: The USDA Task Force on Agricultural Air Quality meeting that had been scheduled for June 17–18, 1998, in Spokane, Washington has been cancelled. No further meetings of this committee are foreseen this fiscal year.

FOR FURTHER INFORMATION CONTACT: George Bluhm, Designated Federal Official, University of California, Land, Air, Water Resources, 151 Hoagland Hall, Davis, CA 95616–6827. Telephone: voice (530) 752–1018, fax (530) 752–1552.

SUPPLEMENTARY INFORMATION: Notice of this meeting cancellation is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information about the Task Force on Agricultural Air Quality may be found on the World Wide Web at http://www.nhq.nrcs.usda.gov/faca/aaqtf.html.

Dated: May 27, 1998.

Lee P. Herndon,

Director, Institutes Division.

[FR Doc. 98–14499 Filed 6–1–98; 8:45 am]

BILLING CODE 3014–16–P

ASSASSINATION RECORDS REVIEW BOARD

Request for Comments on Review Board's Final Report

AGENCY: Assassination Records Review Board.

SUMMARY: The Assassination Records Review Board (''Review Board''), established by the *President John F. Kennedy Assassination Records Collection Act of 1992,* (Supp. V 1994) (''JFK Act'') is currently in the process of drafting its final report. The Review Board proposes to include in its final report recommendations that arise out of the Review Board's experiences in releasing records. By issuing this notice, the Review Board wishes to solicit comments from the public concerning the types of recommendations that the Review Board should make as part of its report.

DATES: Comments should be received on or before July 1, 1998.

ADDRESSES: Comments should be mailed to the Assassination Records Review Board at 600 E Street, NW., Second Floor, Washington, DC 20530. Comments may also be faxed to the Board at (202) 724–0457.

FOR FURTHER INFORMATION CONTACT: T. Jeremy Gunn, Executive Director and General Counsel, Assassination Records Review Board, Second Floor, 600 E Street, NW., Washington, DC 20530, (202) 724–0088, fax (202) 724–0457.

SUPPLEMENTARY INFORMATION: On May 12, 1998, the Assassination Records Review Board (Review Board) held an open meeting in which it discussed possible recommendations for its Final Report. At that meeting, Review Board members stated that they wish to solicit comments from the public concerning the types of recommendations that the Review Board should make in its report. By this notice, the Review Board solicits suggestions from the public for potential recommendations.

Dated: May 28, 1998.

T. Jeremy Gunn,

Executive Director and General Counsel, Assassination Records Review Board.

[FR Doc. 98–14489 Filed 6–1–98; 8:45 am]

BILLING CODE 6820–TD–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Michigan Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on June 25, 1998, at the Holiday Inn-South/Convention Center, 6820 South Cedar Street, Lansing, Michigan 48911. The purpose of the meeting is to receive information regarding ''Rehabilitation Services for the Disabled Community in Michigan.''

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Roland Hwang, 517–373–1480, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 26, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–14557 Filed 6–1–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 12:45 p.m. and adjourn at 4:30 p.m. on June 17, 1998, at the Governor's Conference Room, State Capitol Building, 1900 Kanawha Boulevard East, Charleston, West Virginia 25305. The purpose of the meeting is to review a draft proposal, continue planning for a future series of statewide forums on selected civil rights topics in West Virginia, and discuss the Committee's presentation at the State civil rights summit in fall 1998.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gregory T. Hinton, 304–367–4244, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 26, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–14556 Filed 6–1–98; 8:45 am]

BILLING CODE 6335–01–P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, June 12, 1998, 9:00 a.m.

PLACE: U.S. Court of International Trade, 1 Federal Plaza, 2nd Floor, Ceremonial Court Room, New York, NY 10278.

STATUS:

Agenda

I. Approval of Agenda

II. Approval of Minutes of May 8, 1998 Meeting
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee Report Community Forum on Race Relations in Grand Rapid (Michigan)
VI. State Advisory Committee Appointments for Utah
VII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Edward A. Hailes, Jr.,

Deputy General Counsel.

[FR Doc. 98–14766 Filed 5–29–98; 3:20 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

U.S.-Haiti Business Development Council

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice supplements the **Federal Register** Notice of May 1, 1998 (63 FR 24162–24163) announcing membership opportunities for the U.S.-Haiti Business Development Council. All information in the previous announcement remains current, except for the change to the closing date, as explained herein.

DATES: This notice extends the closing date of the referenced **Federal Register** Notice for two months to August 1, 1998.

FOR FURTHER INFORMATION CONTACT: Elizabeth Jaffee, Haiti Desk Officer, Office of Latin America/Caribbean, International Trade Administration, U.S. Department of Commerce, telephone: (202) 482–4302, facsimile: (202) 482–0464.

Janice M. Bruce,

Director, Andean/Caribbean Basin Division.

[FR Doc. 98–14560 Filed 6–1–98; 8:45 am]

BILLING CODE 3510–DA–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Review; Comment Request

The Corporation for National and Community Service (CNCS), 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 Corporation for National and Community Service, Pat Kim, Program Officer, National Service Senior Corps, (202) 606–5000, Extension 245. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–5256 between the hours of 9:00 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, N.W., Washington, D.C. 20503. (202) 395–7316, by July 2, 1998.

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 Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

The Corporation published a Notice in the **Federal Register** (63 FR 3095, dated January 21, 1998), for a 60-day Comment Request regarding the Project Progress Report. In this Notice, the Total Burden Cost (operating/maintenance) to all respondents annually was incorrectly listed as ''0''. This entry is hereby corrected to read as follows: Total Burden Cost (operating/maintenance) to all respondents annually: $3,523.

Agency: Corporation for National and Community Service.

Title: Project Progress Report.

OMB Number: 3045–0033.

Agency Number: CNCS Form 1020.

Frequency: Semi-annual.

Affected Public: Sponsors of National Senior Service Corps Grants.

Number of Respondents: 1,245.

Estimated Time Per Respondent: 15.9 hrs.

Total Burden Hours: 19,795 hrs.

Total Annualized capital/startup costs: 0.

Total Annual Cost (operating/maintaining systems or purchasing services): $5,784.

Description: The Corporation for National and Community Service proposes to revise the current Project Progress Report (PPR) in order to reflect the revised National Senior Service Corps (NSSC) Grant Application. The revised PPR will be used by NSSC grantees to report progress toward accomplishing work plan goals and objectives, achieving Government Performance and Results Act (GPRA) goals, meeting challenges encountered, describing significant activities, and requesting technical assistance.

In January 1998, NSSC announced a 60-day review and comment period, ending March 15, 1998, during which project sponsors and the public were encouraged to submit comments on the revised draft PPR form. Existing sponsors were provided copies of the draft concurrent with **Federal Register** publication.

Approximately 15 written comments were received from over 1,245 existing Senior Corps projects and the public. As many of the comments as feasible were incorporated into the revised PPR form. Key changes include clarifying instructions.

Once approved by OMB, the revised PPR form will be completed by all public and private, non-profit organizations receiving National Senior Service Corps funds. The anticipated implementation schedule calls for the revised PPR form to be used with grants having a start date of July 1, 1998 or thereafter. As the current PPR form expires in December 1998, all NSSC grantees will utilize the revised PPR by no later than December 30, 1998. For further information please contact: Pat Kim (202) 606–5000, extension 245.

Dated: May 27, 1998.

Kenneth L. Klothen,

General Counsel.

[FR Doc. 98–14501 Filed 6–1–98; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

Title, Associated Form, and OMB Number: Department of Defense Application for Priority Rating for Production or Construction Equipment; DD Form 691; OMB Number 0704–0055.

Type of Request: Extension.

Number of Respondents: 610.

Responses Per Respondent: 1.

Annual Responses: 610.

Average Burden per Response: 1 hour.

Annual Burden Hours: 610.

Needs and Uses: Executive Order 12919 delegated to DoD authority to require certain contracts and orders relating to approved Defense Programs to be accepted and performed on a preferential basis. This program helps contractors acquire industrial equipment in a timely manner, thereby facilitating development and support of weapons systems and other important Defense Programs. This information is used so the authority to use a priority rating can be granted. This is done to assure timely availability of production or construction equipment to meet current Defense requirements in peacetime and in case of national emergency. Without this information DoD would not be able to assess a contractor's stated requirement to obtain equipment needed for fulfillment of contractual obligations.

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

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

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

DOD Clearance Officer: Mr. Robert Cushing.

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

Dated: May 27, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–14509 Filed 6–1–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0001]

Proposed Collection; Comment Request Entitled Standard Form 28, Affidavit of Individual Surety

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0001).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Standard Form 28, Affidavit of Individual Surety. The clearance currently expires on September 30, 1998.

DATES: Comments may be submitted on or before August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA (202) 501–3856.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0001, Standard Form 28, Affidavit of Individual Surety, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Affidavit of Individual Surety (Standard Form (SF) 28) is used by all executive agencies, including the Department of Defense, to obtain information from individuals wishing to serve as sureties to Government bonds. In order to qualify as a surety on a Government bond, the individual must show a net worth not less than the penal amount of the bond on the SF 28. It is an elective decision on the part of the maker to use individual sureties instead of other available sources of surety or sureties for Government bonds. We are not aware if other formats exist for the collection of this information.

The information on SF 28 is used to assist the contracting officer in determining the acceptability of individuals proposed as sureties.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.4* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The annual reporting burden is estimated as follows: Respondents, *500*; responses per respondent, *1.43*; total annual responses, *715*; preparation hours per response, *.4*; and total response burden hours, *286*.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0001, Standard Form 28, Affidavit of Individual Surety, in all correspondence.

Dated: May 21, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–14450 Filed 6–1–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0023]

Proposed Collection; Comment Request Entitled Balance of Payments Program Certificate

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0023).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve

an extension of a currently approved information collection requirement concerning Balance of Payments Program Certificate.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Office of Federal Acquisition Policy, GSA (202) 501–1757.

ADDRESSES: Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4037, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the Balance of Payments Program, unless specifically exempted by statute or regulation, the Government gives preferences to the acquisition of domestic end products or services, provided that the cost of the domestic items is reasonable. The Balance of Payments Program differs from the Buy American Act in that it applies to acquisitions for use outside the United States.

The contracting officer uses the information to identify which end products or services are domestic, and which are of foreign origin. In order to be considered domestic, the cost of its components mined, produced, or manufactured in the United States must exceed 50 percent of the cost of all its components. Services are considered domestic if 25 percent or less of their total cost are attributable to performance occurring outside the United States. The contracting officer determines reasonableness of cost by applying an evaluation factor of 50 percent. If this procedure results in a tie, the domestic offer shall be considered successful.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.167* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,243*; responses per respondent, *5*; total annual responses, *6,215*; preparation hours per response, *.167*; and total response burden hours, *1,038*.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0023, Balance of Payments Program Certificate, in all correspondence.

Dated: May 21, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–14458 Filed 6–1–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0025]

Proposed Collection; Comment Request Entitled Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding extension to an existing OMB clearance (9000–0025).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate. The clearance currently expires on September 30, 1998.

DATES: Comments may be submitted on or before August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Federal Acquisition Policy Division, GSA (202) 501–1757.

ADDRESSES: Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the Trade Agreements Act of 1979, unless specifically exempted by statute or regulation, agencies are required to evaluate offers over a certain dollar limitation not to supply an eligible product without regard to the restrictions of the Buy American or the Balance of Payments program. Offerors identify excluded end products on this certificate.

The contracting officer uses the information to identify the offered items which are domestic end products. Items having components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a designated country of the Act.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *10* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,140*; responses per respondent, *10*; total annual responses, *11,400*; preparation hours per response, *.167*; and total response burden hours, *1,904*.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0025, Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate, in all correspondence.

Dated: May 27, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–14459 Filed 6–1–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0022]

Proposed Collection; Comment Request Entitled Customs and Duties

AGENCIES: Department of Defense (DOD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0022).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Customs and Duties. The clearance currently expires on September 30, 1998.

DATES: Comments may be submitted on or before August 3, 1998.

ADDRESSES: Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4037, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Federal Acquisition Policy Division, GSA (202) 501–1757.

SUPPLEMENTARY INFORMATION:

A. Purpose

United States laws impose duties on foreign supplies imported into the customs territory of the United States. Certain exemptions from these duties are available to Government agencies. These exemptions are used whenever the anticipated savings outweigh the administrative costs associated with processing required documentation. When a Government contractor purchases foreign supplies, it must notify the contracting officer to determine whether the supplies should be duty-free. In addition, all shipping documents and containers must specify certain information to assure the duty-free entry of the supplies.

The contracting officer analyzes the information submitted by the contractor to determine whether or not supplies should enter the country duty-free. The information, the contracting officer's determination, and the U.S. Customs forms are placed in the contract file. needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,330;* responses per respondent, *10;* total annual responses, *13,300;* preparation hours per response, *.5;* and total response burden hours, *6,650.*

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0022, Customs and Duties, in all correspondence.

Dated: May 21, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–14460 Filed 6–1–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0024]

Proposed Collection; Comment Request Entitled Buy American Certificate

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0024).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Buy American Certificate. The clearance currently expires on September 30, 1998.

DATES: Comments may be submitted on or before August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Federal Acquisition Policy Division, GSA, (202) 501–4755.

ADDRESSES: Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Buy American Act requires that only domestic end products be acquired for public use unless specifically authorized by statute or regulation, provided that the cost of the domestic products is reasonable.

The Buy American Certificate provides the contracting office with the information necessary to identify which products offered are domestic end products and which are of foreign origin. Components of unknown origin are considered to have been supplied from outside the United States.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *10* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *2,663;* responses per respondent, *20;* total annual responses, *53,260;* preparation hours per response, *.167;* and total response burden hours, *8,894.*

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0024, Buy American Certificate, in all correspondence.

Dated: May 27, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–14461 Filed 6–1–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 8–9 June 1998.

Time of Meeting: 0830–1630.

Place: Scottsdale, Arizona.

Agenda: The Army Science Board's (ASB) Issue Group panel on ''Schedule Realism'' will meet for briefings and discussions on the Joint Surveillance Target Attack Radar System Ground Station Module (JSTARS GSM) and its past technical and

programmatic problems. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1) and (4) Thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact our office at (703) 604–7490.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 98–14549 Filed 6–1–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 30–31 July 1998.

Time of Meeting: 0830–1630.

Place: Dominguez Hills, CA.

Agenda: The Army Science Board's (ASB) Issue Group panel on ''Schedule Realism'' will meet for briefings and discussions on the Force XXI Battle Command Brigade and Below (FBCB2) and its past technical and programmatic problems. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1) and (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact our office at (703) 604–7490.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 98–14550 Filed 6–1–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 7–10 July 1998.

Time of Meeting: 1230–1630, 7 July 98, 0830–1630, 8–10 July 98.

Place: Ft. Monmouth, NJ (7 Jul 98) & Tinton Falls, NJ (8–10 Jul 98).

Agenda: The Army Science Board's (ASB) Issue Group panel on ''Schedule Realism'' will meet for briefings and discussions on the Maneuver Control System (MCS) and its past technical and programmatic problems. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1) and (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact our office at (703) 604–7490.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 98–14551 Filed 6–1–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 1 June 1998.

Time of Meeting: 0830–1200.

Place: Ft. Belvoir, VA.

Agenda: The Army Science Board's (ASB) Issue Group panel on ''Schedule Realism'' will meet for briefings and discussions on the Combat Service Support Control System (CSSCS) and its past technical and programmatic problems. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1) and (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact our office at (703) 604–7490.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 98–14552 Filed 6–1–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 11–12 June 1998.

Time of Meeting: 0830–1630.

Place: Carson, California.

Agenda: The Army Science Board's (ASB) Issue Group panel on ''Schedule Realism'' will meet for briefings and discussions on the Combat Service Support Control System (CSSCS) and its past technical and programmatic problems. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1) and (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact our office at (703) 604–7490.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 98–14553 Filed 6–1–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patents for non-exclusive, partially exclusive or exclusive licensing. All of the listed patents have been assigned to the United States of America as represented by the Secretary of the Army, Washington, D.C.

These patents cover a wide variety of technical arts including: A method for ultrasensitive detection of atmospheric Nitrocompounds using excimer laser radiation and a method for determining ocular gaze point of regard and fixation duration.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99–502) and Section 207 of title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patents listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by these patients.

Title: Method and Apparatus for Determining Ocular Gaze Point of Regard and Fixation Duration.

Inventor: Christopher C. Smyth.

Patent Number: 5,726,916.

Issued Date: March 10, 1998.

Title: Method for Detecting Nitrocompounds Using Excimer Laser Radiation.

Inventor: Rosario C. Sausa.

Patent Number: 5,728,584.

Issued Date: March 17, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Rausa, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Aberdeen Proving Ground, Maryland 21005–5055, tel: (401) 278–5028; fax: (410) 278–5820.

SUPPLEMENTARY INFORMATION: None.

Mary V. Yonts,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 98–14559 Filed 6–1–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availabilty of a Pop-up Target System for Non-Exclusive, Exclusive, or Partially Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to a novel pop-up target system as described in the U.S. Army Research Laboratory patent docket #ARL 98–16 and a subsequent patent application to the U.S. Patent and Trademark Office. A licensing meeting is scheduled for Wednesday, 15 July 1998 at Aberdeen Proving Ground, MD. Visit *http://www.fedlabs.org/flc/ma/pl* for technical and registration information. A non-disclosure agreement must be signed prior to attending the licensing meeting. Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg. 434, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Mary V. Yonts,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 98–14558 Filed 6–1–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC96–19–026 and ER96–1663–027]

California Power Exchange Corporation; Notice of Filing

May 27, 1998.

Take notice that on May 22, 1998, the California Power Exchange Corporation (PX), filed a Notice of Change in Start of the Hour-Ahead Market. The filing amends the PX's proposed Tariff Amendment No. 2, filed on April 10, 1998 in the above-referenced dockets, by changing the requested effective date to introduce the Hour-Ahead Market to June 27, 1998. The PX states that it is doing so in order to conduct further market testing and training.

The PX states that it is serving copies of its filing on all parties designated on the official service list and will promptly post it on the PX's web site.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before June 2, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14580 Filed 6–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–406–000]

CNG Transmission Corporation; Notice of Informal Settlement Conference

May 27, 1998.

Take notice that an informal settlement conference will be convened in this proceeding on Tuesday, June 9, 1998, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervener status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact William J. Collins at (202) 208–0248.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14483 Filed 6–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–545–000]

Colorado Engineering Experiment Station, Inc.; Notice of Petition for Declaratory Order

May 27, 1998.

Take notice that on May 13, 1998, Colorado Engineering Experiment Station, Inc. (CEESI), 54043 WCR 37, Nunn, Colorado 80648, filed in Docket No. CP98–545–000, a petition pursuant to Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207), requesting the Commission to determine and declare that it lacks jurisdiction pursuant to the Natural Gas Act (NGA), other statutes including the Natural Gas Policy Act (NGPA), and any regulations promulgated thereunder, over the construction, maintenance and operation of CEESI's proposed natural gas meter calibration facilities and appurtenances; all as more fully set forth in the petition which is on file with the Commission and open for public inspection.

CEESI plans to develop a natural gas meter calibration facility at Northern Border Pipeline Company's (Northern Border) Ventura Measurement Station (Ventura Station) located near Ventura, Iowa, for the primary purpose of calibrating large volume flowmeters. The meter calibration facility to be operated by CEESI will consist of reference meters, meter testing facilities and instrumentation, 30-inch piping and buildings. CEESI states that the Ventura Station provide the following essential elements for calibrating large volume meters: (i) A consistent year around daily flow of a large volume of natural gas; (ii) a high pressure system; and (iii) cold winter conditions.

CEESI states that the planned calibration facility will provide manufacturers and users of large volume flow meters in the United States access to a calibration facility in the United States, resulting in reduced expense and time required to test and transport such meters. In addition, CEESI avers that the facility will provide the opportunity to further develop the ultrasonic flowmeter technology and to develop United States standards for ultrasonic flowmeters.

CEESI further states that Northern Border will install about 900 feet of 30-inch pipe and a tie-over between Ventura to Harper, Iowa and the outlet of the CEESI facility all located in the Ventura Station yard to accommodate CEESI's calibration facility. The 30-inch pipe will connect the meter calibration facility and Northern Border's system. Northern Border will also construct two buildings for CEESI, one to house instrumentation and one for the testing of meters. CEESI will reimburse Northern Border for any operating or maintenance costs. CEESI will also pay Northern Border a fee related to the 30-inch pipe, the tie-over, buildings and appurtenances installed by Northern Border. CEESI will replace in kind any natural gas volume lost during the meter calibration process. The gas loss during the meter calibration process will be minimis. Operation of the CEESI facilities will not result in costs or charges to Northern Border's customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 17, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become 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 Section 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 and if the Commission on its own review of the matter finds that a grant of the certificate is 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 the CEESI to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14481 Filed 6–1–98; 8:45 am]

BILLING COCE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP98–33–000]

Graham-Michaelis Corporation; Notice of Petition for Dispute Resolution

May 27, 1998.

Take notice that, on May 19, 1998, Graham-Michaelis Corporation (GMC) filed a petition requesting the Commission to resolve any dispute between GMC and Williams Gas Pipelines Central, Inc., formerly: Williams Natural Gas Company (Williams), regarding GMC's refund liability for Kansas ad valorem tax reimbursements that Amoco made to GMC and that GMC forwarded to certain third-party working interest owners. GMC asks the Commission to find that GMC has no such refund liability, to Williams, because GMC only served as the operator for those third-party working interest owners, and did not hold an interest in those leases and wells. GMC's petition is on file with the Commission and open to public inspection.

The Commission, by order issued September 10, 1997, in Docket No. RP97–369–000 *et al*,[1] on remand from the D.C. Circuit Court of Appeals,[2] required first sellers to refund the Kansas ad valorem tax reimbursements to the pipelines, with interest, for the period from 1983 to 1988. In its January 28, 1998 Order Clarifying Procedures, the Commission stated that producers (i.e., first sellers) could file dispute resolution requests with the Commission, asking the Commission to resolve the dispute with the pipeline over the amount of Kansas ad valorem tax refunds owed, see 82 FERC ¶ 61,059 (1998).

GMC states that it received a copy of a letter that Amoco Production Company (Amoco) sent to Williams (in response to the Statement of Refunds Due that Williams sent to Amoco) that detailed Amoco's analysis of its Kansas ad valorem tax refund liability. GMC notes that Amoco stated therein that it is not responsible for refunds attributable to third-party working interests, and listed ''Graham-Michaelis'' as having received these reimbursements during the applicable period (1983–1988). GMC states that, with interest computed through March 9, 1998, these refunds total $42,004.68.

While GMC agrees that Amoco has no refund liability for the third-party reimbursements, GMC contends that it also has no such refund liability, because GMC only operated the leases and the eight wells involved (Bowker 2, Lowe, Long Wood, Wheatley 2–33, Weber B, Weber A, Dennis, and Steen) on behalf of the working interest owners, and GMC did not retain the Kansas ad valorem tax reimbursements. GMC adds that: 1) the subject working interest owners sold the leases and wells a number of years ago; 2) many of the corresponding files and records were turned over to the purchaser; 3) it has been unable to determine whether, and to what extent these reimbursements exceeded the maximum lawful prices; and 4) it has been unable to determine the principal and interest owed by each working interest owner.

GMC states that it has not received a Statement of Refunds Due from Williams with respect to these refunds; thus, no refund claim has been leveled at GMC. GMC further states that it does not know, at this time, whether any dispute with Williams exists. Nevertheless, GMC asks the Commission to find that GMC has no refund liability to Williams, with regard to the Kansas ad valorem tax reimbursements that GMC passed through to the working interest owners. Meanwhile, GMC states that it will: 1) continue to assemble the information to determine what Kansas ad valorem tax reimbursement distributions it made to each working interest owner; 2) continue its efforts to determine whether those reimbursements exceeded the applicable maximum lawful prices; and 3) notify the working interest owners of their refund liability once GMC completes its determinations, and furnish its findings to Williams,

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[1] See 80 FERC ¶ 61,264 (1997); order denying rehearing issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[2] *Public Service Company of Colorado,* v. *FERC,* 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

along with the names and addresses of the working interest owners. GMC states that it believes that these determinations will be completed and the notifications given within the next three weeks.

Any person desiring to comment on or make any protest with respect to the above-referenced petition should, on or before June 17, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or 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 the proceeding, or to participate as a party in any hearing therein, must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14480 Filed 6–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–553–000]

Midcoast Interstate Transmission, Inc.; Notice of Request Under Blanket Authorization

May 27, 1998.

Take notice that on May 14, 1998, as supplemented on May 22, 1998, Midcoast Interstate Transmission, Inc. (MIT), 3230 Second Street, Muscle Shoals, Alabama 35661, filed a prior notice request with the Commission in Docket No. CP98–553–000 pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install and operate a new delivery point and appurtenant facilities in Morgan County, Alabama, under MIT's blanket certificates issued in Docket No. CP85–359–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

MIT proposes to install and operate a new delivery point under a transportation agreement with Bailey-PVS Oxides (Decatur), L.L.C. (Bailey). MIT states that it would install two hot taps on its mainline transmission system in Morgan County approximately 250 feet of 2-inch diameter pipe from the hot taps to the delivery point, a sales meter, and a regulator station. MIT states that it would construct the proposed delivery point facilities at a cost of $93,063 in order to deliver approximately 1,000 dekatherm equivalents of natural gas per day to Bailey pursuant to Rate Schedule IT of MIT's FERC Gas Tariff. MIT also states that Bailey has contracted for firm transportation service with MIT via the proposed delivery point once the looping facilities that MIT has requested approval for in Docket No. CP98–247–000 are authorized and operational. MIT further states that the addition of the proposed delivery point is not prohibited by its FERC Gas Tariff and that addition of the delivery point would not have any adverse impact on a daily or annual basis upon MIT's existing customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14485 Filed 6–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–563–000 and CP98–564–000]

Western Gas Resources, Inc.; Notice of Application

May 27, 1998.

Take notice that on May 20, 1998, Western Gas Resources, Inc. (Western), 12200 N. Pecos Street, Denver, Colorado 80234, filed in Docket Nos. CP98–563–000 and CP98–564–000 an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations for a limited jurisdiction certificate of public convenience and necessity to operate a processing plant residue line and to engage in certain routine activities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the subject application is made in compliance with the January 29, 1998, order issued in Docket No. CP97–636–000, wherein the Commission determined that if Western decided to commence operation of a currently idle 9 mile, 10-inch residue line extending from the tailgate of the Chaney Dell processing plant to Williams Gas Pipelines Central, Inc.'s (Williams) Canadian-Blackwell pipeline, Western must apply for a Section 7 certificate under the NGA. Western states that it is requesting a limited jurisdiction certificate for the sole purpose of authorizing Western's use of its Chaney Dell plant residue line to deliver Western's gas to Williams in order to satisfy the 4 Bcf delivery obligation arising from Western's purchase of the Yellowstone Line in Docket No. CP97–636–000.

Western also requests a blanket certificate of public convenience and necessity under Part 157 of the Commission's Regulations authorizing the various activities stated in Subpart F of Part 157 of the Commission's Regulations. In this regard, Western requests waiver of the requirements of Section 157.204(a) of the Commission's Regulations which otherwise limits issuance of such blanket certificates only to applicants which have been issued certificates other than limited jurisdiction authorizations, and which have had rates accepted by the Commission.

Western requests waiver of all Commission rate and tariff filing requirements, such as FERC annual reports, tariffs or rate schedules, or any requirement that would subject Western to any strictures prohibiting bundled sales of gas which might otherwise affect Western's ability to gather and sell gas like all other non-jurisdictional gathering and processing plant operators with which Western competes. Western also requests waiver of any requirement that would result in being assessed or having to pay annual charges to the Commission pursuant to Part 382 of the Commission's Regulations.

Western requests that any certificate authorized by the Commission confirm that the Commission's jurisdiction under the NGA arising both granting such certificate and from Western's acceptance thereof will be limited solely and exclusively to Western's operation of the Chaney Dell residue line for deliveries to Williams.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 17,

1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to 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 of this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission 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 Western to appear or be represent at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14479 Filed 6–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2687 California]

Pacific Gas and Electric Company; Notice of Availability of Draft Environmental Assessment

May 27, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for relicensing of the Pit 1 Project, located in the towns of Fall River Mills and McArthur, California, and has prepared a draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Room 2–A, Washington, DC 20426. Please affix ''Pit 1 Project No. 2687'' to all comments. For further information, please contact Michael Henry at (503) 326–5858, ext. 224.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14482 Filed 6–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Settlement Agreement

May 27, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Settlement Agreement.

b. *Project No:* 2042.

c. *Dated Filed:* May 14, 1998.

d. *Applicant:* Public Utility District No. 1 of Pend Oreille County.

e. *Name of Project:* Box Canyon Hydroelectric Project.

f. *Location:* Pend Oreille River, in Pend Oreille County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Bob Geddes, Pend Oreille County Public Utility District, P.O. Box 190, Newport, WA 99136–0190, (509) 447–9342.

i. *FERC Contact* Jim Hastreiter (503) 326–5858 ext. 225.

j. *Comment Dates:* June 17, 1998; *Reply Comments Date:* June 29, 1998.

k. A joint Offer of Settlement, Explanatory Statement, and Request for Approval of Stipulation and Agreement among Public Utility District No. 1 of Pend Oreille County, U.S. Department of the Interior, U.S. Forest Service, Washington Department of Fish and Wildlife, and Kalispel Tribe of Indians was filed with the Commission on May 14, 1998. Comments and reply comments concerning the Offer of Settlement are due as listed above.

l. Available location of the Offer of Settlement: Copies of the Offer of Settlement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located on the first floor 888 First Street N.E., Washington, D.C. 20426. A copy is also available for inspection and reproduction at Pend Oreille County Public Utility District, 130 N. Washington Avenue, Newport, WA 99136–0190.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14484 Filed 6–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: May 26, 1998, 63 FR 28506.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 27, 1998, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Number and Company has been added on the Agenda scheduled for the May 27, 1998 meeting.

Item No.	Docket No. and company
CAG–16 ...	RP89–183–080, Williams Gas Pipelines Central, Inc.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14634 Filed 5–28–98; 4:35 pm]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed; Week of April 13 Through April 17, 1998

During the week of April 13 through April 17, 1998, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: May 20, 1998.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS; DEPARTMENT OF ENERGY

[Week of April 13 through April 17, 1998]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 13, 1998	Personnel Security Hearing	VSO–0204	Request for Hearing under 10 CFR Part 710. If granted: An individual employed by the Department of Energy or by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
Do	Personnel Security Hearing	VSO–0205	Request for Hearing under 10 CFR Part 710. If granted: An individual employed by the Department of Energy or by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
Apr. 14, 1998	Diane C. Larson, Richland, Washington	VFA–0405	Appeal of an Information Request Denial. If granted: The March 16, 1998 Freedom of Information Request Denial issued by the Office of Inspector General would be rescinded and Diane C. Larson would receive access to certain DOE information.
Apr. 16, 1998	James E. Minter, Knoxville, Tennessee	VFA–0406	Appeal of an Information Request Denial. If granted: The March 12, 1998 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and James E. Minter would receive access to certain DOE information.
Apr. 17, 1998	Robert Jordan & Assoc., Troy, Illinois	VFA–0407	Appeal of an Information Request Denial. If granted: The April 8, 1998 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded and Robert Jordan & Assoc. would receive access to certain DOE information.

[FR Doc. 98–14526 Filed 6–1–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed; Week of April 20 Through April 24, 1998

During the week of April 20 through April 24, 1998, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: May 20, 1998.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS; DEPARTMENT OF ENERGY;

[Week of April 20 through April 24, 1998]

Date	Name and location of applicant	Case No.	Type of submission
4/20/98	STAND of Amarillo, Inc., Amarillo, Texas	VFA–0409	Appeal of an Information Request Denial. *If Granted:* The March 13, 1998 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and STAND of Amarillo, Inc. would receive access to certain DOE information.
4/20/98	William H. Payne, Albuquerque, New Mexico.	VFA–0408	Appeal of an Information Request Denial. *If Granted:* The Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and William H. Payne would receive access to certain DOE information.
4/22/98	Karen Coleman Wiltshire, Olney, Maryland	VFA–0410	Appeal of an Information Request Denial. *If Granted:* The Freedom of Information Request Denial issued by the Office of Human Radiation Experiments would be rescinded, and Karen Coleman Wiltshire would receive access to certain DOE information.

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS; DEPARTMENT OF ENERGY;—Continued

[Week of April 20 through April 24, 1998]

Date	Name and location of applicant	Case No.	Type of submission
4/23/98	David E. Ridenour, Arvada, Colorado	VFA–0411	Appeal of an Information Request Denial. *If Granted:* The March 31, 1998 Freedom of Information Request Denial issued by the Office of the Inspector General would be rescinded, and David E. Ridenour would receive access to certain DOE information.
4/24/98	Heritage Propane, Las Cruces, New Mexico	RR340–00005	Motion for Modification/Rescission in the Enron Refund Proceeding. *If Granted:* The April 1, 1998 Dismissal Letter, Case No. RF340–00134, issued to Heritage Propane would be modified regarding the firm's application for refund submitted in the Enron refund proceeding.

[FR Doc. 98–14528 Filed 6–1–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed; Week of March 9 Through March 13, 1998

During the Week of March 9 through March 13, 1998, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: May 20, 1998.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS; DEPARTMENT OF ENERGY

[Week of March 9 through March 13, 1998]

Date	Name and location of applicant	Case No.	Type of submission
3/9/98	Hobart T. Bolin, Jr., Strawberry Plains, TX ..	VFA–0390	Appeal of an Information Request Denial. If Granted: The February 4, 1998 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded and Hobart T. Bolin, Jr. would receive access to certain DOE information.

[FR Doc. 98–14529 Filed 6–1–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of March 23 Through March 27, 1998

During the week of March 23 through March 27, 1998, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, DC, Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: May 21, 1998.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Decision List No. 78

Week of March 23 Through March 27, 1998

Appeal

Mary Burket, 3/24/98, VFA–0384

The DOE's Office of Hearings and Appeals (OHA) issued a decision denying a Freedom of Information Act (FOIA) Appeal filed by Mary Burket. Burket sought the release of journals or logs showing that her father had worked on the decontamination and decommissioning of the SL–1 reactor at the Idaho National Engineering Laboratory. In its decision, OHA found that the DOE's search for responsive information was more than adequate. Accordingly, the Appeal was denied.

Refund Application

341 Tract Unit of Citronelle Field/ Farmers Petroleum Cooperative, Et Al., 3/25/98, RF344–0001, Et Al.

The DOE issued an order granting refunds to 25 airline and agricultural cooperative applicants from the escrow account established in connection with settlement of litigation involving The 341 Tract Unit of the Citronelle Field. The DOE found that these applicants had not waived their rights to this refund by receiving crude oil overcharge refunds in the Stripper Well refund settlement. The total refund granted to the 25 applicants was $1,716,784.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications,

which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

City of Portage et al	RF272–96348	3/25/98

[FR Doc. 98–14524 Filed 6–1–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of April 6 Through April 10, 1998

During the week of April 6 through April 10, 1998, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, DC, Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: May 21, 1998.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Decision List No. 80

Week of April 6 Through April 10, 1998

Appeals

Hobart T. Bolin, Jr., 4/10/98, VFA–0390

The DOE's Office of Hearings and Appeals (OHA) issued a decision granting a Freedom of Information Act Appeal filed by Hobart T. Bolin, Jr. Bolin sought the release of documents relating to an incident that occurred at the DOE's Oak Ridge Operations Office (OR) site in 1995, and OR released certain documents to him. In his Appeal, Bolin provided information about possible additional responsive documents that OR had not included in its original search. Accordingly, the Appeal was granted and Bolin's request was remanded to OR for a further search for responsive documents.

William H. Payne, 4/10/98, VFA–0391

The Department of Energy (DOE) issued a Decision and Order (D&O) denying a Freedom of Information Act (FOIA) Appeal that was filed by William H. Payne. In his Appeal, Mr. Payne requested that we review a determination issued by the Albuquerque Operations Office that invoices submitted by a law firm to a DOE contractor are not ''agency records,'' and are therefore not subject to the FOIA. In the Decision, the Office of Hearings and Appeals found that documents were not agency records, and that they were also not subject to release pursuant to the contractor records provision of 10 C.F.R. § 1004.3(e)(1).

Refund Application

Apex Oil Co./Clark Oil Co./GO-TANE Service Stations, Inc., RF342–278

The DOE granted a refund filed in the Apex/Clark special refund proceeding. The OHA denied a request for a refund based on alleged Clark allocation violations and for reimbursement of legal and accounting fees, but approved a refund of $432,497 for injury suffered as a result of alleged Clark overcharges.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Crude Oil Supple Refund Dist	RB272–00135	4/7/98
Crude Oil Supple Refund Dist	RB272–00136	4/7/98
Enron Corporation/Scurlock Permian Corp.	RF340–119	4/8/98
Steele County	RC272–00383	4/10/98
Bowman County, North Dakota	RC272–00387	
Eddy County	RC272–00384	
Eddy County	RJ272–00056	
North Dakota Assoc of cntys	RC272–00388	
North Dakota Assoc. of cntys	RJ272–00059	
Slope county	RC272–00386	
Slope county	RJ272–00058	
Steele county	RJ272–00055	
Towner county	RJ272–00057	
Towner county	RC272–00385	

Dismissals

The following submissions were dismissed.

Name	Case No.
Ineel Research Bureau	VFA–0328
Personnel Security Hearing	VSO–0201

[FR Doc. 98–14525 Filed 6–1–98; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–6105–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; Maximum Achievable Control Technology Standards Development Under Title III (Section 112) of the Clean Air Act Regulatory Development Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Maximum Achievable Control Technology Standards Development under Title III (section 112) of the Clean Air Act Regulatory Development Program, EPA ICR Number 1602.02, OMB Control Number 2060–0239. This is the second extension of the information collection which was approved for use through August 8, 1998. 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 August 3, 1998.

ADDRESSES: An electronic version of the Information Collection Request is available through the Office of Air and Radiation's (OAR) Technology Transfer Network Web site (TTNWeb). The TTNWeb is directly accessible from the Internet via the World Wide Web at the OAR Policy and Guidance Information Web site, ''http://www.epa.gov/ttn/oarpg/'', under the **Federal Register** Notices section.

FOR FURTHER INFORMATION CONTACT: Randy McDonald at (919) 541–5402, Organic Chemical Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. The Facsimile Number is (919) 541–3470 and the E-mail Address is mcdonald.randy@epa.gov.

SUPPLEMENTARY INFORMATION: Affected entities: Entities potentially affected by this action are those which are included on the list of source categories for which EPA plans to initiate development of national emission standards for hazardous air pollutants (NESHAP) under section 112 of the amended Clean Air Act within the next 3 years.

Title: Maximum Achievable Control Technology (MACT) Standards Development under the Clean Air Act Regulatory Development Program (OMB Control Number 2060–0239, EPA ICR #1602.02), expiring August 8, 1998.

Abstract: Depending on the number of facilities in an individual source category, respondents would be required to complete one of two surveys. In those source categories with 400 or fewer facilities, respondents would complete a survey for MACT standards development. This survey is designed to obtain facility-specific information on process types, emissions, controls, and factors affecting costs to ensure that the EPA Office of Air Quality Planning and Standards has sufficient information to make subcategory distinction and MACT floor decisions for each NESHAP. In those source categories with more than 400 facilities, respondents would complete a screening survey. EPA would use the results of the screening survey to develop a sample design that would be applied to individual ICR's for the MACT standards development survey. The EPA is also asking the respondent to provide corporate, facility and product level sales information. This information is necessary to perform a small business analysis to meet the requirements of the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act. The EPA considers the sales information to be readily available to the respondent; therefore, the burden hours estimated for each respondent has not been changed. The EPA's authority to gather information is presented in section 114 of the Clean Air Act, as amended (42 U.S.C. 7414). If any information is submitted to EPA for which a claim of confidentiality is made, the information will be safeguarded according to EPA policies set forth in Title 40, Chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR Part 2). 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 EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The average annual reporting burden for 870 facilities is 74,000 hours for the MACT standards development survey and 17,000 hours for the screening survey from 2,000 facilities. The estimated burden hours per response is 85 hours for the MACT standards survey and 8.5 hours for the screening survey. The total average annual burden is 91,000 hours. The labor cost is calculated from technical, managerial, and clerical staff estimates. The total cost of the ICR to respondents is $2,431,700 for the MACT standards development survey and $573,000 for the screening survey. There is no capital cost burden associated with this collection. 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: May 27, 1998.

Richard D. Wilson,

Assistant Administrator for Air and Radiation.

[FR Doc. 98–14583 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6105–7]

Agency Information Collection Activities: Proposed Collection; Comment Request; Evaluation of Jobs Through Recycling Grant Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Evaluation of Jobs Through Recycling Grant Projects, ICR Number 1865.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 3, 1998.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–98–JRIP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW., Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically through the Internet to: rcradocket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–98–JRIP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW., Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically.

The ICR is available on the Internet. Follow these instructions to access the information electronically:

WWW: http://www.epa.gov/jtr/seconds/program/program.htm.

FTP: ftp.epa.gov.

Login: anonymous.

Password: your Internet address.

Files are located in /pub/epaoswer.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official public record, which will also include all comments submitted directly in writing.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register**. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412–9810 or TDD 703 412–3323.

For more detailed information on specific aspects of this ICR, contact Susan Nogas, Office of Solid Waste (5306W), U.S. EPA, 401 M Street, SW., Washington, DC 20460. Phone: 703 308–7251. Fax: 703 308–8686.

SUPPLEMENTARY INFORMATION: Affected entities: Entities potentially affected by this action are Jobs Through Recycling (JTR) grantees, which include state, multistate, and tribal organizations that have received grant funding through JTR. Also affected are project partners (including state and local agencies) and selected businesses assisted by JTR grantees.

Title: Evaluation of Jobs Through Recycling Grant Projects, ICR Number 1865.01.

Abstract: EPA launched the JTR initiative in 1994 to help facilitate the growth of the recycling industry. The industry includes businesses involved in collecting, processing, manufacturing, and selling products made from recovered materials. With JTR, EPA intended to create jobs, increase capital invested in the recycling industry, create new recycling capacity, and increase the amount of secondary materials actually used.

To assess the success of the JTR grant projects, EPA designed a methodology to evaluate the results, accomplishments, and lessons learned from each JTR grant. The first step in the methodology is to review grant workplans, progress and final reports, and grant products. The second step is to interview the grantees as well as one project partner and one business assisted by each grantee. To facilitate the evaluation, EPA developed an interview guide with a standard set of questions for grantees, project partners, and assisted businesses. The interview guide will enable EPA to collect both qualitative and quantitative information on the accomplishments of the JTR grantees through either phone or onsite interviews. Grantees, for example, are asked to describe the lessons learned and challenges overcome in implementing and managing their projects as well as the results, such as the number of jobs created, amount of capital invested, volume of new capacity created, and volume of secondary materials actually used. EPA pilot tested the evaluation process and the discussion guide with six 1994 JTR grants. All participation in JTR project evaluation interviews is voluntary.

The purpose of the ICR is to allow EPA to continue its evaluation of JTR grant projects by measuring the success of the remaining 1994 grant projects as well as the grants awarded in 1995, 1996, and 1997. The information compiled during these interviews will be disseminated to current and future program participants as well as other recycling market development professionals, so that others can replicate project successes and avoid past mistakes. In addition, EPA will use the information gathered to help identify opportunities to improve the overall JTR program and ensure its continued growth and success. Finally, the evaluation will assist EPA in complying with the Government Performance and Results Act of 1993 (GPRA), by measuring progress towards the goals and objectives detailed in the EPA Strategic Plan.

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.

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: EPA estimates that a total of 35 grantees, 35 project partners, and 35 assisted businesses will be interviewed as part of the ICR. Completing the JTR evaluations involves the following activities for each grantee, project partner, and assisted business: reviewing EPA's questions and preparing responses, participating in phone or onsite interviews, and participating in followup activities such as reviewing a 4-page grantee fact sheet. Specifically, JTR grantees will be asked to provide information on their project history, the types of business assistance provided, barriers and lessons learned, the future of the project, overall project benefits, and partnerships established. EPA estimates an annual burden per grantee of 2 hours for reviewing questions and preparing responses, 3 hours for participating in the interview, and 1 hour for participating in followup activities. Thus, EPA estimates that an average annual burden for the 35 grantees would be 210 grantee hours or $10,500 to provide EPA with the requested information. Businesses assisted by JTR grantees will be asked to assess the services provided by the grantee and to estimate the direct and indirect economic benefits of the assistance. Project partners will be asked to discuss their interaction with the grantee and to evaluate the types of assistance provided. EPA estimates that each project partner and assisted business will annually incur 0.75 hours to review the questions and prepare responses, 1 hour to participate in the interview, and 0.5 hours to participate in followup activities. The average annual burden for the 35 partners and the 35 businesses would be 78.75 hours or $3,325 for each. Therefore, the total annual burden for the 105 grantees, project partners, and assisted businesses is estimated to be 367.5 hours or $17,150.

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: May 26, 1998.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 98–14587 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6105–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NSPS for Asphalt Processing and Asphalt Roofing Manufacturers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document 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 UU: Asphalt Processing and Asphalt Roofing Manufacturers; OMB Control Number 2060–0002; expiring July 31, 1998. 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 July 2, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 0661.06

SUPPLEMENTARY INFORMATION:

Title: NSPS Asphalt Processing and Asphalt Roofing Manufacturers; OMB Control Number 2060–0002, ICR 0661.06, expiring July 31, 1998. 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, New Source Performance Standards (NSPS), subpart UU. The respondents of the recordkeeping and reporting requirements are asphalt processing and roofing manufacturers (SIC Codes 2911, 2951, and 2952) which commenced construction, modification, or reconstruction after November 18, 1980, or May 26, 1981 as appropriate.

The control of emissions of particulate matter from asphalt processing and asphalt roof manufacturing requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. Particulate matter emissions from asphalt processing and asphalt roof manufacturing are the result of materials handling, fuel combustion, and storage. These standards rely on the reduction of particulate matter emissions by pollution control devices such as electrostatic precipitators, high velocity air filters, or afterburners.

In order to ensure compliance with these standards, adequate recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

The standards require initial notification reports with respect to construction, modification, reconstruction, startups, shutdowns, and malfunctions. The standards also require reports on initial performance tests.

Under the standard, the data collected by the affected industry is retained at the facility for a minimum of two (2) years and available for inspection by the Administrator.

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 by 5 CFR 1320.8(d), soliciting comments on this collection of information was published on December 2, 1997 (62 FR 63703–63712); comments were received from the Asphalt Roofing Manufacturers Association.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 182 hours per

response. 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.

Respondents/Affected Entities: Asphalt Processing and Asphalt Roofing Manufacturers.

Estimated Number of Respondents: 86.

Frequency of Response: Initial start-up.

Estimated Total Annual Hour Burden: 15,629 hours.

Estimated Total Annualized Cost Burden: $3,210,000.

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 Number 0661.06 and OMB Control Number 2060–0002, 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: May 27, 1998.

Richard T. Westlund,

Regulatory Information Division.

[FR Doc. 98–14582 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6105–9]

Pesticides; Submission of EPA ICR No. 0596.06 to OMB; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the Information Collection Request (ICR) entitled: Application and Summary Report for an Emergency Exemption for Pesticides, [EPA ICR No. 0596.06, OMB No. 2070–0032] has been forwarded to the Office of Management and Budget (OMB) for review and approval pursuant to the OMB procedures in 5 CFR 1320.12. The ICR which is abstracted below, describes the nature of the information collection and its estimated cost and burden.

The Agency is requesting that OMB renew for 3 years the existing approval for this ICR, which is scheduled to expire on May 31, 1998 (However, an expiration date extension request through August 31, 1998 is pending OMB approval). A **Federal Register** notice announcing the Agency's intent to seek OMB approval for this ICR and a 60-day public comment opportunity, requesting comments on the request and the contents of the ICR, was issued on March 4,1998 (63 FR 10606). EPA did not receive any comments on this ICR during the comment period. Additional comments may be submitted on or before July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA (202) 260–2740, and refer to EPA ICR No 0596.06 and OMB Control No. 2070–0032, to the following address:

ADDRESSES: Send comments, referencing EPA ICR No. 0596.06 and OMB Control No. 2070–0032, to the following addresses:

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Regulatory Information Division (Mail Code: 2137), 401 M Street, S.W., Washington, DC 20460

And to:

Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Review Requested: This is a request to renew a currently approved information collection pursuant to 5 CFR 1320.12.

ICR Numbers: EPA ICR No. 0596.06; OMB Control No. 2070–0032.

Current Expiration Date: Current OMB approval expires on May 31, 1998 (However, an expiration date extension request through August 31, 1998 is pending OMB approval).

Title: Application and Summary Report for an Emergency Exemption for Pesticides.

Abstract: Under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act, the EPA may temporarily authorize states, territories, and Federal agencies to ship and use unregistered pesticides in emergency situations. To ensure that an emergency situation actually exists, and that use of the pesticide will not pose an unreasonable risk to human health or the environment, the EPA requires exemption applicants to explain the circumstances necessitating the emergency use and to provide details on the pesticide and its proposed application. Following the application of the pesticide, applicants must submit a report to the EPA describing the pesticide treatment, and its effectiveness as well as any adverse effects.

Burden Statement: The information covered by this request is collected when an emergency situation becomes apparent and only upon receipt of an emergency exemption application. Small businesses are not eligible to apply to this program. The public burden for this collection of information is estimated to average 103 hours per response for reporting and 2 hours per record keeper annually. This estimate includes the initial request for an emergency exemption and the time needed to complete and submit the summary report after the pesticide application. It also includes 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. No person is 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 displayed in 40 CFR part 9.

Respondents/Affected Entities: Entities potentially affected by this action are states, territories and Federal agencies.

Estimated No. of Respondents: 422.

Estimated Total Annual Burden on Respondents: 43,466 hours.

Frequency of Collection: On occasion.

Changes in Burden Estimates: There is an increase of 12,978 hours in the total estimated respondent burden as compared with that identified in the

information collection request most recently approved by OMB, from 30,488 hours currently to an estimated 43,466 hours. At the time of the last clearance of this ICR in May 1995, EPA estimated the burden for respondents to be 30,488 hours annually, an increase of 12,978 hours from the burden total in the OMB inventory at the time. The increase in burden reflects the increase in the number of petitions requesting a FIFRA section 18 exemption. Based on currently available information, this change represents an increase in annual respondents from 296 to 422.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this document, as described above.

Dated: May 27, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–14589 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6105–4]

Ambient Air Monitoring Reference and Equivalent Methods Applications for Reference or Equivalent Method Determinations

AGENCY: Environmental Protection Agency.

ACTION: Notice of receipt of applications.

SUMMARY: Notification is given that the Environmental Protection Agency (EPA) has received five new applications for reference or equivalent method determinations under 40 CFR part 53. The applications were received from Rupprecht and Patashnick Company, Incorporated, Albany, New York (two applications); Advanced Pollution Instrumentation, Incorporated, San Diego, California; Horiba Instruments Incorporated, Irvine, California; and DKK Corporation, Tokyo, Japan.

FOR FURTHER INFORMATION CONTACT: Frank F. McElroy, Human Exposure and Atmospheric Sciences Division (MD–46), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Phone: (919) 541–2622, email: mcelroy.frank@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR part 53, the EPA examines various methods for monitoring the concentrations of certain pollutants in the ambient air. Methods that are determined to meet specific requirements for adequacy are designated as either reference or equivalent methods, thereby permitting their use under 40 CFR part 58 by States and other agencies in determining attainment of the National Ambient Air Quality Standards. The EPA is hereby announcing that it has received five new applications for reference or equivalent method determinations under 40 CFR part 53. Publication of a notice of receipt of such applications is required by section 53.5.

On February 3, 1998, EPA received two applications from the Rupprecht and Patashnick Company, Incorporated, 25 Corporate Circle, Albany, New York 12203 to determine if methods based on that Company's Partisol1®-FRM Model 2000 (single) and Partisol®-Plus Model 2025 (sequential) PM–10 Air Samplers should be designated as reference methods for PM_{10}. The EPA received an application on February 24, 1998, from Advanced Pollution Instrumentation, Incorporated, 6565 Nancy Ridge Drive, San Diego, California 92121 for an equivalent method determination for their Model 400A UV Photometric Ozone Analyzer. An application was received on March 26, 1998 from Horiba Instruments Incorporated, 17671 Armstrong Avenue, Irvine, California 92614 for an equivalent method determination for Horiba's Model APSA-360ACE ambient SO_2 monitor. And on April 14, 1998, the EPA received an application from DKK Corporation, 4–13–14, Kichijoji Kitamachi, Musashino-shi, Tokyo, 180–8630, Japan for a reference method determination for DKK's Model GLN–114E Nitrogen Oxides Analyzer.

If, after appropriate technical study, the Administrator determines that any or all of these methods should be designated as either reference or equivalent methods, notice thereof will be published in a subsequent issue of the **Federal Register**.

Thomas A. Clark,

Acting Assistant Administrator for Research and Development.

[FR Doc. 98–14585 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6104–9]

Proposed Settlement Agreement, Clean Air Act Suit

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, which was lodged with the United States Court of Appeals for the District of Columbia Circuit by the United States Environmental Protection Agency (''EPA'') on April 15, 1998, to address a lawsuit filed by the Natural Resources Defense Council. This lawsuit, which was filed pursuant to section 307(b) of the Act, 42 U.S.C. 7607(b), concerns, among other things, EPA's alleged failure to list, and determine whether to regulate hazardous air pollutant emissions from, electric utility steam generating units under section 112 of the Act, 42 U.S.C. 7412. In the proposed settlement agreement, the EPA agrees to: (i) Undertake, and publish the results of, an analysis of the emission reductions of SO_2, NO_X, CO_2, and mercury (and the effect on mercury removal costs) that would be achieved through an array of strategies to control SO_2, NO_X, CO_2 and mercury; and, (ii) proposed and promulgate a new reference test method for determining the ambient concentration of mercury in water.

For a period of thirty (30) days following the date of publication of this document, EPA will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement agreement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final settlement agreement will contain the requirements listed above.

A copy of the proposed settlement agreement was lodged with the Clerk of the United States Court of Appeals for the District of Columbia Circuit on April 15, 1998. Copies are also available from Phyllis Cochran, Air and Radiation Law

Office (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–7606. Written comments should be sent to Richard H. Vetter, Emissions Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 and must be submitted on or before July 2, 1998.

Dated: May 26, 1998.

Scott C. Fulton,

Acting General Counsel.

[FR Doc. 98–14586 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140270; FRL–5791–7]

Access to Confidential Business Information by Lockheed Martin Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: EPA has authorized its contractor, Lockheed Martin Technical Services, Incorporated (MAR), of Research Triangle Park, North Carolina, access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than [*insert date 5 working days after date of publication in the* **Federal Register**].

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under contract number 68–W7–0055, contractor MAR of 79 Alexander Drive, Research Triangle Park, NC, will assist the Office of Pollution Prevention and Toxics (OPPT) in maintaining and operating the EPA CBI computer facilities located in Research Triangle Park, NC.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W7–0055, MAR will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. MAR personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide MAR access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Research Triangle Park, NC facilities and EPA Headquarters only.

MAR will be authorized access to TSCA CBI under the EPA ''Contractors Requirements for the Control and Security'' of the EPA *TSCA Confidential Business Information Security Manual.* Before access to TSCA CBI is authorized for MAR, EPA will perform the required facilities inspection and ensure that it's in compliance with the manual.

Clearance for access to TSCA CBI under this contract may continue until September 30, 2002.

MAR personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated:May 18, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–14591 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6105–8]

Science Advisory Board; Drinking Water Committee; Notification of Public Advisory Committee Meeting June 18–19, 1998

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Drinking Water Committee (DWC) of the Science Advisory Board (SAB) will hold a public meeting beginning at 8:30 am Thursday, June 18, 1998 and ending not later than 3:00 pm Friday, June 19, 1998 (Eastern Time). The meeting will be held in Room 3709-Mall of the EPA Headquarters Building, 401 M Street, SW, Washington, DC 20460.

At the meeting, the Committee will engage in ''consultations'' with the Agency on a number of scientific topics of relevance to Safe Drinking Water Act (SDWA) implementation. Documents discussing some or all of these topics may be the subject of future formal reviews by the Drinking Water Committee. Consultations to be conducted include the following topics: (a) The EPA drinking water contaminant occurrence data base; (b) technologies for small systems; and (c) drinking water intake. The DWC will also receive an update on the agency's final Research Plan for Microbial Pathogens and Disinfection By-Products in Drinking Water, receive information on the agency's M/DBP Research Tracking System, and receive an informational briefing on alternative test systems for disinfection byproduct testing. The DWC will also conduct discussions with the Agency that will help the Committee plan its future actions on drinking water and drinking water research.

An SAB ''Consultation'' is an early, public interaction between the SAB and the Agency occurring before the Agency has committed itself to a position and even before it has written its ideas down. The intent of a Consultation is to leaven the Agency's thinking by airing and discussing various views and ideas about how the Agency might proceed on a problem—long before the Agency has committed itself to a specific direction. The process of a Consultation is an open dialogue between Agency personnel, who describe the problem, and the members of an SAB panel who give their *individual* ideas and suggestions about how the Agency might proceed. There is no intention to develop a *consensus* position; therefore, an SAB Consultation should not be considered a peer review of the issue by the SAB, since—by definition—the Agency has not produced anything to peer review at the time of the Consultation, and the reactions provided are those of individuals and not formal advice approved by the SAB's Executive Committee.

FOR FURTHER INFORMATION CONTACT: Single copies of the background information for this review, or the meeting agenda, can be obtained by contacting Mr. Thomas O. Miller, Designated Federal Officer for the Drinking Water Committee, Science Advisory Board (1400), U.S. EPA, 401 M Street, SW, Washington, DC 20460; by telephone at (202) 260–5886; by fax at (202) 260–7118 or via Email at:

miller.tom@epa.gov, or by contacting Ms. Mary Winston at (202) 260–4126, by fax at (202) 260–7118, or via Email at: winston.mary@epa.gov.

Providing Oral or Written Comments at SAB Meetings

Anyone wishing to make an oral presentation to the Committee must contact Mr. Miller, in writing (by letter, fax, or Email) no later than 12 noon (Eastern Time) Friday, March 6, 1998, in order to be included on the Agenda. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Miller no later than the time of the presentation for distribution to the Committee and the interested public.

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Written comments received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Individuals requiring special accommodation at SAB meetings, including wheelchair access, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: May 20, 1998.

Donald G. Barnes, Ph.D.,

Staff Director, Science Advisory Board.

[FR Doc. 98–14588 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00242; FRL–5794–9]

Forum on State and Tribal Toxics Action (FOSTTA) Projects; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Three projects of the Forum on State and Tribal Toxics Action (FOSTTA) will hold meetings open to the public at the time and place listed below in this notice. The Pollution Prevention Project will not be meeting this session. The public is encouraged to attend the proceedings as observers. However, in the interest of time and efficiency, the meeting is structured to provide maximum opportunity for state, tribal, and EPA invited participants to discuss items on the predetermined agenda. At the discretion of the chair of the project, an effort will be made to accommodate participation by observers attending the proceedings.

DATES: The three projects will meet June 15, 1998, from 8 a.m. to 5 p.m. and June 16, 1998, from 8 a.m. to noon. There will be a plenary session on OPPT's Strategic Plan and Chemical Right-to-Know Initiative on Monday, June 15, 1998, from 8 a.m. to 9:30 a.m.

ADDRESSES: The meetings will be held at The Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Darlene Harrod, Designated Federal Official (DFO), Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–6904; e-mail: harrod.darlene@epamail.epa.gov. Any observer wishing to speak should advise the DFO at the telephone number or e-mail address listed above no later than 4 p.m. on June 12, 1998.

SUPPLEMENTARY INFORMATION: FOSTTA, a group of state and tribal toxics environmental managers, is intended to foster the exchange of toxics-related program and enforcement information among the states/tribes and between the states/tribes and EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and Office of Enforcement and Compliance Assurance (OECA). FOSTTA currently consists of the Coordinating Committee and four issue-specific projects. The projects are the: (1) Toxics Release Inventory Project; (2) Pollution Prevention Project; (3) Chemical Management Project; and (4) Lead (Pb) Project.

List of Subjects

Environmental protection.

Dated: May 26, 1998.

Susan B. Hazen,

Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–14590 Filed 6–1–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

May 22, 1998.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments August 3, 1998.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commissions, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0600.

Title: Application to Participate in an FCC Auction.

Form No.: FCC 175/FCC 175–S.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 12,400.

Estimated Time Per Response: 45 minutes.

Total Annual Burden: 8,100 hours.

Frequency of Response: On occasion.

Needs and Uses: The information will be used by the Commission to determine if the applicant is legally, technically and financially qualified to participate in an FCC auction. The rules and requirements are designed to ensure that the competitive bidding process is limited to serious qualified applicants and deter possible abuses of the bidding and licensing process. The information will also be used to ensure that licensees that acquire their licenses through competitive bidding are not unjustly enriched by the premature transfer of their licenses. The Commission plans to use this form for all upcoming auctions.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–14457 Filed 6–1–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

May 22, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 2, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0185.

Title: Section 73.3613, Filing of Contracts.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 3,180.

Estimated Time Per Response: .75 hours reporting requirement (.25 hours licensee/0.5 hours contract time); 0.5 hours recordkeeping requirement.

Frequency of Response: On occasion reporting requirement; recordkeeping requirement.

Cost to Respondents: $74,000.

Total Annual Burden: 1,450 hours.

Needs and Uses: Section 73.3613 requires licensees of TV and low power TV broadcast stations to file network affiliation contracts with the FCC. All broadcast stations are required to file contracts relating to ownership or control and personnel. Radio licensees are required to file time brokerage agreements which result in arrangement being counted in compliance with local and national radio multiple ownership rules. Certain contracts must be retained at the station. Data is used by FCC staff to assure that the licensee maintains full control over the station.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–14456 Filed 6–1–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 96–45 and 97–160; DA 98–987]

Commission To Hold En Banc Hearing June 8, 1998 on Proposals To Revise the Methodology for Determining Universal Service Support

AGENCY: Federal Communications Commission.

ACTION: Notice of meeting.

SUMMARY: The Federal Communications Commission will hold an *en banc* hearing on Monday, June 8, 1998, from 9:30 a.m. to 4:30 p.m., in the Commission meeting room, Room 856 at 1919 M Street, NW, Washington, DC. The Commission has invited the state members of the Federal-State Joint Board on Universal Service to also preside at this *en banc.* At the *en banc* hearing, the Commission and the state members of the Joint Board will review certain proposals for revising the methodology for determining federal universal service support for non-rural carriers.

Pursuant to the Commission's April 15, 1998 public notice, several parties filed with the Commission alternative proposals to the Commission's initial decision in the Universal Service Order that federal universal support would cover 25 percent of the total support necessary for non-rural carriers. At the *en banc,* the Commission and the state Joint Board members will hear from and question the parties that filed proposals.

The *en banc* is open to the public, and seating will be available on a first come, first served basis. A transcript of the *en banc* will be available 10 days after the event on the FCC's Internet site. The URL address for the FCC's Internet Home Page is <http://www.fcc.gov>. The *en banc* will also be carried live on the Internet. Internet users may listen to the real-time audio feed of the *en banc* by accessing the FCC Internet Audio Broadcast Home Page. Step-by-step instructions on how to listen to the audio broadcast, as well as information regarding the equipment and software needed, are available on the FCC Internet Audio Broadcast Home Page. The URL address for this home page is http://www.fcc.gov/realaudio/.

DATES: The meeting will be held on June 8, 1998, from 9:30 a.m–4:30 p.m.

ADDRESSES: Commission Meeting Room, Rm 856, at 1919 M Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Emily Hoffnar (202) 418–7396; ehoffnar@fcc.gov

Chuck Keller (202) 418–7380; ckeller@fcc.gov

Jane Whang (202) 418–7149; jwhang@fcc.gov

Dated: May 28, 1998.

Federal Communications Commission.

Lisa Gelb,

Chief, Accounting Policy Division, Common Carrier Bureau.

[FR Doc. 98–14507 Filed 6–1–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. § 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

American Canadian Caribbean Line, Inc., 461 Water Street, P.O. Box 368, Warren, RI 02885

Vessel: Grande Mariner

Manhattan Cruises, LLC, 444 Madison Avenue, Suite 401, New York, NY 10022

Vessel: Superstar Capricorn

New Commodore Cruise Lines Limited, 4000 Hollywood Blvd., Suite 385 South, Hollywood, FL 33021

Vessel: Universe Explorer

New SeaEscape Cruises Ltd., Cruise Charter Ltd. and Maritime Management Ltd., 140 South Federal Highway, Dania, FL 33004

Vessel: Island Adventure

Norwegian Cruise Line Limited (d/b/a Norwegian Cruise Line), 7665 Corporate Center Drive, Miami, FL 33126

Vessel: Norwegian Sky

Princess Cruises, Inc., Princess Cruise Lines, Inc. and The Peninsular and Oriental Steam Navigation Company, 10100 Santa Monica Blvd., Suite 1800, Los Angeles, CA 90067

Vessel: Ocean Princess

Thomson Holidays Limited, Greater London House, Hampstead Road, London NW1 7SD, England

Vessel: The Topaz

Windjammer Barefoot Cruises, Ltd., 1759 Bay Road, Miami, FL 33139–1413

Vessel: Legacy

The World of ResidenSea Ltd., 630 Fifth Avenue, 20th Floor, New York, NY 10011

Vessel: The World of Residensea

Dated: May 27, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–14466 Filed 6–1–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. § 817(d)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Cape Canaveral Cruise Line, Inc., International Shipping Partners, Inc. and The Kosmas Shipping Group, Inc., 7099 North Atlantic Avenue, Cape Canaveral, FL 32920

Vessel: Dolphin IV

Glacier Bay Park Concessions, Inc. (d/b/a Glacier Bay Tours and Cruises), Glacier Bay Marine Services, Inc., Goldbelt Enterprises, Inc. and Goldbelt, Inc., 520 Pike Street, Suite 1400, Seattle, WA 98101

Vessel: Wilderness Discoverer

Manhattan Cruises, LLC, Star Cruise Management Limited, and SuperStar Capricorn Limited, 444 Madison Avenue, Suite 401, New York, NY 10022

Vessel: Superstar Capricorn

New Commodore Cruise Lines Limited, Sea-Comm, Ltd. and Azure Investments, Inc., 4000 Hollywood Blvd., Suite 385 South, Hollywood, FL 33021

Vessel: Universe Explorer

Princess Cruises, Inc., Princess Cruise Lines, Inc., The Peninsular and Oriental Steam Navigation Company and Fairline Shipping International Corporation, 10100 Santa Monica Blvd., Suite 1800, Los Angeles, CA 90067

Vessel: Grand Princess

Royal Caribbean Cruises Ltd., Airtours plc and Tranquility Leasing Ltd., 1050 Caribbean Way, Miami, FL 33132–2096

Vessel: Song of America

Society Expeditions, Inc., Society Expeditions GmbH, Discoverer Reederei GmbH and World Discoverer Shipping Corp., 2001 Western Avenue, Suite 300, Seattle, WA 98121

Vessel: World Discoverer

Special Expeditions, Inc., Wilderness Cruises, Inc. and SPEX Sea Bird Ltd., 720 Fifth Avenue, New York, NY 10019

Vessel: Sea Bird

Special Expeditions, Inc. Wilderness Cruises, Inc. and SPEX Sea Lion Ltd., 720 Fifth Avenue, New York, NY 10019

Vessel: Sea Lion

Thomson Holidays Limited and Topaz International Shipping, Inc., Greater London House, Hampstead Road, London NW1 7SD, England

Vessel: The Topaz

Windjammer Barefoot Cruises, Ltd., International Maritime Resources, Inc., and Windjammer Inc. 1759 Bay Road Miami, FL 33139–1413

Vessel: Legacy

Dated: May 27, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–14465 Filed 6–1–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Notice of Public Information Collections Approved by the Office of Management and Budget

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The Paperwork Reduction Act (44 U.S.C. 3501 et seq.) requires agencies to display a currently valid control number for each of its information collections. Notwithstanding any other provisions of law, no person may be subjected to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display such a control number. In accordance with the Paperwork Reduction Act requirements, this notice announces the following Federal Maritime Commission information collections that have received extensions of Office of Management and Budget (OMB) approval: Tariffs and Service Contracts and the related Form FMC–63; Agreements; and the Admission to Practice Application Form.

FOR FURTHER INFORMATION CONTACT: Questions concerning the OMB control numbers and expiration dates should be directed to: George D. Bowers, Director, Office of Information Resources Management, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (Telephone: (202) (523–5834).

SUPPLEMENTARY INFORMATION:

Tariffs and Service Contracts and Related Form FMC–63—OMB approval number 3072–0055 expires 4/30/2001

Abstract: Section 8 of the Shipping Act of 1984, 46 U.S.C. app. § 1707, requires common carriers and conferences of such common carriers to file with the Commission and keep open for public inspection, tariffs showing all rates, charges, classifications, rules and practices for transportation of cargo between the U.S. and foreign ports. Section 8(c) of the Act also provides for the filing of service contracts and statements of the contracts' essential terms with the Commission. 46 CFR 514 establishes the requirements, format and user charges for the electronic publication, filing and retrieval of tariffs of carriers and terminal operators, as well as service contracts and their essential terms, covering the transportation of property performed by common carriers in the foreign commerce of the United States and by combinations of such common carriers, including through transportation offered in conjunction with one or more carriers not otherwise subject to the Shipping Act of 1984.

The Commission estimates an annual respondent universe of 3,267. This number varies as persons file tariffs. Total annual burden is estimated at 411,909 manhours, apportioned as follows: *electronic tariff filing*—323,200; Automated Tariff Filing Information *(ATFI) User Registration Form FMC–63)* 335; *service contracts and essential terms*—76,294; and *recordkeeping requirements*—12,080.

Agreements—OMB Approval Number 3072–0045—Expires 4/30/2001

Abstract: The Shipping Act of 1984, 46 U.S.C. app. § 1701 *et seq.*, requires certain classes of agreements between and among ocean common carriers and marine terminal operators to be filed with the Commission, specifies the content of those agreements, and defines the Commission's authorities and responsibilities in overseeing these agreements. 46 CFR 572 establishes the form and manner for filing agreements and for the underlying commercial data necessary to evaluate agreements.

The Commission estimates that, potentially, there is an annual respondent universe of 1,655. The total annual burden on respondents is estimated at 115,000 manhours apportioned as follows: *agreements and modifications*—36,000; *monitoring reports*—74,000; and *recordkeeping requirements*—5,000.

Form FMC–12—Application for Admission to Practice—OMB Approval Number 3072–0001—Expires 4/30/2001

Abstract: Qualified non-attorneys who desire to practice before the Commission must complete and file Form FMC–12 (Application for Admission to Practice before the Federal Maritime Commission) with the Commission.

The Commission estimates there are approximately 10 respondents annually for this one-time response for a total annual burden of ten manhours per year.

Joseph C. Polking,

Secretary,

[FR Doc. 98–14504 Filed 6–1–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 17, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Winter-Park Bancshares Reciprocal Voting Trust, Cameron, Wisconsin; to acquire voting shares of Winter-Park Bancshares, Inc., Cameron, Wisconsin, and thereby indirectly acquire Brill State Bank, Brill, Wisconsin; State Bank of Gilman, Gilman, Wisconsin; and Chippewa Valley Bank, Winter, Wisconsin.

Board of Governors of the Federal Reserve System, May 28, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–14579 Filed 6–1–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 26, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. CFBanc Corporation, Washington, D.C.; to become a bank holding company by acquiring 100 percent of the voting shares of City First Bank of D. C., National Association, Washington, D.C. (in organization).

In connection with this application, CFBanc Holdings, Incorporated, Washington, D.C., also has applied to become a bank holding company by acquiring between 25 percent and 50 percent of the voting shares of CFBanc Corporation, Washington, D.C., and thereby indirectly acquire City First

Bank of D.C., National Association, Washington, D.C. (in organization).

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Community First Bankshares, Inc., Fargo, North Dakota; to merge with Guardian Bancorp, Salt Lake City, Utah, and thereby indirectly acquire Guardian State Bank, Salt Lake City, Utah.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Security Bank Holding Company Employee Stock Ownership Plan, and Security Bank Holding Company, both of Coos Bay, Oregon; to acquire 100 percent of the Class B common stock, which will represent not less than 50 percent of the total equity of of McKenzie State Bank, Springfield, Oregon (in organization).

Board of Governors of the Federal Reserve System, May 28, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–14578 Filed 6–1–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 17, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. United Community Bancshares, Eagan, Minnesota; to engage *de novo* through its subsidiary, United Trust Company, N.A., Eagan, Minnesota, in non-depository trust company activities, pursuant to § 225.28(b)(5) of Regulation Y.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. CBOT Financial Corporation, New Waverly, Texas, and CBOT Financial Corporation of Delaware, Wilmington, Delaware; to engage *de novo* through their subsidiary, CBOT Mortgage, Conroe, Texas (dba Citizens Mortgage), in brokering loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, May 28, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–14577 Filed 6–1–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and Dates: 9:00 a.m.–5:30 p.m., June 16, 1998; 8:00 a.m.–5:00 p.m., June 17, 1998.

Place: Conference Room 505A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Status: Open.

Purpose: The meeting will focus on a variety of health data policy and privacy issues. Department officials will brief the Committee on recent activities of the HHS Data Council and the status of HHS activities in implementing the administrative simplification provisions of P.L. 104–191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Committee will review its current organization and work plans. In addition, the Committee will discuss the quality of HEDIS data, possible comments on the report of the President's Commission on Quality and Consumer Protection, recommendations for HIPAA claims attachment standards, and possible comments on the HIPAA Notices of Proposed Rulemaking for the adoption of data standards. The Committee also will be briefed on plans for Healthy People 2010, National Health Objectives for the Nation, and the results of a CPRI Terminology Conference. Subcommittee breakout sessions are planned. All topics are tentative and subject to change. Please check the NCVHS website, where a detailed agenda will be posted prior to the meeting.

Contact Person For More Information: Substantive information as well as summaries of NCVHS meetings and a roster of committee members may be obtained by visiting the NCVHS website (http://aspe.os.dhhs.gov/ncvhs) or by calling James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Note: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, individuals without a government identification card may need to have the guard call for an escort to the meeting room.

Dated: May 26, 1998.

James Scanlon,

Director, Division of Data Policy.

[FR Doc. 98–14478 Filed 6–1–98; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information in compliance with the Paperwork Reduction Act (Public Act 96–511):

Title of Information Collection: State Annual Long-Term Care Ombudsman Report.

Type of Request: Extension of use of the report, with no revisions.

Use: Extension of reporting format for use by states in reporting on activities of their Long-Term Care Ombudsman Programs as required under Section 712 of the Older American Act, as amended.

Frequency: Annually.

Respondents: State Agencies on Aging.

Estimated Number of Responses: 52.

Total Estimated Burden Hours: 9,000.

Additional Information or Comments: The Administration on Aging is submitting to the Office of Management and Budget, for approval, an extension, with no revisions, of a reporting form and instructions for the State Annual Long-Term Care Ombudsman Report, pursuant to requirements in Section 712(b) and (h) of the Older Americans Act.

The form for which extension is requested was approved by the Office of Management and Budget, on an emergency basis, for use by the states in reporting on activities in FY 1997. It is the same form used by the states for their FY 1996 reports, except for minor changes made for the FY 1997 emergency request. These changes:

(1) modified the wording of some of the complaint categories to assist respondent in categorizing some complaints which had previously been placed under the ''other'' categories and

(2) Stipulated that several narrative responses which had not changed since the previous report do not need to be repeated.

The reporting form is for federal fiscal years 1998–2000. Written comments and recommendations for the proposed information collection should be sent within 30 days of the publication of this notice directly to the following address: Ms. Allison Herron Eydt, AoA Desk Officer, Office of Management and Budget, 1725 17th Street, N.W., Room 10235, Washington, D.C. 20503.

Dated: May 27, 1998.

Harry Posman,

Director, Executive Secretariat and Policy Coordination.

[FR Doc. 98–14477 Filed 6–1–98; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 98049]

National Institute for Occupational Safety and Health; Evaluation Of Toxicologic Risk Assessment Models Using Epidemiology Data Notice of Availability of Funds for Fiscal Year 1998

Introduction

The Centers for Disease Control and Prevention (CDC), the nation's prevention agency, announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program to evaluate the toxicologic risk assessment models using epidemiology data.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION**.)

CDC, NIOSH is committed to the program priorities developed by the National Occupational Research Agenda (NORA). For ordering a copy of the NORA, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION**.)

Authority

This program is authorized under Sections 20(a) and 22(e)(7) of the Occupational Safety and Health Act of 1970 [29 U.S.C. 669(a) and 671(e)(7)].

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, nonprofit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or woman-owned businesses are eligible to apply.

Note: An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant, contract, loan, or any other form of funding.

Availability of Funds

Approximately $106,000 is available in FY 1998 to fund one award. The award will be made for a 12-month budget period within a project period of up to three years. The amount of funding available may vary and is subject to change. The award is expected to begin on or about September 30, 1998. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1998 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act (Pub. L. 105–78) states in Section 503(a) and (b) that no part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Research on risk assessment methodology is one of the NORA priority areas. Quantitative risk assessment has become a requirement for the development of NIOSH recommended exposure limits and ultimately Occupational Safety and Health Administration and Mining Safety and Health Administration regulations. Animal bioassays have provided the scientific basis for most risk assessment models. The validity of

using animal bioassay data for predicting human risks has been increasingly under attack. Despite these concerns, toxicologic data is expected to remain a vitally important resource for risk assessment and risk management decisions. There is a clear need to gain a better understanding of when toxicologic data provide valid estimates of human risk and when they do not.

Epidemiologic studies that have information on exposures have been used by a few authors in an attempt to make comparisons with risk predictions from animal based models for cancer. However, these validation exercises have not been performed in a thorough and systematic fashion and questions have been raised about the appropriateness of the methods that have been used for these analyses. Furthermore, the evaluations that have been performed to date have been solely concerned with cancer and there has been virtually no research on the concordance between animal bioassay data and epidemiologic data for non-carcinogenic hazards. See the section **WHERE TO OBTAIN ADDITIONAL INFORMATION** for reference materials.

Purpose

The purpose of this program is to provide information on the validity and precision of risk estimates derived from risk assessment models based on toxicologic data for predicting human risk from occupational exposures in the workplace. This information will be useful to regulators and policy makers who frequently need to base decisions on setting safe levels of exposures in the workplace on animal bioassay data, since adequate human data is not available.

The major objective of this program is to develop and apply methods for evaluating the predictions from toxicologic risk assessment models for human risk using epidemiologic data. Some of the fundamental questions that may be addressed by this research would be:

- How good is the concordance between the risk predictions from exposure-response relationships observed in toxicologic and epidemiologic studies for cancer and non-cancer health effects?
- How does the degree of concordance vary for different cancer sites and non-carcinogenic health hazards?
- What factors influence the discordance between toxicologic and epidemiologic model predictions?
- Are the risk estimates developed from toxicologic models generally over or underestimates of the risk observed in epidemiologic studies?
- How may the pattern of exposures used in the toxicologic studies (lifetime) versus those experienced by workers in the epidemiologic studies (intermittent) influence the risk comparisons?
- Are there ways of adjusting the predictions from toxicologic models to more accurately predict human risks?

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for activities under A. (Recipient Activities), and CDC/NIOSH will be responsible for the activities listed under B. (CDC/NIOSH Activities).

A. Recipient Activities

The recipient will have primary responsibility for:

1. The identification of appropriate data resources,
2. Design of the study,
3. Management of the data,
4. Statistical analysis of the data, and
5. Prepare a report summarizing the study methodology, results obtained, and conclusions reached. Develop recommendations. Report study results to the scientific community.

B. CDC/NIOSH Activities

1. Provide scientific and technical collaboration for the successful completion of this project.
2. Identify linkages with researchers and public and private sector agencies and organizations to provide data.
3. Collaborate with the recipient in safety and health communication and dissemination efforts of prevention information.
4. Cooperate in preparation and publication of the written reports.

Technical Reporting Requirements

An original and two copies of annual progress reports are required. Timelines for the annual reports will be established at the time of award. Final financial status and performance reports are required no later than 90 days after the end of the project period. All reports are submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

Annual progress report should include:

A. A brief program description.

B. A listing of program goals and objectives accompanied by a comparison of the actual accomplishments related to the goals and objectives established for the period.

C. If established goals and objectives to be accomplished were delayed, describe both the reason for the deviation and anticipated corrective action or deletion of the activity from the project.

D. Other pertinent information, including the status of completeness, timeliness and quality of data.

Application Content

The entire application, including appendices, should not exceed 40 pages and the Proposal Narrative section contained therein should not exceed 25 pages. Pages should be clearly numbered and a complete index to the application and any appendices included. The original and each copy of the application must be submitted unstapled and unbound. All materials must be typewritten, double-spaced, with unreduced type (font size 12 point) on 8½″ by 11″ paper, with at least 1″ margins, headers, and footers, and printed on one side only. Do not include any spiral or bound materials or pamphlets.

A. Title Page

The heading should include the title of grant program, project title, organization, name and address, project director's name, address and telephone number.

B. Abstract

A one page, singled-spaced, typed abstract must be submitted with the application. The heading should include the title of grant program, project title, organization, name and address, project director and telephone number. This abstract should include a work plan identifying activities to be developed, activities to be completed, and a time-line for completion of these activities.

C. Proposal Narrative

The narrative of each application must:

1. Briefly state the applicant's understanding of the need or problem to be addressed, the purpose, and goals over the *3* year period of this project.
2. Describe in detail the objectives and the methods to be used to achieve the objectives of the project. The objectives should be specific, time-phased, measurable, and achievable during each budget period. The objectives should directly relate to the program goals. Identify the steps to be taken in planning and implementing the objectives and the responsibilities of the applicant for carrying out the steps.
3. Provide the name, qualifications, and proposed time allocation of the Project Director who will be responsible for administering the project. Describe

staff, experience, facilities, equipment available for performance of this project, and other resources that define the applicant's capacity or potential to accomplish the requirements stated above. List the names (if known), qualifications, and time allocations of the existing professional staff to be assigned to (or recruited for) this project, the support staff available for performance of this project, and the available facilities including space.

4. Document the applicant's expertise, and extent of involvement in the areas of risk assessment, epidemiology and toxicology.

5. Provide letters of support or other documentation demonstrating collaboration of the applicant's ability to work with diverse groups, establish linkages, and facilitate awareness information.

D. Budget

Provide a detailed budget which indicates anticipated costs for personnel, equipment, travel, communications, supplies, postage, and the sources of funds to meet these needs. The applicant should be precise about the program purpose of each budget item. For contracts described within the application budget, applicants should name the contractor, if known; describe the services to be performed; and provide an itemized breakdown and justification for the estimated costs of the contract; the kinds of organizations or parties to be selected; the period of performance; and the method of selection. Do not put these pages in the body of the application. CDC may not approve or fund all proposed activities.

Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

A. Understanding of the Problem (20%)

Responsiveness including: (a) applicant's understanding of the objectives; and (b) evidence of ability to design an effective evaluation study.

B. Experience (20%)

The extent to which the applicant's prior work and experience in risk assessment, epidemiology and toxicology issues is documented. Actual experience in evaluating toxicologic risk assessment models using epidemiologic data would be extremely helpful.

C. Goals, Objectives and Methods (25%)

The extent to which the proposed goals and objectives are clearly stated, time-phased, and measurable. The extent to which the methods are sufficiently detailed to allow assessment of whether the objectives can be achieved for the budget period. Clearly state the evaluation method for evaluating the accomplishments. The extent to which a qualified plan is proposed that will help achieve the goals stated in the proposal.

D. Facilities and Resources (10%)

The adequacy of the applicant's facilities, equipment, and other resources available for performance of this project.

E. Project Management and Staffing Plan (15%)

The extent to which the management staff and their working partners are clearly described, appropriately assigned, and have pertinent skills and experiences. The extent to which the applicant proposes to involve appropriate personnel who have the needed qualifications to implement the proposed plan. The extent to which the applicant has the capacity to design, implement, and evaluate the proposed intervention program.

F. Collaboration (10%)

The extent to which all partners are clearly described and their qualifications and the extent to which their intentions to participate are explicitly stated. The extent to which the applicant provides proof of support (e.g., letters of support and/or memoranda of understanding) for proposed activities. Evidence or a statement should be provided that these funds do not duplicate already funded components of ongoing projects.

G. Budget Justification (Not Scored)

The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of funds.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should be sent to Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Room 321, Atlanta, GA 30305, no later than 60 days after the application deadline date. The Program Announcement Number 98049 and Program Title, Evaluation of Toxicologic Risk Assessment Models Using Epidemiology Data, should be referenced on the document. The granting agency does not guarantee to ''accommodate or explain'' State process recommendations it receives after that date.

Public Health System Reporting Requirements

The applicant is not subject to review under the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.262.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by this cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Application Submission and Deadlines

A. Preapplication Letter of Intent

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter should be submitted to Victoria F. Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, CDC at the address listed in this section. It should be postmarked no later than June 17, 1998. The letter should identify program announcement number 98049, and name of the principal investigator. The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently and will ensure that each applicant receives timely and relevant information prior to application submission.

B. Application

The original and five copies of the application PHS Form 398 (Revised 5/95, OMB Number 0925–0001) must be submitted to Victoria Sepe, Grants

Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE, Room 321, Atlanta, GA 30305, on or before July 15, 1998.

1. Deadline: Applications will be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (The applicants must request a legibly dated U.S. Postal Service postmark or obtain a receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. Late Applicants: Applications that do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicants.

Where to Obtain Additional Information

To receive additional written information call 1–888–GRANTS4. You will be asked to leave your name, address, and phone number and will need to refer to NIOSH Announcement 98049. You will receive a complete program description, information on application procedures, and application forms. CDC will not send application kits by facsimile or express mail. Please refer to NIOSH announcement 98049 when requesting information and submitting an application.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, Room 321, 255 East Paces Ferry Road, NE., Atlanta, GA 30305, telephone (404) 842–6804, Internet: vxw1@cdc.gov.

Programmatic technical assistance may be obtained from Leslie Stayner, Education and Information Division, National Institute for Occupational Safety and Health, Center for Disease Control and Prevention (CDC), 4676 Columbia Parkway, Cincinnati, OH 45226, telephone (513) 533–8365, or Internet address: lts2@cdc.gov.

This and other CDC announcements are available through the CDC homepage on the Internet. The address for the CDC homepage is: http://www.cdc.gov.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

NORA

The National Occupational Research Agenda: copies of this publication may be obtained from The National Institute of Occupational Safety and Health, Publications Office, 4676 Columbia Parkway, Cincinnati, OH 45226–1998 or phone 1–800–356–4674, and is available through the NIOSH homepage, ''http:/ www.cdc.gov/niosh/nora.html''.

Reference Materials

Allen BC, Crump KS and Shipp AM (1988). Correlation between carcinogenic potency of chemicals in animals and humans. Risk Analysis 8(4): 531–557.

Ames B.N. and Gold L.S. (1990). Chemical carcinogenesis: Too many rodent carcinogens. Proc. Natl. Acad. Sci. 87;7772–7776.

Goodman G, and Wilson R. (1991). Quantitative predictions of human cancer risk from rodent carcinogenic potencies: A closer look at the epidemiological evidence for some chemicals not definitively carcinogenic in humans. Reg Tox and Pharm, 14;118–146.

Stayner LT and Bailer AJ (1993). Comparing toxicologic and epidemiologic studies: Methylene chloride—A case study. Risk Analysis, 13(6); 667–673.

Zeiss L. In Chemical Risk Assessment and Occupational Health (1994). Current Applications, Limitations and Future Prospects. CM Smith, DC Christiani and KT Kelsey eds. Auburn House, Westport, Conn.

Dated: May 26, 1998.

Diane D. Porter,

Acting Director, National Institute For Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–14464 Filed 6–1–98; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Good Clinical Practices In Investigational Product Research Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) (Office of Regulatory Affairs, New Orleans District Office) is announcing the following meeting: ''Good Clinical Practices In Investigational Product Research.'' The topics to be discussed are FDA regulatory requirements for the conduct of investigational product research and practical issues, such as, how to prepare for a data audit, what to expect during an investigation, and how to get current information from FDA. The purpose of this meeting is to promote and encourage open dialogue between FDA and professionals involved in investigational product research: Physicians, researchers, research coordinators, nurses, allied health professionals, and any other interested parties.

Date and Time: The meeting will be held on Friday, July 17, 1998; registration from 7:45 a.m. to 8:30 a.m.; meeting from 8:30 a.m. to 5 p.m.

Location: The meeting will be held at the Louisiana State University Medical Center, Medical Education Bldg., Lecture Room A, 1901 Perdido, New Orleans, LA 70112.

Contact: Rebecca A. Asente, Food and Drug Administration, New Orleans District Office (HFR–SE440), 4298 Elysian Fields Ave., New Orleans, LA 70122, 504–589–6344, ext. 158, FAX 504–589–6360.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number) to the contact person by Friday, July 10, 1998. There is no registration fee for this meeting. Attendance will be limited to the first 200 applicants, therefore, interested parties are encouraged to register early. Priority will be given to those individuals located in Louisiana and Mississippi. Individuals located outside these States may register to attend the meeting and will be accepted if space is available.

If you need special accommodations due to a disability, please contact Rebecca A. Asente at least 7 days in advance.

Dated: May 21, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–14463 Filed 6–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Memorandum of Understanding Between the Food and Drug Administration and the National Institutes of Health's National Institute of Dental Research

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between the National Institutes of Health's National Institute of Dental Research (NIDR) and three of FDA's line organizations: the Center for Devices and Radiological Health, the Center for Drug Evaluation and Research, and the Center for Biologics Evaluation and Research. The purpose of the MOU is to facilitate interactions between NIDR and FDA regarding improvements in the quality and relevance of preclinical and clinical research, which is directed to the development of products for use in oral healthcare.

DATES: The agreement became effective August 10, 1997.

FOR FURTHER INFORMATION CONTACT:

Susan Runner, Center for Devices and Radiological Health (HFZ–410), 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8879, or

Norman S. Braveman, National Institute of Dental Research, National Institutes of Health, 45 Center Dr., MSC 6400, Bldg. 45, rm. 4AN–24, Bethesda, MD 20892–6400, 301–594–2089.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOU's between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: May 21, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

225–97–6000

Memorandum of Understanding Between the National Institutes of Health, National Institute of Dental Research and the Food and Drug Administration, Center for Devices and Radiological Health, Center for Drug Evaluation and Research, Center for Biologics Evaluation and Research

I. Purpose

This Memorandum of Understanding hereby establishes a formal collaborative arrangement between the National Institutes of Health's National Institute of Dental Research (NIDR) and three of the Food and Drug Administration's (FDA) line organizations: Center for Devices and Radiological Health (CDRH), Center for Drug Evaluation and Research (CDER), and Center for Biologics Evaluation and Research (CBER).

This agreement has been developed to facilitate interactions between the NIDR and the FDA regarding improvements in the quality and relevance of pre-clinical and clinical research which is directed to the development of products for use in oral health care. The principal goal of this agreement is to reduce the time between the research and development phase of a product's life cycle and its commercial availability. This goal will be attained by enhancing the quality of product-related research and thus facilitate and improve premarket evaluations.

This agreement also sets forth certain working arrangements between both parties that will enable each to fulfill its respective mission more efficiently and effectively.

II. Background

It is widely accepted that the United States has a world-class health care system. This status is due in part to entrepreneurship and capital investment in the private sector. It is also the result of our nation's longstanding commitment to Federally-funded research into health promotion, disease prevention, diagnosis, etiology and pathogenesis, as well as cost-effective therapeutic approaches for varied and complex health conditions. A third contributing factor is the existence of a vigilant national regulatory system that ensures health professionals and consumers are provided with safe, high quality and clinically viable medical products. Despite the reputation of the U.S. system, however, government agencies with responsibility for the development, promotion and regulatory oversight of new medical products are today, as always, striving to eliminate operational inefficiencies that can act as barriers to the development of new technologies and therapeutics and their timely introduction into the marketplace. Leaders throughout the government sector have intensified efforts to sharpen current modes of business as a means to economize, to insure the expenditure of public funds will yield commensurate public benefits, and to enable the Federal government to better serve the contemporary needs of its constituencies.

Increasingly in recent years, NIDR and FDA component organizations have harnessed their interdisciplinary skills and professional expertise in a number of areas affecting the public health. Although complementary and beneficial, these interactions have largely been ad hoc and informal. Leaders of both agencies have recognized the added benefits that can accrue from a broader, more formal working arrangement. To this end, this agreement establishes a generalized, cooperative framework with end-goals and categories of activities that, taken together, provide the foundation for a working relationship that is better focused and takes fuller advantage of each organization's strengths and experience.

III. Substance of Agreement

As noted above, this agreement charts a general course of interaction between the NIDR and three of FDA's product centers that encompasses the following areas:

(A) information exchange;
(B) state-of-the-science workshops and conferences;
(C) staff development;
(D) fellowship sponsorship;
(E) policy development;
(F) research; and
(G) advisory committee and study section review and appointments.

The ''Implementation Work Plan'' attached to this agreement identifies the range of specific projects and activities that fall within each of the seven categories. The Work Plan also provides a narrative description of the commitments made by each of the signatory agencies and specifies relative priorities and projected implementation timeframes, which are subject to change during the period when this agreement is in effect.

Both parties envisage this agreement and its components to be implemented on an evolutionary and incremental basis in accordance with available organizational resources and mutual determination of the feasibility and anticipated benefit(s) of individual activities. Moreover, both parties have agreed that whenever appropriate and possible, interagency activities—either on a categorical or individual basis—should be periodically evaluated to confirm that the putative benefits in relation to administrative costs and other considerations justify continuation or expansion of the activities specified in this agreement. Evaluation of this pioneering agreement may also serve to establish the basis for similar collaborative arrangements between other NIH Institutes and FDA in the future.

IV. Name and Address of Participating Parties

(1) National Institute of Dental Research, National Institutes of Health, 31 Center Drive, MSC 2290, Building 31, 2C39 Bethesda, MD 20892–2290, Telephone: 301–496–3571, FAX: 301–402–2185.

(2) Food and Drug Administration (HF–1), 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–827–3310, FAX: 301–443–3100.

(a) Center for Devices and Radiological Health (HFZ–1), 9200 Corporate Boulevard, Rockville, MD 20850, Telephone: 301–443–4690, FAX: 301–594–1320.

(b) Center for Drug Evaluation and Research (HFD–1), 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–594–6740, FAX: 301–594–6197.

(c) Center for Biologics Evaluation and Research (HFM–1), 8800 Rockville Pike, Bethesda, MD 20892–001, Telephone: 301–827–0548, FAX: 301–827–0440.

V. Liaison Officers

For the National Institute of Dental Research:

Dushanka V. Kleinman, D.D.S., M.Sc.D., Deputy Director, National Institute of Dental Research, National Institutes of Health, 31 Center Drive, MSC 2290

Building 31, Room 2C39, Bethesda, MD 20892–2290, Telephone: 301–496–9469, FAX: 301–402–2185, E-mail: KLEINMAND@OD31.NIDR.NIH.GOV

Lois K. Cohen, Ph.D., Alternate Director, Division of Extramural Research, National Institute of Dental Research, National Institutes of Health, 45 Center Drive, MSC 6400, Building 45, Room 4AN–18, Bethesda, MD 20892–6400, Telephone: 301–594–7710, FAX: 301–480–8319, E-mail: COHENL@DE45.NIDR.NIH.GOV

For the Food and Drug Administration:

Bernard A. Schwetz, D.V.M., Ph.D., Interim Chief Scientist, Office of the Commissioner (HF–32), Food and Drug Administration, 5600 Fishers Lane, Room 17–35, Rockville, MD 20857, Telephone: 301–827–3340, FAX: 301–827–3042, E-mail: BSCHWETZ@NCTR.FDA.GOV

Elizabeth D. Jacobson, Ph.D., Alternate Deputy Director for Science, Center for Devices and Radiological Health (HFZ–2), 9200 Corporate Boulevard, Room 100G, Rockville, MD 20850, Telephone: 301–443–4690, FAX: 301–594–1320, E-mail: EDJ@CDRH.FDA.GOV

VI. Interagency Steering Committee

To assist the Liaison Officers in the management, coordination and oversight of this agreement and the concomitant Implementation Work Plan, an interagency steering committee shall be established. The Committee will be comprised of an equal number of member representatives from the NIDR and FDA, including the Liaison Officers who shall serve as co-chairs of the Committee. Member appointments shall be authorized by the signatories to this agreement and shall last for a period of one (1) year, unless renewed by the agreement signatories upon recommendation from the Liaison Officers. The Committee shall meet at least once every six months for the first year of this agreement and then at least once annually thereafter to review the progress of this agreement, resolve any issues and disputes that may arise, re-direct specific activities set forth in the Work Plan, and oversee necessary modifications to the agreement.

As of the date this agreement is approved and accepted, the following persons are designated to serve on the Committee for the initial one-year term.

For the National Institute of Dental Research:

Dushanka V. Kleinman, D.D.S., M.Sc.D., Co-Chair

Lois K. Cohen, Ph.D., Alternate

Norman S. Braveman, Ph.D., Chief, Program Development Branch, Division of Extramural Research, National Institute of Dental Research, National Institutes of Health, 45 Center Drive, MSC 6400, Building 45, Room 4AN–24, Bethesda, MD 20892–6400, Telephone: 301–594–2089, FAX: 301–480–8318, E-mail: BRAVEMANN@DE45.NIDR.NIH.GOV

Henning Birkedal-Hansen, D.D.S., Ph.D., Scientific Director, Division of Intramural Research, National Institute of Dental Research, National Institutes of Health, 30 Convent Drive, MSC 4326, Building 30, Room 132, Bethesda, MD 20892–4326, Telephone: 301–496–1483, FAX: 301–402–8318, E-mail: HBHANSEN@IRP30.NIDR.NIH.GOV

For the Food and Drug Administration:

Bernard A. Schwetz, D.V.M., Ph.D., Co-Chair

Elizabeth D. Jacobson, Ph.D., Alternate

Michael Weintraub, M.D., Director, Office of Drug Evaluation V (HFD–105), Center for Drug Evaluation and Research, 9201 Corporate Boulevard, Room S219, Rockville, MD 20850, Telephone: 301–827–2250, FAX: 301–827–2317, E-mail: WEINTRAUB@CDER.FDA.GOV

Philip D. Noguchi, M.D., Director, Division of Cellular and Gene Therapies (HFM–515), Office of Vaccines Research and Review, Center for Biologics Evaluation and Research, 8800 Rockville Pike, Building N29B, Room 2NN20, Bethesda, MD 20892–001, Telephone: 301–827–0680, FAX: 301–827–0449, E-mail: NOGUCHI@CBER.FDA.GOV

VII. Period of Agreement

Upon acceptance by both parties, this agreement will become effective immediately and remain in effect for a period of three (3) years from the date of signature by authorized officials from both agencies unless extended by the parties. The terms of this agreement may be modified upon mutual written consent, or terminated by either party with a minimum 30-day advance written notice to the other party. Evaluation of the terms and success of this agreement will be made periodically throughout the existence of the interagency arrangement. Within ninety (90) days prior to expiration of this agreement, a formal written evaluation shall be prepared by both parties and submitted to appropriate officials of both agencies with recommendations regarding the furtherance or discontinuation of the agreement.

VIII. Funding

No funding will be provided or exchanged by either party as part of this agreement. NIDR and FDA personnel will collaborate on projects of mutual interest. Facilities and equipment of each party will be made available to the other on an as needed basis in accordance with the individual project and activity plans and arrangements.

IX. Reporting Requirements

In addition to the evaluation report(s) referenced in section VII. above, reporting responsibilities will be determined on a case-by-case basis and as required by individual projects and activities. Reports will be provided to all Liaison Officers named in this agreement.

X. Schedules and Milestones

Schedules and milestones for all collaborative projects and activities authorized by this agreement will be developed by mutual agreement on a case-by-case basis. Schedules and milestones may be set by interagency working groups established and tasked to implement the specific projects and activities outlined in the Implementation Work Plan appended to this agreement.

XI. Disposition of Data

The plan for each project and activity set forth in the Implementation Work Plan as appended to this agreement will specify the disposition of data and other information that may result from or be used during the course of a project or activity. Publication or public dissemination of data and information exempt from public disclosure under applicable law shall not occur without prior notification and concurrence of the Liaison Officers of both parties.

XII. Sharing Data and Information

Both parties agree that a free exchange of data and information is vital to the successful execution of this agreement. Therefore, to the extent allowed under 21 U.S.C. 331(j), 21 U.S.C. 360j(c), 42 U.S.C. 353g(d), 42 U.S.C. 263i(e), 21 CFR Part 20, or other applicable law, the parties agree to share data and information as necessary. No exchange of non-public information will occur unless appropriate safeguards are established and set forth in individual work plans and first approved by the agencies' Liaison Officers.

XIII. Disclosure of Data and Information in Response to Requests

If disclosure of data or information received by a party under this agreement is requested under the Freedom of Information Act, a Congressional inquiry or pursuant to other duties and responsibilities of either party to this agreement, the agency that receives the request shall notify the agency that provided the information. The notified agency will be responsible for making any requisite contact with the submitter of the protected information and will accept full responsibility for evaluating the submitter's comments prior to rendering a disclosure determination.

To preserve maximum control over actual disclosure of their respective records, each party to this agreement shall retain legal authority and the concomitant responsibility regarding disclosure of documents provided to the other agency.

XIV. Government Property/Facilities/Personnel

Both parties to this agreement will make available personnel and facilities as required by individual projects and activities as set forth in the mutually developed work plans. NIDR personnel enlisted to serve as Federal consultants or liaisons on FDA advisory committees and panels will be subject to the same rights, privileges, obligations and restrictions as all other special government employees who serve on the agency's advisory bodies. Similarly, all FDA employees selected to serve in a consultative capacity on NIDR research study sections and advisory bodies will be bound by the same rules and allowances that apply to all other consultants appointed by NIDR.

Approved and Accepted for the National Institute of Dental Research:

By: Harold C. Slavkin, D.D.S.

Title: Director, National Institutes of Dental Research, NIH

National Institutes of Health

Date: August 1, 1997

Approved and Accepted for the Food and Drug Administration:
By: Michael A. Friedman, M.D.
Title: Lead Deputy Commissioner
Food and Drug Administration
Date: August 10, 1997

Appendix: Implementation Work Plan

Appendix

Implementation Work Plan for Memorandum of Understanding Between the National Institute of Dental Research and the Food and Drug Administration

Introduction

The National Institute of Dental Research (NIDR) and the Food and Drug Administration (FDA) have embarked upon a formal collaborative arrangement whose dual aims are to: (1) facilitate the development and market introduction of newly-emerging, safe and effective health care products to enable oral health professionals and auxiliaries to provide higher quality services and equip consumers with the tools necessary to improve and sustain their own oral, dental and cranio-facial health; and (2) provide complementary support and expertise to enable each agency to better fulfill its public health mission.

This Implementation Work Plan describes the specific projects and activities that initially constitute the substance of the collaborative arrangement between the two agencies. The information that follows is intended to serve as an overall work plan or framework for NIDR and FDA personnel assigned individual projects and activities. The specific outcomes, completion timeframes, interaction mechanisms, etc. associated with each project and activity will be defined by those persons designated by each agency to serve on interagency working groups. The relative priority of each project/activity is identified by the use of the letters ''I'' (immediate— within 3 mos.), ''S'' (short-term—within 6–12 mos.), and ''L'' (long-term—beyond 12 mos.).

A. Information Exchange

In this area of collaboration, NIDR and FDA agree to pursue the following activities:

- Initiation of an ongoing series of introductory meetings and orientation briefings to acquaint NIDR and FDA personnel with each other's statutory obligations, programs, operational capacities, policies, processes, etc. that are relevant to this agreement. [I]
- Identification of key contact persons at each agency and preparation of a contact/referral directory to facilitate interagency communication and information exchange. [I]
- Establishment of a hyperlink between existing FDA and NIDR Internet websites to permit continual and instantaneous access to routine and late-breaking information of mutual interest. [I]
- Establishment of an internal exchange forum to enable a periodic two-way sharing of information related to new research initiatives by both agencies, market applications for important new products pending with FDA, emerging public health issues and emergencies and policy development. Biomimetics is a case in point and could be used as a case study to identify optimal methods for both parties to monitor an issue from the conceptual stage through research and development. [S]
- Creation of a ''Oral, Dental and Cranio-Facial Forum'' in which NIDR and FDA can interact periodically with leading representatives of the regulated industry, academia, the research community and others on issues relating to technology development and transfer (including regulatory processes for acquiring market clearance), product utilization and treatment outcomes, adverse event reporting, etc. [S]
- Assessment of the viability of NIDR and/or FDA experts serving as Federal ''ombudsmen'' to oversee state-of-the-art advances in oral, dental and cranio-facial technologies and therapeutics through direct, ''in the field'' interactions with clinical investigators, product developers, scientific researchers, etc. The ombudsmen would act as conduits through which regulatory process and research funding information could be funneled to the industrial and research sectors. Information on emerging products, in both the concept and development stage, could in turn be fed back to NIDR and FDA with the end goal of accelerating the flow of new products that are safe and effective from the R&D arena to the clinical environment. [L]

This feasibility assessment could also encompass the concept of an ombudsman or independent, non-government expert(s) conducting an evaluation of a sampling of dental products whose basic research costs are underwritten by NIDR that traces the developmental histories through patent acquisitions and FDA market clearances. The purpose of such evaluations would be to augment the existing patient evaluation study by providing documentation of selected impact(s) of NIDR-funded research on public health and the ''bench-to-chairside'' delivery of important new oral care products. [L]

B. Science Transfer & State-of Science Workshops/Conferences

- Participation by FDA regulatory policy-makers and program officials in various conferences in 1997–98 sponsored by NIDR or in which NIDR has a planning/participant role. FDA involvement could entail formal workshops (e.g., FY99 meeting of AADR/AADS meeting), individual presentations, use of existing videotaped FDA teleconferences on selected regulatory policy and process issues, technology transfer, etc. In addition, NIDR staff will participate in FDA-sponsored workshops and conferences with relevance to oral and dental health care products and services. Collaborative discussions and planning between NIDR and FDA could serve to focus the form and content of information conducive to each presentation setting and ensure proper coverage by both agencies at key outside conferences and meetings. [I/S]
- Development and joint sponsorship of conferences, symposia and workshops whose foci and outputs will mutually benefit NIDR and FDA, e.g., in the area of technology transfer. [S/L]
- Review of the feasibility and utility of live, jointly-produced videoteleconferences using FDA/CDRH and/or NIDR facilities to communicate to each agency's constituencies on topical areas of interest, fast-moving events, new research and regulatory initiatives, etc. [S]
- Development, pilot testing and nationwide dissemination of a regulatory training module for U.S. dental school instructors, dental students, clinical trial sponsors and investigators to broaden their understanding of FDA's market clearance requirements and product evaluation processes. [L]

C. Staff Development and Collaborations

- Arrange for the temporary exchanges of NIDR and FDA specialists for pre-set periods of time (e.g., 6–12 months). These cross-appointments, which could include rotation of FDA scientists and clinicians through the NIH Clinical Center where research is performed, could enhance the understanding of each party to the policies and procedures of the other. This cross-fertilization of knowledge and experience could subsequently be shared with in-house colleagues and outside constituent groups in ways that could expedite technology transfer. [S]
- Provide for FDA scientists and regulatory process experts to participate in NIDR reviews of research applications (e.g., SBIR/STTR) as a means of gaining insights into future research and product development directions, which in turn would enable FDA product reviewers to better anticipate and prepare for scientific and clinical issues associated with future product applications. [S]
- Provide for NIDR experts to directly participate in premarket evaluations of selected new dental products whose scientific and clinical aspects may be complex or controversial, in addition to submissions seeking FDA authorization to conduct clinical studies involving experimental products. [S]
- Involvement of NIDR experts in a ground-breaking initiative relating to FDA's review process for medical devices, specifically the Product Development Protocol, a mechanism authorized by Federal law by which FDA and device producers can reach agreement at the front end of the premarket review process on test endpoints that, once satisfied, provide for a higher degree of assurance (but no guarantee) of market clearance. Resident scientific and clinical expertise at NIDR could be relied upon as this mechanism is pilot tested and in actual ''negotiations'' with product manufacturers and study sponsors. [S]
- Development of reference documents describing FDA investigational product and market approval processes for use by NIDR reviewers in conferring with prospective research grantees and contractors to better assure their clinical studies conform to FDA marketing requirements, which will help spur the clinical availability of valuable new products. Such documents could be adaptations of the regulatory training module discussed in Section B. of this document. [S]
- Evaluation of the feasibility of NIDR requiring prospective research contractors

and grantees, as a condition for a funding award, to submit review protocols or criteria that FDA can use in performing premarket reviews of breakthrough products used in the prevention, diagnosis and treatment of oral, dental and cranio-facial diseases and conditions. [S]

• Investigation into methods by which NIDR and FDA can jointly and individually promote the availability and use of FDA's adverse incident reporting systems (e.g., MedWatch) among oral health professionals and other health and dental product user groups. [S]

• Enlistment of NIDR technical, statistical and clinical experts to assist FDA in the design and content development of guidance documents that FDA product reviewers can use to assess product safety and effectiveness. [L]

D. Fellowship Sponsorship

• Investigation into the merits and legal aspects of establishing non-Federal fellowships in which interested parties from the private sector would subsidize individuals with an interest in FDA regulatory processes for one-year residency periods. Under such an arrangement, NIDR could serve as fiduciary in order to prevent appearances of conflict-of-interest. Fellowship assignments would entail generalized exposure to and experience with FDA regulatory procedures so as to also avoid access to protected, product-specific information that could be used for competitive advantage. Fellows would also be subjected to the controls, rights, privileges and restrictions to which all other FDA-recruited special government employees are subjected. [L]

E. Policy Development

• Continuation of current interchanges and expert consultations on selected policy issues that engender wide-scale interest among consumers and/or oral health professionals, involve products or therapies that pose a known or potential health risk to the general public, relate to research and regulatory processes affecting the pace of technology transfer, etc. This activity should extend to other matters of major import such as the Surgeon General's report on oral health which NIDR has been charged to produce and to which FDA can substantively contribute. [I]

F. Research

• Continuation of ongoing research collaborations, such as those between CBER and NIDR's Division of Intramural Research.

• Coordination of NIDR's biological and clinical resources and the CDRH's engineering and life sciences expertise to address a number of diverse issues relating to cleaning, infection and sensitivity reactions to new biomaterials. [S]

• Establishment of one or more patient registries for purposes of monitoring adverse incidents linked to particular dental products in addition to product-specific performance trends. Such an activity could be jointly undertaken by FDA and NIDR, as well as in conjunction with involvement by other organizations such as USP and various dental professional and product user organizations. [L]

• Initiation of collaborative research aimed at developing fundamental data and methods needed to assess long-term performance of dental devices and systems. Such research could include the joint development of physical, animal and computer-based models to adequately evaluate long-term clinical performance of marketed and evolving dental devices (e.g., osseous integration of dental implants, fatigue performance of ceramic porcelains, etc.). [L]

G. Advisory Committee & Study Section Review/Appointments

• Provision of ad hoc or liaison status to FDA officials on the NIDR National Advisory Dental Research Council (including access to closed sessions of the Council on a case-by-case, need-to-know basis), in addition to DRG and other study sections/review groups for the purpose of assisting NIDR in its review of extramural research submissions. [S]

• Expansion of current NIDR participation as consultants and/or Federal liaisons on dental-related advisory committees and panels managed by FDA (including access to closed sessions on a case-by-case, need-to-know basis) for the purpose of augmenting the scientific and clinical expertise that is brought to bear on product applications and proposed policies on which outside advice is sought by the agency. [S]

• Formal solicitation of advice by each party from the other on candidate nominations for appointment to NIDR and FDA review and advisory bodies. [S]

[FR Doc. 98–14462 Filed 6–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collections; Comment Request: National Institutes of Health Construction Grants

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of the Director (OD), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

PROPOSED COLLECTION: *Title:* National Institutes of Health Construction Grants (42 CFR Part 52b). *Type of Information Collection Request:* Extension of OMB No. 0925–0424, expiration date 09/30/98. *Need and Use of Information Collection:* This is a request for OMB approval for the information collection and recordkeeping requirements contained in the final rule 42 CFR Part 52b. The purpose of the regulations is to govern the awarding and administration of grants awarded by NIH and its components for construction of new buildings and the alteration, renovation, remodeling, improvement, expansion, and repair of existing buildings, including the provision of equipment necessary to make the building (or applicable part of the building) suitable for the purpose for which it was constructed. In terms of reporting requirements:

Section 52b.9(b) of the proposed regulations requires the transferor of a facility which is sold or transferred, or the owner of a facility, the use of which has changed, to provide written notice of the sale, transfer or change within 30 days. Section 52b.10(f) requires a grantee to submit an approved copy of the construction schedule prior to the start of construction. Section 52b.10(g) requires a grantee to provide daily construction logs and monthly status reports upon request at the job site. Section 52b.11(b) requires applicants for a project involving the acquisition of existing facilities to provide the estimated costs of the project, cost of the acquisition of existing facilities, and cost of remodeling, renovating, or altering facilities to serve the purposes for which they are acquired.

In terms of recordkeeping requirements: Section 52b.10(g) requires grantees to maintain daily construction logs and monthly status reports at the job site. *Frequency of Response:* On occasion. *Affected Public:* Non-profit organizations and Federal agencies. *Type of Respondents:* Grantees. The estimated respondent burden is as follows:

	Estimated annual reporting and recordkeeping burden			
	Annual number of respondents	Annual frequency	Average burden per	Annual burden hours
Reporting:				
§ 52b.9(b)	1	1	.50	.50

	Estimated annual reporting and recordkeeping burden			
	Annual number of respondents	Annual frequency	Average burden per	Annual burden hours
§ 52b.10(f)	15	1	1	15
§ 52b.10(g)	30	12	1	360
§ 52b.11(b)	100	1	1	100
Recordkeeping:				
§ 52b.10(g)	30	260	1	7,800
Total	176			8,275.50

The annualized cost to the public, based on an average of 30 active grants in the construction phase, is estimated at: $273,000.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information and recordkeeping are necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information and recordkeeping, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected and the recordkeeping information to be maintained; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection and recordkeeping techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT:

To request more information contact Jerry Moore, NIH Regulations Officer, Office of Management Assessment, National Institutes of Health, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, MD 20852, or call 301–496–4607 (this is not a toll-free number), or E-mail your request to <moorej@OD.NIH.gov.>

Comments Due Date: Comments regarding this information collection and recordkeeping are best assured to having their full effect if received on or before August 3, 1998.

Dated: May 27, 1998.

Jerry Moore,

Regulations Officer, National Institutes of Health.

[FR Doc. 98–14498 Filed 6–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing: DNA Vaccines for Chlamydia Trachomatis

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications and issued patent listed below may be obtained by contacting Robert Benson, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7056 ext. 267; fax: (301) 402–0220; e-mail: rb20m@nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Nucleotide, Deduced Amino Acid Sequence, Isolation and Purification of Heat-Shock Chlamydial Proteins

RB Morrison, HD Caldwell (NIAID)

Serial No. 07/531,317 Filed 31 May 90 (U.S. Patent 5,071,962 Issued 10 Dec. 91); Serial No. 07/841,323 Filed 25 Feb. 92 (Divisional of 07/531,317); Serial No. 09/071,506 Filed 01 May 98 (Divisional of 07/841,323)

This invention concerns the discovery of a novel gene that encodes the HSP60 protein from *Chlamydia trachomatis*, referred to as HypB in the application. This immunodominant protein is a major target for *Chlamydia trachomatis* vaccine development and diagnostics. This gene and protein, or fragments thereof, are useful in the development of both recombinant protein and DNA based vaccines. The recombinant protein or DNA sequence also have potential for the development of diagnostic tests for *C. trachomatis*. The three patent properties claim different aspects of the invention. The issued patent claims monoclonal antibodies reactive against *C. trachomatis* HSP60 protein. Serial No. 07/841,323 claims the HSP60 protein and its use as a vaccine. Serial No. 09/071,506 claims DNA sequences, and protein fragments thereof, encoding HSP60. This DNA sequence would be useful in a DNA vaccine, alone or with the MOMP DNA sequences claimed in Serial No. 07/853,359. No foreign patent rights exist.

Nucleotide and Amino Acid Sequences of the Four Variable Domains of the Major Outer Membrane Proteins of Chlamydia Trachomatis

H Caldwell et al. (NIAID)

Serial No. 07/853,359 Filed 16 Mar. 92 (With Priority to 17 Mar. 89)

Chlamydia trachomatis is the leading sexually transmitted infectious agent in the United States, causing about 10 million new cases per year. It is a major cause of involuntary infertility in women. This invention claims the DNA sequences, and their encoded amino acid sequences, of the four variable domains from the major outer membrane protein (MOMP) of *Chlamydia trachomatis*, from the serovars Ba, D, E, F, G, H, I, J, K, and L3. Serovars D, E, F, G, H, I, J, and K are the most common serovars associated with *Chlamydia trachomatis* caused sexually transmitted diseases. The claimed variable domains of MOMP contain the major antigen targets of protective immunity including neutralizing antibodies capable of preventing chlamydial infection. Thus, these sequences are useful for the development of recombinant protein, peptide, and DNA based vaccines

against *C. trachomatis* caused sexually transmitted diseases. The variable domains also represent the primary serotyping antigenic determinants of *C. trachomatis* organisms making these variable domain sequences potential useful targets for the development of DNA or antibody based diagnostic assays for *C. trachomatis*. The invention is described further in Ying et al., Infection & Immunity *57*, 1040–1049, 1989. Zhang et al., J. Infect. Dis. *176*, 1035–1040, 1997 describes DNA vaccines utilizing MOMP DNA.

Dated: May 21, 1998.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–14496 Filed 6–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Pubic Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Applicator System And Method Of Use

MJ Lenardo, G Fisher (NIAID)

Serial No. 09/005,475 Filed 12 Jan 98

Licensing Contact: John Fahner-Vihtelic, 301/496–7735 ext. 270.

The present application describes a novel microcentrifuge tube and tube cap and research method, which allows for dispensing the contents of a microcentrifuge tube without pipetting. The design eliminates pipetting volume error and prevents the cross-contamination which can be experienced in conventional pipetting. This invention is particularly useful for such applications as loading tube contents into an electrophoresis gel after a reaction such as PCR. Using the disclosed apparatus and methods increases the speed of a variety of routine procedures and prevents contamination of samples due to soiled lab apparatus.

Linking Compounds Useful For Coupling Carbohydrates To Amine-Containing Carriers

P Kova, J Zhang (NIDDK)

Serial No. 60/069,686 Field 12 Dec 97

Licensing Contact: Robert Benson, 301/496–7056 ext. 267.

This invention describes an inexpensive and easy method of linking carbohydrates and carriers containing an amino group to form neoglycoconjugates. The resulting neoglycoconjugates are useful as vaccines (i.e., bacterial LPS or LOS-carrier protein conjugate vaccines) or as biologically active chromatographic substrates (i.e., carbohydrates bound to aminopropyl glass). The method involves specific linkers that are easily made from inexpensive commercially available starting materials. The carbohydrates to be used in the method are limited only by the ability to convert such carbohydrates into glycosyl donors. Claimed are the linkers, conjugates made with the linkers and intermediates, and methods of synthesizing the linkers and conjugates. The invention is described in Tetrahedron letters 39, 1091–1094, 1998.

System And Method For Intelligent Quality Control Of A Process

JM DeLeo (CIT), AT Remaley (CC)

Serial No. 60/066,624 Filed 26 Nov 97

Licensing Contact: John Fahner-Vihtelic, 301/496–7735 ext. 270.

The present application is a methodology for monitoring the quality control of a process on-line for the purpose of predicting and preventing unusual/untoward events or failures in that process. Such processes include (but are not limited to) acquisition of medical data from laboratory instruments, assembly line manufacturing, and general plant or factory operations. The methodology is based on a two-tiered automated intelligent agent architecture. Intelligent agents in the first tier are neural networks trained to detect specific errors for specific process environment parameters. The single-agent second tier is an expert system that integrates inputs from first tier agents to derive corrective action decisions that are manually or automatically executed in the process environment. Error prevalence and wrong-decision cost information are factored into the action decision-making process. For clinical laboratory instruments, the method monitors patient laboratory data and provides significant improvement in quality control at reduced cost compared to existing methods.

Identification Of The Human Pendred Syndrome Gene

E Green, et al. (NHGRI)

DHHS Reference No. E–004–98/0 Filed 28 Oct 97

Licensing Contact: Dennis Penn, 301/496–7065, ext. 211.

Pendred syndrome is a recessively inherited disorder which was poorly understood until the discovery of the Pendred syndrome gene. This syndrome, which is associated with congenital deafness and thyroid goiter, may account for upwards of 10% of hereditary deafness. The gene encodes for the protein pendrin which transports sulfate across cell membranes. However, the gene, when mutated, is responsible for producing defective pendrin and causing Pendred syndrome. Pendrin therefore plays a key role in thyroid function and the development and functioning of the auditory system. Learning how pendrin functions could lead to a better understanding of thyroid function and the development of the auditory system. Finally, the resulting knowledge into the genetic basis of Pendred syndrome will allow for improved diagnosis of syndrome-specific mutations in at-risk individuals. This research has been published in Nature Genetics 1997 December; 17(4):411–22.

Local Magnetization Spoiling Using A Gradient Insert For Reducing The Field Of View In Magnetic Resonance Imaging

DG Wiesler, H Wen, RS Balaban, SD Wolff (NHLBI)

Serial No. 60/043,292 Filed 11 Apr 97

Licensing Contact: John Fahner-Vihtelic, 301/496–7735, ext. 270.

The present invention provides a method and device for eliminating alias artifacts encountered in MRI when the field of view is made smaller than the subject being imaged. Significant

advantages accrue from reducing the field of view to a smaller region of interest. These include reduced imaging time, increased spatial and temporal resolution, and less susceptibility to motion artifacts. The device operates by dephasing the magnetic resonance signal in regions away from the region of interest by means of a gradient insert.

Nitrogen-Containing Cylohetero Cycloalkyl-Aminoaryl Derivatives For CNS Disorders

BR DeCosta, et al. (NIDDK)

Serial No. 07/473,008 Filed 31 Jan 90 (U.S. Patent 5,130,330 Issued on 14 Jul 92); Serial No. 07/877,190 Filed 01 Jul 92 (U.S. Patent 5,739,158 Issued on 14 Apr 98); Serial No. 08/335,532 Filed 07 Nov 94

Licensing Contact: Charles Maynard, 301/496–7735, ext. 243.

This technology includes compositions for a novel family of nitrogen containing cyclohetero cycloalkyl-aminoaryl compounds for use in the field of clinical neurology. The intellectual property relates specifically to a class of therapeutically useful compounds for the treatment of central nervous system (CNS) disorders such as cerebral ischemia, psychotic disorders and convulsions. These compounds are particularly useful for treating neurotoxic injury which follow periods of hypoxia, anoxia or ischemia associated with stroke, cardiac arrest or perinatal asphyxia.

The novel semirigid derivatives (+)-cis-1-[2-phenyl-2-bicyclo[3,1,0]hexyl]piperidine [(+)-8], its enantiomer (−)-8, and (+−)-trans-1-[2-phenyl-2-bicylo [3,1,0]piperidine [(+/−)-9] are illustrative examples of this family of compounds which may be used to treat CNS disorders and diseases such as cerebral ischemia, psychotic disorders and convulsions, as well as prevention of neurotoxic damage and neurodegenerative disease via a unique receptor mechanism. This class of compounds produce neuroprotective effects by a different mechanism to phencyclidine and metaphit a non-competitive N-methyl-D-aspartic acid antagonis.

Dated: May 21, 1998.

Jack Spiegel,

Director, Division of Technology, Development, and Transfer, Office of Technology Transfer.

[FR Doc. 98–14497 Filed 6–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Prostate, Lung, Colorectal, and Ovarian Cancer (PLCO) Cancer Screening Trial Expansion.

Date: June 8–9, 1998.

Time: June 8—8:00 a.m. to recess; June 9—8:00 a.m. to Adjournment.

Place: Double Tree Hotel-Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Wilna Woods, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 622B, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7903.

Purpose/Agenda: To review, discuss and evaluate responses to a Request for Proposal.

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. Proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control.)

Dated: May 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–14494 Filed 6–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of 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 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: June 24, 1998.

Time: 8:30 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: W. Gregory Zimmerman, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, Md 20857, Telephone: 301, 443–1340.

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. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: May 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–14493 Filed 6–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; National and Regional Meetings of the National Reading Panel

Notice is hereby given of five regional meetings and one national meeting of the National Reading Panel. The regional meetings will be held on May 29, 1998, in Chicago, Illinois; June 5, 1998, in Portland Oregon, June 8, 1998, in Houston, Texas; June 23, 1998 in New York City, New York; and July 9, 1998, in Jackson, Mississippi. The national meeting will be held July 24, 1998, in Bethesda, Maryland. The regional meeting in Chicago will take place at Illinois Room at the Chicago Circle Center (CCC), University of Illinois at Chicago, 750 South Halsted Street, Chicago, IL 60607. The Chicago meeting will begin at 9:30 a.m. and is expected to adjourn at 4:00 p.m. The entire meeting will be open to the public. The precise times and sites for the other meetings listed will be published when the plans for the meetings at those sites are finalized.

The National Reading Panel was requested by Congress and created by the Director of the National Institute of Child Health and Human Development in consultation with the Secretary of Education. The Panel will study the

effectiveness of various approaches to teaching children how to read and report on the best ways to apply these findings in classrooms and at home. Its members include prominent reading researchers, teachers, child development experts, leaders in elementary and higher education, and parents. The Chair of the Panel is Dr. Donald N. Langenberg, Chancellor of the University System of Maryland.

The Panel will build on the recently announced findings presented by the National Research Council's Committee on the Prevention of Reading Difficulties in Young Children. Based on a review of the literature, the Panel will: determine the readiness for application in the classroom of the results of these research studies; identify appropriate means to rapidly disseminate this information to facilitate effective reading instruction in the schools; and identify gaps in the knowledge base for reading instruction and the best ways to close these gaps.

The purpose of the meetings of the Panel will be to provide an opportunity for interaction between the Panel members regarding the Panel's charge and to receive input from experts and the general public regarding that charge. Through these interactions the Panel hopes to make its task clear to others while gaining useful input from those it intends to inform. A period of time will be set aside for members of the public to address the Panel and express their views regarding the Panel's mission. Individuals desiring an opportunity to speak before the Panel should address their requests to F. William Dommel, Jr., Executive Director, National Reading Panel, c/o Ms. Amy Andryszak and either mail them to the Widmeyer-Baker Group, 1875 Connecticut Avenue NW., Suite 800, Washington, DC 20009, or e-mail them to amya@twbg.com or fax them to 202–667–0902. Requests for addressing the Panel should be received as soon as possible. Panel business permitting, each public speaker will be allowed five minutes to present his or her views. In the event of a large number of public speakers, the Panel Chair retains the option to further limit the presentation time allowed to each. Although the time permitted for oral presentations will be brief, the full text of all written comments submitted to the Panel will be made available to the Panel members for consideration.

For further information contact Ms. Amy Andryszak 202–667–0901. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Amy Andryszak as soon as possible.

Dated: May 26, 1998.

Duane Alexander,

Director, National Institute of Child Health and Human Development.

[FR Doc. 98–14495 Filed 6–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Extramural Research; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Peer Review Oversight Group (PROG) on June 17–18, 1997 in the C-Wing of Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892. The meeting will be held in Conference Room 8 on June 17, from 1:00 to 5:00 p.m. and in Conference Room 7 on June 18, from 1:00 to 5:00 p.m. The meeting is open to the public subject to space restrictions.

The Committee will discuss current NIH review procedures, the implementation of the new review criteria, and the integration of AIDS, neuroscience, and behavioral reviews.

The meeting agenda and roster of committee members are available on the World Wide Web via the NIH Home Page <*http://www.nih.gov.grants/*> or from Ms. Barbara Nolte, Committee Assistant, PROG, or Ms. Nancy Avis, Office of Extramural Research, Office of the Director, National Institutes Health, Building 1, Room 252, Bethesda, Maryland 20892, or by phone at (301) 402–1058.

Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other special accommodations, should contact Ms. Nolte or Ms. Avis by June 1, 1998.

Dated: May 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–14492 Filed 6–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Resettlement Program; Final Notice of Availability of Formula Allocation Funding for FY 1998 Targeted Assistance Grants for Services to Refugees in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Final notice of availability of formula allocation funding for FY 1998 targeted assistance grants to States for services to refugees [1] in local areas of high need.

SUMMARY: This notice announces the availability of funds and award procedures for FY 1998 targeted assistance grants for services to refugees under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee populations, high refugee concentrations, and high use of public assistance, and where specific needs exist for supplementation of currently available resources. The final notice reflects adjustments in final allocations to States as a result of additional arrival data.

A notice of proposed allocations of targeted assistance funds was published for public comment in the **Federal Register** on February 17, 1998 (63 FR 7814).

FOR FURTHER INFORMATION CONTACT: Toyo Biddle, Director, Division of Refugee Self-Sufficiency, (202) 401–9250.

APPLICATION DEADLINE: The closing date for submission of applications is July 17, 1998. Applications postmarked after the closing date will be classified as late.

[1] In addition to persons who meet all requirements of 45 CFR 400.43, ''Requirements for documentation of refugee status,'' eligibility for targeted assistance includes Cuban and Haitian entrants, certain Amerasians from Vietnam who are admitted to the U.S. as immigrants, and certain Amerasians from Vietnam who are U.S. citizens. (See section II of this notice on ''Authorization.'') The term ''refugee'', used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services, including the targeted assistance program.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the targeted assistance program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival, or until they obtain permanent resident alien status, whichever comes first.

Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Division of Refugee Self-Sufficiency, 370 L'Enfant Promenade, S.W., Washington, DC 20447, Attention: Application for Targeted Assistance Formula Program.

Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications handcarried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Division of Refugee Self-Sufficiency, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

To be considered complete, an application package must include a signed original and two copies of Standard Form 424, 424A, and 424B.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 93.584.

FOR FURTHER INFORMATION ON APPLICATION PROCEDURES: States should contact their State Analyst in ORR.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the availability of funds for grants for targeted assistance for services to refugees in counties where, because of factors such as unusually large refugee populations, high refugee concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,477,000 in FY 1998 funds for the targeted assistance program (TAP) as part of the FY 1998 appropriation for the Department of Health and Human Services (Pub. L. No. 105–78).

The Director of the Office of Refugee Resettlement (ORR) will use the $49,477,000 in targeted assistance funds as follows:

- $35,371,300 will be allocated to States under the 5-year population formula, as set forth in this notice.
- $14,105,700 will be used to award discretionary grants to States under separate grant announcements, including TAP 10% grants and as well as other discretionary grants.

In addition, the Office of Refugee Resettlement will have available an additional $5,000,000 in FY 1998 funds for the targeted assistance discretionary program through the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Pub. L. No. 105–118). These funds will augment the 10 percent of the targeted assistance program which is set-aside for grants to localities most heavily impacted by the influx of refugees such as Laotian Hmong, Cambodians and Soviet Pentecostals, including secondary migrants who entered the United States after October 1, 1979.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The targeted assistance program reflects the requirements of section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available ''(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.''

II. Authorization

Targeted assistance projects are funded under the authority of section 412(c)(2) of the Immigration and Nationality Act (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. No. 99–605), 8 U.S.C. 1522(c); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. No. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. No. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Vietnam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100–461), 1990 (Pub. L. No. 101–167), and 1991 (Pub. L. No. 101–513).

III. Client and Service Priorities

Targeted assistance funding must be used to assist refugee families to achieve economic independence. To this end, States and counties are required to ensure that a coherent family self-sufficiency plan is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. (See 45 CFR 400.79 and 400.156(g).) Each family self-sufficiency plan should address a family's needs for both employment-related services and other needed social services. The family self-sufficiency plan must include: (1) a determination of the income level a family would have to earn to exceed its cash grant and move into self-support without suffering a monetary penalty; (2) a strategy and timetable for obtaining that level of family income through the placement in employment of sufficient numbers of employable family members at sufficient wage levels; and (3) employability plans for every employable member of the family. In local jurisdictions that have both targeted assistance and refugee social services programs, one family self-sufficiency plan may be developed for a family that incorporates both targeted assistance and refugee social services.

Services funded through the targeted assistance program are required to focus primarily on those refugees who, either because of their protracted use of public assistance or difficulty in securing employment, continue to need services beyond the initial years of resettlement. States may not provide services funded under this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (5 years).

In accordance with 45 CFR 400.314, States are required to provide targeted assistance services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) Refugees who are cash assistance recipients, particularly long-term recipients; (b) unemployed refugees who are not receiving cash assistance; and (c) employed refugees in need of services to retain employment or to attain economic independence.

In addition to the statutory requirement that TAP funds be used ''primarily for the purpose of facilitating refugee employment'' (section 412(c)(2)(B)(i)), funds awarded under this program are intended to help fulfill the Congressional intent that ''employable refugees should be placed on jobs as soon as possible after their arrival in the United States'' (section 412(a)(1)(B)(i) of the INA). Therefore, in accordance with 45 CFR 400.313, targeted assistance funds must be used primarily for employability services designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program in order to achieve economic self-sufficiency as soon as possible. Targeted assistance services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

In accordance with § 400.317, if targeted assistance funds are used for the provision of English language training, such training must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related activities.

A portion of a local area's allocation may be used for services which are not directed toward the achievement of a specific employment objective in less than one year but which are essential to the adjustment of refugees in the community, provided such needs are clearly demonstrated and such use is approved by the State. Allowable services include those listed under § 400.316.

Reflecting section 412(a)(1)(A)(iv) of the INA, States must ''insure that women have the same opportunities as men to participate in training and instruction.'' In addition, in accordance with § 400.317, services must be provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women. The Director also strongly encourages the inclusion of refugee women in management and board positions in agencies that serve refugees. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit. States and counties are expected to make every effort to assure availability of day care services for children in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, day care may be treated as a priority employment-related service under the targeted assistance program. Refugees who are participating in TAP-funded or social services-funded employment services or have accepted employment are eligible for day care services for children. For an employed refugee, TAP-funded day care should be limited to one year after the refugee becomes employed. States and counties, however, are expected to use day care funding from other publicly funded mainstream programs as a prior resource and are encouraged to work with service providers to assure maximum access to other publicly funded resources for day care.

In accordance with § 400.317, targeted assistance services must be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background, to the maximum extent feasible. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Services funded under this notice must be refugee-specific services which are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Vocational or job-skills training, on-the-job training, or English language training, however, need not be refugee-specific.

When planning targeted assistance services, States must take into account the reception and placement (R & P) services provided by local resettlement agencies in order to utilize these resources in the overall program design and to ensure the provision of seamless, coordinated services to refugees that are not duplicative. See § 400.156(b).

ORR strongly encourages States and counties when contracting for targeted assistance services, including employment services, to give consideration to the special strengths of mutual assistance associations (MAAs), whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. ORR also strongly encourages MAAs to ensure that their management and board composition reflect the major target populations to be served.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this notice will be contingent upon the completeness of a State's application as described in section IX, below.

IV. Discussion of Comments Received

We received only two letters of comment in response to the notice of proposed availability of FY 1998 funds for targeted assistance. Both letters concerned discrepancies between a State or county's count of arrivals and the number of arrivals credited to that State or county in the ORR data base. Where warranted, we have made adjustments to our data base.

V. Eligible Grantees

Eligible grantees are those agencies of State governments that are responsible

for the refugee program under 45 CFR 400.5 in States containing counties which qualify for FY 1998 targeted assistance awards.

The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

The State agency will submit a single application on behalf of all county governments of the qualified counties in that State. Subsequent to the approval of the State's application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State.

A State with more than one qualified county is permitted, but not required, to determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in this notice, in accordance with § 400.319, the FY 1998 allocations proposed by the State must be based on the State's population of refugees who arrived in the U.S. during the most recent 5-year period. A State may use welfare data as an additional factor in the allocation of its targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. In addition, if a State chooses to allocate its FY 1998 targeted assistance funds in a manner different from the formula set forth in this notice, the FY 1998 allocations and methodology proposed by the State must be included in the State's application for ORR review and approval.

Applications submitted in response to the final notice are not subject to review by State and areawide clearinghouses under Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

VI. Qualification and Allocation

A. Qualified Counties

The 47 counties listed as qualified for TAP funding in the FY 1997 final TAP notice will remain qualified for TAP funding in FY 1998. We have not considered the eligibility of additional counties for FY 1998. In the FY 1996 targeted assistance final notice (61 FR 36739, July 12, 1996) the ORR Director indicated her intention to determine the qualification of counties for targeted assistance funds once every three years, beginning in FY 1996. Therefore, in FY 1999, ORR will again review data on all counties that could potentially qualify for TAP funds on the basis of the most current 5-year refugee/entrant population data available at that time.

B. Allocation Formula

Of the funds available for FY 1998 for targeted assistance, $35,317,300 is allocated by formula to States for qualified counties based on the initial placements of refugees, Amerasians, entrants, and Kurdish asylees in these counties during the 5-year period from FY 1993 through FY 1997 (October 1, 1992—September 30, 1997).

With regard to Havana parolees, we are crediting 3,693 Havana parolees who arrived in FY 1997 to qualified counties in Florida based on data the State submitted to ORR during the public comment period. We have credited FY 1997 Havana parolee arrivals to the remaining qualified targeted assistance counties based on the counties' proportion of the 5-year entrant arrival population. For FY 1995 and FY 1996, Florida's Havana parolees for each qualified county are based on actual data submitted by the State of Florida, while Havana parolees credited to counties in other States were prorated based on the counties' proportion of the 5-year entrant population in the U.S. The allocations in this notice reflect these additional parolee numbers.

VII. Allocations

Table 1 lists the qualified counties, the number of refugee and entrant arrivals in those counties during the 5-year period from October 1, 1992—September 30, 1997, the prorated number of Havana parolees credited to each county based on the county's proportion of the 5-year entrant population in the U.S., the sum of the third, fourth, and fifth columns, and the amount of each county's allocation based on its 5-year total population.

Table 2 provides State totals for targeted assistance allocations.

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TABLE 1.—TARGETED ASSISTANCE ALLOCATIONS BY COUNTY: FY 1998

County	State	Refugees [1]	Entrants	Havana parolees [2]	Total arrivals FY 1993–1997	$35,371,300 total FY 1998 final allocation
Maricopa County	Arizona	5,919	659	265	6,843	$588,726
Alameda County	California	4,029	19	9	4,057	349,037
Fresno County	California	4,596	2	0	4,598	395,581
Los Angeles County	California	20,708	465	284	21,457	1,846,016
Merced County	California	1,067	0	0	1,067	91,798
Orange County	California	17,946	27	16	17,989	1,547,653
Sacramento County	California	11,461	4	3	11,468	986,630
San Diego County	California	10,780	517	222	11,519	991,018
SAN FRANCISCO AREA	California	9,705	85	76	9,866	848,804
San Joaquin County	California	1,708	7	3	1,718	147,805
Santa Clara County	California	13,706	50	16	13,772	1,184,851
Denver County	Colorado	3,384	3	1	3,388	291,481
District of Col.	District of Col.	3,858	14	7	3,879	333,723
Broward County	Florida	1,131	1,581	524	3,236	278,404
Dade County	Florida	9,560	35,152	17,530	62,242	5,354,884
Duval County	Florida	3,430	28	24	3,482	299,568
Palm Beach County	Florida	695	1,109	389	2,193	188,671
DeKalb County	Georgia	6,052	13	9	6,074	522,566
Fulton County	Georgia	5,866	210	97	6,173	531,084
CHICAGO AREA	Illinois	17,240	412	196	17,848	1,535,522
Polk County	Iowa	3,301	1	0	3,302	284,082
Jefferson County [3]	Kentucky	3,213	555	178	3,946	339,487
Baltimore City	Maryland	2,689	3	0	2,692	231,602
Suffolk County	Massachusetts	5,090	73	106	5,269	453,309
Ingham County	Michigan	1,715	320	113	2,148	184,800

TABLE 1.—TARGETED ASSISTANCE ALLOCATIONS BY COUNTY: FY 1998—Continued

County	State	Refugees [1]	Entrants	Havana parolees [2]	Total arrivals FY 1993–1997	$35,371,300 total FY 1998 final allocation
Oakland County	Michigan	3,409	8	4	3,421	294,320
Hennepin County	Minnesota	5,490	3	0	5,493	472,581
Ramsey County	Minnesota	3,744	10	4	3,758	323,313
St. Louis County	Missouri	6,614	1	0	6,615	569,110
Lancaster County	Nebraska	2,218	36	11	2,265	194,865
Hudson County	New Jersey	1,910	827	391	3,128	269,112
Bernalillo County	New Mexico	1,322	1,228	559	3,109	267,478
Broome County	New York	1,336	16	11	1,363	117,263
Monroe County	New York	2,884	517	227	3,628	312,129
NEW YORK CITY AREA	New York	69,575	728	479	70,782	6,089,609
Oneida County	New York	3,470	1	0	3,471	298,622
Cass County	North Dakota	1,535	3	1	1,539	132,405
Cuyahoga County	Ohio	4,131	6	2	4,139	356,092
PORTLAND OREGON AREA.	Oregon	10,453	549	228	11,230	966,154
Philadelphia County	Pennsylvania	6,756	55	32	6,843	588,726
Davidson County	Tennessee	3,242	54	16	3,312	284,942
DALLAS AREA	Texas	11,393	610	264	12,267	1,055,370
Harris County	Texas	9,644	169	70	9,883	850,267
FAIRFAX AREA	Virginia	4,336	8	3	4,347	373,987
Richmond County	Virginia	1,981	104	46	2,131	183,337
Pierce County	Washington	2,715	10	3	2,728	234,699
SEATTLE AREA	Washington	15,388	52	17	15,457	1,329,817
Total		342,395	46,304	22,436	411,135	35,371,300

[1] Refugees include: refugees, Kurdish asylees, and Amerasian immigrants from Vietnam.

[2] For FY 1997, HP arrivals to the qualifying Florida counties (3693) were based on actual data while HP's in the non-Florida qualifying counties (1227) were prorated based on the counties' proportion of the five year (FY 1993–1997) entrant population in the U.S. For FY 1996, HP arrivals to the qualifying Florida counties (6919) were based on actual data while HP's in the non-Florida qualifying counties (1415) were prorated based on the counties' proportion of the five year (FY 1992–1996) entrant population in the U.S. For FY 1995, HP arrivals to the qualifying Florida counties (7855) were based on actual data while HP's in the non-Florida qualifying counties (1327) were prorated based on the counties' proportion of the five year (FY 1991–1995) entrant population in the U.S.

[3] The allocation for Jefferson, KY will be awarded to the Kentucky Wilson-Fish project.

TABLE 2.—TARGETED ASSISTANCE ALLOCATIONS BY STATE: FY 1998

State	$35,371,300 total FY 1998 final allocation
Arizona	$588,726
California	8,389,193
Colorado	291,481
District of Columbia	333,723
Florida	6,121,527
Georgia	1,053,650
Illinois	1,535,522
Iowa	284,082
Kentucky	339,487
Maryland	231,602
Massachusetts	453,309
Michigan	479,120
Minnesota	795,894
Missouri	569,110
Nebraska	194,865
New Jersey	269,112
New Mexico	267,478
New York	6,817,623
North Dakota	132,405
Ohio	356,092
Oregon	966,154
Pennsylvania	588,726
Tennessee	284,942
Texas	1,905,637
Virginia	557,324
Washington	1,564,516
Total	35,371,300

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VIII. Application and Implementation Process

Under the FY 1998 targeted assistance program, States may apply for and receive grant awards on behalf of qualified counties in the State. A single allocation will be made to each State by ORR on the basis of an approved State application. The State agency will, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans.

Pursuant to § 400.210(b), FY 1998 targeted assistance funds must be obligated by the State agency no later than one year after the end of the Federal fiscal year in which the Department awarded the grant. Funds must be liquidated within two years after the end of the Federal fiscal year in which the Department awarded the grant. A State's final financial report on targeted assistance expenditures must be received no later than two years after the end of the Federal fiscal year in which the Department awarded the grant. If final reports are not received on time, the Department will deobligate any unexpended funds, including any unliquidated obligations, on the basis of the State's last filed report.

The requirements regarding the discretionary portions of the targeted assistance program will be addressed separately in the grant announcements for those funds. Applications for these funds are therefore not subject to provisions contained in this notice but to other requirements which will be conveyed separately.

IX. Application Requirements

The State application requirements for grants for the FY 1998 targeted assistance formula allocation are as follows:

States that are currently operating under approved management plans for their FY 1996 or FY 1997 targeted assistance program and wish to continue to do so for their FY 1998 grants may provide the following in lieu of resubmitting the full currently approved plan:

The State's application for FY 1998 funding shall provide:

A. Assurance that the State's current management plan for the administration of the targeted assistance program, as approved by ORR, will continue to be in full force and effect for the FY 1998 targeted assistance program, subject to any additional assurances or revisions required by this notice which are not

reflected in the current plan. Any proposed modifications to the approved plan will be identified in the application and are subject to ORR review and approval. Any proposed changes must address and reference all appropriate portions of the FY 1996 or FY 1997 application content requirements to ensure complete incorporation in the State's management plan.

B. Assurance that targeted assistance funds will be used in accordance with the requirements in 45 CFR 400.

C. Assurance that targeted assistance funds will be used primarily for the provision of services which are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. States must indicate what percentage of FY 1998 targeted assistance formula allocation funds that are used for services will be allocated for employment services.

D. Assurance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration of other programs, e.g. social services, cash and medical assistance, etc.

E. The amount of funds to be awarded to the targeted county or counties. If a State with more than one qualifying targeted assistance county chooses to allocate its targeted assistance funds differently from the formula allocation for counties presented in the ORR targeted assistance notice in a fiscal year, its allocations must be based on the State's population of refugees who arrived in the U.S. during the most recent 5-year period. A State may use welfare data as an additional factor in the allocation of targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. The application must provide a description of, and supporting data for, the State's proposed allocation plan, the data to be used, and the proposed allocation for each county.

F. Assurance that local administrative budgets will not exceed 15% of the local allocation. Targeted assistance grants are cost-based awards. Neither a State nor a county is entitled to a certain amount for administrative costs. Rather, administrative cost requests should be based on projections of actual needs. States and counties are strongly encouraged to limit administrative costs to the extent possible to maximize available funding for services to clients.

Results or Benefits Expected

All applicants must establish targeted assistance proposed performance goals for each of the 6 ORR performance outcome measures for each targeted assistance county's proposed service contract(s) or sub-grants for the next contracting cycle. Proposed performance goals must be included in the application for each performance measure. The 6 ORR performance measures are: entered employments, cash assistance reductions due to employment, cash assistance terminations due to employment, 90-day employment retentions, average wage at placement, and job placements with available health benefits. Targeted assistance program activity and progress achieved toward meeting performance outcome goals are to be reported quarterly on the ORR–6, the ''Quarterly Performance Report.''

States which are currently grantees for targeted assistance funds should base projected annual outcome goals on the past year's performance. Proposed targeted assistance outcome goals should reflect improvement over past performance and strive for continuous improvement during the project period from one year to another.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form (424A). Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs. The Office of Refugee Resettlement is particularly interested in the following:

1. A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project. States that administer the program locally in lieu of the county, through a mutual agreement with the qualifying county, may add up to, but not exceed, 10% of the county's TAP allocation to the State's administrative budget.

2. A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project.

States administering the program locally: States that have administered the program locally or provide direct service to the refugee population (with the concurrence of the county) must submit a program summary to ORR for prior review and approval. The summary must include a description of the proposed services; a justification for the projected allocation for each component including relationship of funds allocated to numbers of clients served, characteristics of clients, duration of training and services, and cost per placement. In addition, the program component summary must describe any ancillary services or subcomponents such as day care, transportation, or language training.

X. Reporting Requirements

States are required to submit quarterly reports on the outcomes of the targeted assistance program, using Schedule A and Schedule C of the new ORR–6 Quarterly Performance Report form which was sent to States in ORR State Letter 95–35 on November 6, 1995.

XI. The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

All information collections within this program notice are approved under the following valid OMB control numbers: 424 (0348–0043); 424A (0348–0044); 424B (0348–0040); Disclosure of Lobbying Activities (0348–0046); Uniform Project Description (0970–0139), Expiration date 10/31/2000. Financial Status Report (SF–269) (0348–0039) and ORR Quarterly Performance Report (0970–0036).

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

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.

Dated: May 27, 1998.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 98–14573 Filed 6–1–98; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a teleconference meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in June 1998.

The meeting will include the review, discussion and evaluation of an individual grant application. Therefore the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting and roster of council members may be obtained from: Mrs. Marjorie Cashion, CSAT, National Advisory Council, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact whose name and telephone number are listed below.

Committee Name: Center for Substance Abuse Treatment, National Advisory Council.

Meeting Date: June 11, 1998.

Place: Center for Substance Abuse Treatment, 5515 Security Lane, 6th Floor Conference Room (Suite 617), Rockville, MD 20852.

Type: Closed: June 11, 1998—2:30–3:30 p.m.

Contact: Marjorie M. Cashion, Executive Secretary, Telephone: (301) 443–8923, and FAX: (301) 480–6077.

This notice is being published less than fifteen days prior to meeting date due to urgent needs to meet timing limitation imposed by the review and funding cycle.

Dated: May 27, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–14513 Filed 6–1–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intent To Prepare a Joint Environmental Impact Statement/ Environmental Impact Report for the San Dieguito Wetlands Restoration Project, San Diego County, California

AGENCY: Fish and Wildlife Service (Service), Interior.

ACTION: Notice of Intent.

SUMMARY: The Service, San Dieguito River Valley Regional Open Space Park Joint Powers Authority (JPA), and Southern California Edison (SCE) propose to participate in the restoration of the San Dieguito Wetlands, as well as process a Park Master Plan for the area that would address upland restoration and public access. The tidal wetland restoration portion of the project would involve the excavation of approximately 130 acres of land located both east and west of I–5 and would generate approximately 2.07 million cubic yards of dredged material. Upland restoration would involve converting old agricultural fields to various native habitats. A system of public trails is also proposed for development within the study area.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process or preparation of the EIS/EIR may be directed to Mr. Jack Fancher, Fish and Wildlife Service, 2730 Loker Ave., West, Carlsbad, California 92008, (760) 431–9440 or Ms. Victoria Touchstone, Principal Planner, San Dieguito River Park JPA, 1500 State Street, Suite 280, San Diego, California 92101, (619) 235–5440 ex. 13.

SUPPLEMENTARY INFORMATION:

Project Location

The project is located in the western San Dieguito River Valley both within the northwestern most portions of the City of San Diego and the City of Del Mar. The project boundaries are generally located from El Camino Real west to the ocean and for the most part include the public properties located south of Via de la Valle and north of the Carmel Valley planning area.

Proposed Action

The purpose of the project is to implement a tidal wetland restoration project at the San Dieguito Lagoon that would both restore the aquatic functions of the lagoon through permanent inlet maintenance and expansion of the tidal basin and create approximately 120 acres of subtidal and intertidal habitats. Other secondary purposes include development of a Park Master Plan for the area that would address upland and non-tidal wetland habitat restoration and public access.

It is anticipated that tidal restoration work at San Dieguito Lagoon would be accomplished primarily with funds provided by Southern California Edison and partners (SCE). SCE would fund restoration at San Dieguito, provided the restoration satisfies the conditions of the California Coastal Commission (CCC) permit for the construction and operation of the San Onofre Nuclear Generating Station (SONGS). The Service, U.S. Army Corps of Engineers (Corps), National Marine Fisheries Service, CCC, California Department of Fish and Game, and several local agencies have participated in the development of a conceptual proposal for restoring wetland and aquatic functions at San Dieguito Lagoon that would, among other things, satisfy the CCC permit condition for SONGS. Although this proposal will be assessed in the EIS/EIR review process as one of an appropriate range of restoration alternatives, the agencies have not yet determined whether this conceptual proposal is the preferred approach for restoring the optimal mix of wetland and aquatic functions at San Dieguito Lagoon.

The project goal is to preserve, improve, and create a variety of habitats within the project site to increase and maintain fish and wildlife and ensure the protection of endangered species. Project objectives state that the wetland project design should ensure adequate tidal and fluvial flushing and circulation to support a diversity of biological resources while maintaining the appearance of a natural wetland ecosystem. Proposals for upland restoration should complement the adjoining coastal wetland areas and provide habitats that have historically occurred in the area. Proposed public access and use areas should be sited in a manner that would not interfere with the naturally functioning ecosystem or the open space character of the western San Dieguito River Valley.

The proposed project would consist of the following elements: (1) Tidal inlet maintenance to maintain the regular tidal exchange in perpetuity through excavation of approximately 5 acres of the river channel and periodic maintenance dredging to –3 to –3.5 National Geodetic Vertical Datum (NGVD); (2) excavate tidal and upland areas to create approximately 120 acres of subtital and intertidal habitat; (3) create approximately 10 acres of seasonal salt marsh; set aside approximately 19 acres within the

project area for the creation of nesting habitat for the California least tern; (5) construct levees within the river's effective flow area in order to maintain the existing sediment flows within the river and to the beach; (6) identify appropriate sites for dredge disposal; (7) restore native habitat to non-tidal areas surrounding the wetland restoration project; and (8) create public access trails and opportunities for interpretation.

Alternatives

Over the past several years various informal meetings have been held involving local, state, and federal agencies, as well as members of the public, to discuss various alternatives for achieving the overall project goal of restoring the coastal wetlands at the San Dieguioto Lagoon. As a result of that effort, a number of alternatives have been developed which include ''No Action,'' Reduced Levee, Mixed Habitat, Maximum Tidal Basin, and Maximum Salt Marsh. The Mixed Habitat Alternative is the SCE proposed alternative. As a result of the scoping process, it is possible that these preliminary project alternatives will be further refined and/or additional alternatives considered. Once identified, the final alternatives will be carried forward into detailed analysis pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 432 et seq.) and the California Environmental Quality Act (CEQA) of 1970, as amended (Public Resources Code, Section 21000–21177).

Scoping Process

The Service and the JPA are preparing a joint Environmental Impact Statement/Report (EIS/R) to address potential impacts associated with implementing their respective discretionary actions for the proposed project. The Service is the Lead Federal Agency for compliance with NEPA for the Federal aspects of the project, and the JPA is the Lead State Agency for compliance with CEQA for the non-Federal aspects of the project. The Draft EIS/R (DEIS/R) document will incorporate public concerns in the analysis of impacts associated with the Proposed Action and associated project alternatives. The DEIS/R will be sent out for a minimum 45-day public review period, during which time both written and verbal comments will be solicited on the adequacy of the document. The Final EIS/R (FEIS/R) will address the comments received on the DEIS/R during public review, and will be furnished to all who commented on the DEIS/R, and made available to anyone that requests a copy during a minimum 30-day period following publication of the FEIS/R. The final step involves, for the Federal EIS, preparing a Record of Decision (ROD) and, for the State EIR, certifying the EIR and adopting a Mitigation Monitoring and Reporting Plan. The ROD is a concise summary of the decisions made by the Service (in cooperation with the Corps) from among the alternatives presented in the FEIS/R. A certified EIR indicates that the environmental document has been completed in compliance with CEQA, that the decision-making body of the lead agency reviewed and considered the FEIR prior to approving the project; and that the FEIR reflects the lead agency's independent judgment and analysis.

A public scoping meeting to solicit public comment on the proposed action and alternatives will be held on Monday, June 15, 1998 at 7:00 pm, in the Solana Beach City Council Chambers, 635 South Highway 101, Solana Beach, California.

Dated: May 28, 1998.

Thomas Dwyer,

Acting Regional Director.

[FR Doc. 98–14661 Filed 6–1–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–020–08–1310–00]

Notice of Intent To Plan

AGENCY: Bureau of Land Management (BLM), Montana, Miles City Field Office, Interior.

ACTION: Notice.

SUMMARY: An Environmental Assessment and Resource Management Plan Amendment is being prepared for the proposed Makoshika Area of Management Concern in Big Dry Resource Area, Montana. The document will amend the Big Dry Resource Management Plan, approved April 22, 1996. It will be based on existing statutory requirements and will meet the requirements of the Federal Land Policy and Management Act of 1976. The document will guide future management decisions for BLM-administered lands and minerals in Makoshika State Park and is scheduled for completion by August, 1998.

DATES: Any nominations, issues, concerns, alternatives, or comments should be submitted to BLM by July 2, 1998.

ADDRESSES: All submissions should be sent to the following address: BLM, Aden Seidlitz, Associate Field Office Manager, 111 Garryowen Road, Miles City, MT, 59301.

FOR FURTHER INFORMATION CONTACT: Aden Seidlitz, (406) 233–2816.

SUPPLEMENTARY INFORMATION: The Big Dry Resource Management Plan and Environmental Impact Statement analyzed the impacts of managing the Makoshika Area of Management Concern under a Memorandum of Understanding (MOU) between BLM and the Montana Fish, Wildlife and Parks. In the Record of the Decision for the RMP, BLM approved Makoshika's management for surface and mineral resources. The MOU expires in June, 1998. BLM would like to consider applying more restrictions to oil and gas in the area in a new MOU between BLM, Montana Fish, Wildlife and Parks, and the State of Montana. If approved, these new restrictions would be an amendment to the Big Dry Resource Area Management Plan. A preliminary environmental assessment and MOU is being prepared and will be available for public review.

The public is asked to assist BLM in the identification of issues (problems, concerns). Alternatives developed will present a range of feasible management actions. The ''No Action'' alternative will be included in accordance with 43 CFR 1502.14(d) and will represent the continuation of existing management.

Meetings for management of the area are not yet scheduled. If meetings are scheduled, the public will be notified through the local media.

Development of this document will require involvement from professionals from these disciplines: archaeology, economics, forestry, realty, geology, petroleum engineering, recreation, soil science and wildlife management. The public will be provided an opportunity to protest BLM's proposed decision when the Environmental Analysis and RMP Amendment are issued. Availability of this document will be announced in local newspapers.

The BLM is seeking information and comments from individuals, organizations and agencies who may be interested or affected by BLM's proposals. Specifically, we request any issues, concerns or alternatives that should be addressed in the plan.

This notice meets the requirements of 43 CFR 1610.2 and 43 CFR 1610.5–5.

Dated: May 22, 1998.

Aden Seidlitz,

Associate Field Office Manager.

[FR Doc. 98–14555 Filed 6–1–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–12566]

Termination of Recreation and Public Purposes Classification and Opening Order, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates a Recreation and Public Purposes Classification and provides for opening the affected lands to appropriation under the public land laws and the general mining laws.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Ken Detweiler, Realty Specialist, Bureau of Land Management, Winnemucca Field Office, 5100 E. Winnemucca Boulevard, Winnemucca, NV 89445, (702) 623–1500.

SUPPLEMENTARY INFORMATION: A proposed sanitary landfill site was classified for lease by Initial Classification Decision dated February 22, 1977. The land was classified for lease under the Act of June 14, 1926 (44 Stat. 741), as amended by the Act of June 4, 1954 (68 Stat. 173, 43 U.S.C. 869, Sections 1–4), 43 CFR 2740 and 2912.

The subject lands were leased for a term of 20 years, on December 19, 1977, to the Board of Washoe County Commissioners for a sanitary landfill. The landfill was closed due to Environmental Protection Agency regulations and a transfer station was opened at an alternate site. The landfill was closed prior to the lease expiration date and the lease was allowed to expire within its term.

Pursuant to Section 7 of the Taylor Grazing Act (48 Stat. 1272), the aforementioned Recreation and Public Purposes classification is hereby terminated as it affects the following described land:

Mount Diablo Meridian, Nevada

T. 32 N., R. 23 E.,
Sec. 17; NE¼SE¼SW¼, NW¼SE¼, N½SW¼SE¼.

The area described contains 70 acres.

At 9:00 a.m. on July 2, 1998 the above described 70 acres will become open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable laws, rules, and regulations.

At 9:00 a.m. on July 2, 1998 the 70 acres will become open to location under the United States mining laws. Appropriation of the land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: May 15, 1998.

Ron Wenker,

District Manager, Winnemucca.

[FR Doc. 98–14475 Filed 6–1–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–37100]

Termination of Recreation and Public Purposes Classification and Opening Order, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates a Recreation and Public Purposes Classification and provides for opening the affected lands to appropriation under the public land laws and the general mining laws.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Ken Detweiler, Realty Specialist, Bureau of Land Management, Winnemucca Field Office, 5100 E. Winnemucca Boulevard, Winnemucca, NV 89445, (702) 623–1500.

SUPPLEMENTARY INFORMATION: A proposed golf course and recreation area was classified for lease by Initial Classification Decision dated November 7, 1983. The land was classified for lease/sale under the authority of the Act of June 14, 1926 (44 Stat. 173), as amended by the Act of June 4, 1954 (68 Stat. 173), 43 U.S.C. 869, Sections 1–4; Also amended by the Act of October 21, 1976, Section 212, Federal Land Policy and Management Act, P.L. 94–579. The subject lands were leased for a term of 25 years on March 6, 1984, to the City of Winnemucca for a golf course and recreation complex. The City requested relinquishment of the lease by letter on January 16, 1997, since the property had never been developed and there were no immediate plans for development. The City's relinquishment was accepted on March 13, 1997.

Pursuant to Section 7 of the Taylor Grazing Act (48 Stat. 1272), the aforementioned Recreation and Public Purposes classification is hereby terminated as it affects the following described land:

Mount Diablo Meridian, Nevada

T. 36 N., R. 38 E., Sec. 22, SW¼;
Sec. 27, N½NW¼.

The area described contains 240 acres.

At 9:00 a.m. on July 2, 1998 the above described 240 acres will become open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable laws, rules and regulations.

At 9:00 a.m. on July 2, 1998 the 240 acres will become open to location under the United States mining laws. Appropriation of the land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: May 15, 1998.

Ron Wenker,

District Manager, Winnemucca.

[FR Doc. 98–14476 Filed 6–1–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–942–1430–06; UTU–74247]

Public Land Order No. 7339; Withdrawal of Public Lands for Westwater Canyon of the Colorado River; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 3,385.90 acres of public lands from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect the recreational, scenic, geologic, cultural, fish, and wildlife values of the Westwater Canyon

of the Colorado River. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: June 2, 1998.

FOR FURTHER INFORMATION CONTACT: LaVerne Steah, BLM Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155, 801–539–4114.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect the Westwater Canyon of the Colorado River:

Salt Lake Meridian

T. 20 S., R. 25E.,
Sec. 23, lots 3, 4, 5, SW¼NE¼, SE¼NW¼, S½SW¼, and SW¼SE¼;
Sec. 25, S½NW¼, NW¼SW¼, and W½NE¼SW¼;
Sec. 26, NW¼NE¼, S½NE¼, NE¼NW¼, E½SE¼NW¼, E½E½SW¼, and SE¼;
Sec. 33, N½SW¼NE¼ and NE¼SE¼NW¼;
Sec. 34, S½NE¼SE¼ and S½SE¼;
Sec. 35, NE¼NE¼NE¼, W½NE¼NE¼, W½NE¼, W½SE½NE¼, E½NE¼NW¼, SE¼NW¼, W½SW¼, W½E½SW¼, NE¼NE¼SW¼, N¼NW¼SE¼, and NW¼NE¼SE¼.
T. 21 S., R. 25 E.,
Sec. 2, NW¼, N½NE¼SW¼, SW¼NE¼SW¼, NW¼SW¼, W½SW¼SW¼, and SE¼SW¼SW¼;
Sec. 3, N½NE¼, SE¼NE¼, and E½E½SE¼;
Sec. 7, E½E½SE¼;
Sec. 8, SE¼SW¼NW¼NE¼, SW¼SE¼NW¼NE¼, SW¼NE¼, S½SW¼NW¼, SE¼NW¼, SW¼, and W½SE¼;
Sec. 9, SW¼SE¼ and S½SE¼SE¼;
Sec. 10, E½NE¼NE¼, NE¼SW¼NE¼, S½SW¼NE¼, SE¼NE¼, E½NE¼SW¼, S½SW¼SW¼, SE¼SW¼, and SE¼;
Sec. 11, NW¼, N½N½SW¼, SW¼NW¼SW¼, W½SW¼SW¼, and NW¼NW¼SE¼;
Sec. 14, W½NW¼NW¼;
Sec. 15, N½NE¼, W½SW¼NE¼, N½NW¼, NE¼SW¼NW¼, and SE¼NW¼;
Sec. 17, lot 4, S½N½SE¼, and S½SE¼;
Sec. 18, E½NE¼NE¼;
Sec. 19, N½SE¼SE¼;
Sec. 20, NE¼NE¼, N½SE¼NE¼, E½NE¼NW¼, and NW¼NW¼SW¼;
Sec. 21, W½NE¼NW¼, NW¼NW¼, N½SW¼NW¼, and NW¼SE¼NW¼.

The areas described aggregate 3,385.90 acres in Grand County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: May 26, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–14506 Filed 6–1–98; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Receipt of Application(s) Received for Access to National Park Service Property for the Siting of Mobile Services Antennas

AGENCY: National Park Service, Department of the Interior.

ACTION: Public notice of the receipt of an application for a right-of-way permit for a wireless telecommunications facility and the acceptance of public comment.

SUMMARY: Public Notice is hereby given that the National Park Service has received an application from Washington, D.C. SMSA Limited Partnership (D.C. SMSA), managing partners Cellco and Bell Atlantic Mobile, for a right-of-way permit to construct, operate and maintain a wireless telecommunication site within the George Washington Memorial Parkway. The location within the park is at the parkway headquarters complex at Turkey Run Park in McLean, Virginia. The facility would initially consist of a single one-hundred and twenty foot monopole with design options for an associated equipment building ranging from a single-story facility of 12 x 30 feet, up to and including a 22 x 30 foot two-story (one-story above grade) addition to an existing structure.

ADDRESSES: Comments concerning this application should be directed to: National Park Service, George Washington Memorial Parkway, Turkey Run Park, McLean, Virginia 22101, (703) 285–2600.

Interested parties may review the application Monday through Friday, from 8:00 am until 4:30 pm, at the Parkway headquarters at Turkey Run Park.

DATES: Written comments must be received on or before July 2, 1998.

SUPPLEMENTARY INFORMATION: A completed application was received on May 13th, 1998. Within 60 days of that date, the superintendent will approve the application; approve the application with changes; deny the application; or notify the applicant of the need for further evaluation to comply with the National Environmental Policy Act (NEPA), National Historic Preservation Act, and/or other applicable laws and regulations.

Before reaching a final decision on this application, the NPS will undertake an Environmental Assessment (EA) in compliance with the NEPA. In addition, the Park Superintendent may choose to conduct a Comprehensive Assessment for wireless communications which will determine the extent to which, and the means by which, George Washington Memorial Parkway can accommodate demands for wireless telecommunication facility sites without derogating park resources, values or purposes. This assessment would also explore the feasibility of co-location of facilities.

National Park Service review of this application will be in accord with all applicable laws and regulations. The NPS regulations for right-of-way permits are located in Part 14 of Title 36 of the Code of Federal Regulations. A draft revision of these regulations was published in the **Federal Register** on December 1, 1997 (62 FR 63488). The NPS will also follow the guidelines developed by the General Services Administration to implement Section 704(c) of the Telecommunications Act of 1996 (47 U.S.C. 332) which was published in the **Federal Register** on March 29, 1996 (61 FR 14100). Other laws applicable to the National Park System include the National Park Service Organic Act, the National Environmental Policy Act (NEPA), and the National Historic Preservation Act. (NHPA).

Dated: May 28, 1998.

Audrey F. Calhoun,

Superintendent.

[FR Doc. 98–14554 Filed 6–1–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item from New Mexico in the Possession of the Museum of Northern Arizona, Flagstaff, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item from New Mexico in the possession of the Museum of Northern Arizona which meets the definition of ''sacred object'' under Section 2 of the Act.

The cultural item is a Navajo Male and Female Shooting Way Chant bundle.

In 1968, this bundle was donated to the Museum of Northern Arizona by an individual whose name is withheld at the Museum of Northern Arizona's request. According to museum documentation, this individual had acquired this bundle sometime earlier from a ''chanter from Clearwater'' (near Farmington, NM).

Museum documentation and consultation with representatives of the Navajo Nation clearly establish that this bundle is a product of Navajo culture. Representatives of the Navajo Nation have also indicated that this bundle is needed by traditional religious leaders for the practice of traditional Native American religion by their present-day adherents.

Based on the above-mentioned information, officials of the Museum of Northern Arizona have determined that, pursuant to 43 CFR 10.2 (d)(3), this cultural item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Museum of Northern Arizona have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between this item and the Navajo Nation.

This notice has been sent to officials of the Navajo Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact David R. Wilcox, NAGPRA Coordinator, Museum of Northern Arizona, 3101 North Fort Valley Rd., Flagstaff, AZ 86001; telephone (520) 774–5211, ext. 244 before July 2, 1998. Repatriation of this object to the Navajo Nation may begin after that date if no additional claimants come forward.

Dated: May 27, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Archeology and Ethnography.

[FR Doc. 98–14576 Filed 6–1–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains from Port Huron, MI in the Possession of the Port Huron Museum, Port Huron, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the possession of the Port Huron Museum, Port Huron, MI.

A detailed assessment of the human remains was made by Port Huron Museum professional staff in consultation with representatives of the Saginaw Chippewa Indian Tribe of Michigan; and the Walpole Island First Nation, ONT, Canada.

In 1971, human remains representing one individual were recovered from Lakeside Beach on Lake Huron (north of Port Huron) by an unknown individual and donated to the Port Huron Museum in 1972. No known individual was identified. No associated funerary objects are present.

Based on the location of the remains and the state of preservation, this individual has been determined to be Native American. In 1985, the Port Huron Museum deaccessioned all Native American human remains in its collections and turned them over to a representative of the Walpole Island First Nation. Although included in the 1985 deaccessioning, the human remains noted above were accidently overlooked and discovered in the Museum's collections in 1998.

The human remains listed above constitute newly-found items from a previously repatriated collection. Because the previous repatriated collection was returned prior to the enactment of NAGPRA, this notice is being published to document the return of human remains as part of an action on a repatriation request pending on the date of NAGPRA's enactment. As the Saginaw Chippewa Indian Tribe of Michigan and the Walpole Island First Nation communities are culturally related and working in cooperation regarding repatriation activities, this pending repatriation request will now involve the Saginaw Chippewa Indian Tribe of Michigan.

Based on the above mentioned information, officials of the Port Huron Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Port Huron Museum have not determined the cultural affiliation of these Native American human remains because, pursuant to 25 U.S.C. 3009 (2), these human remains are part of an action on a repatriation request pending on the date of enactment of NAPGRA and will therefore be repatriated to the Saginaw Chippewa Indian Tribe of Michigan.

This notice has been sent to officials of the Saginaw Chippewa Indian Tribe of Michigan and Walpole Island First Nation of Canada. Representatives of any other Indian tribe that believes it may have an interest in these human remains should contact Stephen R. Williams, Director, Port Huron Museum, 1115 Sixth Street, Port Huron, MI 48060; telephone: (810) 982–0891.

Dated: May 21, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–14575 Filed 6–1–98 ; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency For International Development Interim Advisory Committee on Food Security; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the Interim Advisory Committee on Food Security. The meeting will be held from 9:00 a.m. to 1:00 p.m. on June 10, 1998, at the Ronald Reagan Building, located at 1300 Pennsylvania Avenue, NW, Room M.01–07, Washington DC, 20523.

As part of its half-day agenda, Board members will focus on the U.S. Action Plan on Food Security. The meeting is open to the public. Any interested person may attend the meeting, may file written statements with the Committee before or after the meeting, or present any oral statements in accordance with procedures established by the Committee, to the extent that time available for the meeting permits.

Those wishing to attend the meeting should contact Mr. George Like at the Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue, NW, Room 2.11–072, Washington DC, 20523–2110, telephone (202) 712–1436, fax (202) 216–3010 or internet[glike@usaid.gov] with your full name.

Anyone wishing to obtain additional information about BIFAD should contact Mr. Tracy Atwood the Designated Federal Officer for BIFAD. Write him in care of the Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue, NW, Room 2.11–005, Washington DC, 20523–2110, telephone him at (202) 712–5571 or fax (202) 216–3010.

Tracy Atwood,

AID Designated Federal Officer (Deputy Director, Office of Agriculture and Food Security, Economic Growth Center, Bureau for Global Programs).

[FR Doc. 98–14500 Filed 6–1–98; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; new collection.

COPS More '96 28 CFR Part 23 Certification

The Department of Justice, Office of Community Oriented Policing Services, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by June 5, 1998. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, Attention: Mr. Alex Hunt, (202) 395–7860, Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Nina S. Pozgar, General Counsel, Office of Community Oriented Policing Services, 1100 Vermont Avenue, Washington DC 20530, or facsimile at (202) 514–3456.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) 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;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information.

(1) Type of Information Collection: new collection.

(2) Title of the Form/Collection: COPS More '96 28 C.F.R. Part 23 Certification.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: COPS 25/01. Office of Community Oriented Policy Services, U.S. Department of Justice.

(4) Affected public who will be as or required to respond, as well as a brief abstract: Primary: State, Local or Tribal Government. Other: None. This information collection is necessary to establish that each grantee that has received funding under the COPS MORE '96 grant program is either in compliance with the operating principles set forth in 28 C.F.R. Part 23.20 or that the regulation is not applicable.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: The time burden of the 1,100 respondents to complete the surveys is 5 hours and 10 minutes per application.

(6) An estimate of the total public burden (in hours) associated with the collection: The total annual hour burden to complete applications for the COPS More '96 28 C.F.R. Part 23 Certification is 5,518 annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff Justice Management Division, Suite 850, Washington Center, 1001 G Street N.W., Washington, DC 20530.

Dated: May 27, 1998.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–14488 Filed 6–1–98; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request Revision of a Currently Approved Collection

ACTION: Notice of information collection; revision of a currently approved collection; Arrestee Drug Abuse Monitoring (ADAM, formerly the Drug Use Forecasting) Program.

The Department of Justice, Office of Justice Programs, has submitted the information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 3, 1998.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) 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 any practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of

information technology, e.g., permitting electronic submission of responses.

Overview of this information collection.

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Arrestee Drug Abuse Monitoring (ADAM, formerly Drug Use Forecasting) Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Office of Research and Evaluation, National Institute of Justice, Office of Justice Programs.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Misdemeanor and felony arrestees in city and county jails. The ADAM program monitors the extent and types of drug use among arrestees. By the end of 1998 the program will operate in 35 cities. An additional 15 sites are proposed for 1999, which will bring the total to 50 cities. Data are collected in each city every three months from a new sample of arrestees. Participation is voluntary and anonymous and data collected include an interview and urine specimen.

(5) *An estimate of the total number of respondents and amount of time estimated for an average respondent to respond:* In FY 1998, 35000 adult male arrestees, 14000 female adult arrestees, 14000 juvenile made arrestees, and 7000 juvenile female arrestees (total = 70,000) at 30 minutes a response; in FY 1999, 50000 adult male arrestees, 20000 female adult arrestees, 20000 juvenile male arrestees, and 10000 juvenile female arrestees (total = 100,000) at 30 minutes a response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 35,000 annual burden hours in FY 1998 and 50,000 annual burden hours in FY 1999.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact K. Jack Riley 202–616–9030, Director, Arrestee Drug Abuse Monitoring (ADAM) Program, National Institute of Justice, Room 7344, 810 7th Street NW, Washington, DC, 20531. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. K. Jack Riley.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: May 27, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–14487 Filed 6–1–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1182]

RIN 1121–ZB19

Announcement of the Availability of the Office of Juvenile Justice and Delinquency Prevention FY 1998 Discretionary Program Announcement: Combating Underage Drinking Program

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of solicitations.

SUMMARY: Announcement of the availability of the Office of Juvenile Justice and Delinquency Prevention FY 1998 Discretionary Program Announcement: Combating Underage Drinking Program.

DATES: Due dates for receipt of applications are specified in the solicitations in the Program Announcement.

ADDRESSES: Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: General information about application procedures and copies of the Program Announcement (discusses the nature and purpose of the program and describes application requirements and deadlines) and the Application Kit (includes application forms and instructions that apply to all OJJDP funding opportunities) are available from OJJDP's Juvenile Justice Clearinghouse (ordering and contact information is found in the Background section). Specific questions about the Program Announcement and related requirements should be directed to the Program Managers referenced in the Program Announcement.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Fiscal Year 1998 Appropriations Act, Public Law 105–119, 111 Stat. 2440 (November 26, 1997).

Background

Prospective applicants should contact the Juvenile Justice Clearinghouse (JJC) for copies of the Program Announcement and Application Kit by calling 800–638–8736. To request that a copy be mailed to you, select option 2 or 3, and ask for SL 255 for the Program Announcement and SL 254 for the Application Kit. To have the 26-page Program Announcement faxed to you, call 800–638–8736 and select option 1 to reach JJC's fax-on-demand service, then choose option 2, and enter 9046. The Program Announcement and the Application Kit are also available on the Internet at www.ncjrs.org/ojjhome.htm; see Grants and Funding or New Initiatives sections.

Dated: May 28, 1998.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 98–14570 Filed 6–1–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1180]

RIN 1121–ZB17

Announcement of the Availability of the Office of Juvenile Justice and Delinquency Prevention FY 1998 Discretionary Program Announcement: Juvenile Accountability Incentive Block Grants Program

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of solicitations.

SUMMARY: Announcement of the availability of the Office of Juvenile Justice and Delinquency Prevention *FY 1998 Discretionary Program Announcement: Juvenile Accountability Incentive Block Grants Program*.

DATES: Due dates for receipt of applications are specified in the solicitations in the Program Announcement.

ADDRESSES: Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: General information about application procedures and copies of the Program Announcement (discusses the nature and purpose of the program and describes application requirements and deadlines) and the Application Kit (includes application forms and instructions that apply to all OJJDP funding opportunities) are available from OJJDP's Juvenile Justice Clearinghouse (ordering and contact information is found in the Background section). Specific questions about the Program Announcement and related requirements should be directed to the Program Managers referenced in the Program Announcement.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Fiscal Year 1998 Appropriations Act, Pub.L. 105–119, 111 Stat. 2440 (November 26, 1997) under Title III of H.R. 3, as passed by the House of Representatives on May 8, 1997.

Background

Prospective applicants should contact the Juvenile Justice Clearinghouse (JJC) for copies of the Program Announcement and Application Kit by calling 800–638–8736. To request that a copy be mailed to you, select option 2 or 3, and ask for SL 256 for the Program Announcement and SL 254 for the Application Kit. To have the 43-page Program Announcement faxed to you, call 800–638–8736 and select option 1 to reach JJC's fax-on-demand service, then choose option 2, and enter 9047. The Program Announcement and the Application Kit are also available on the Internet at www.ncjrs.org/ojjhome.htm; see Grants and Funding or New Initiatives sections.

Dated: May 28, 1998.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 98–14568 Filed 6–1–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1181]

RIN 1121–ZB18

Announcement of the Availability of the Office of Juvenile Justice and Delinquency Prevention FY 1998 Discretionary Program Announcement: Juvenile Mentoring Program

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of solicitations.

SUMMARY: Announcement of the availability of the Office of Juvenile Justice and Delinquency Prevention *FY 1998 Discretionary Program Announcement: Juvenile Mentoring Program*.

DATES: Due dates for receipt of applications are specified in the solicitations in the Program Announcement.

ADDRESSES: Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: General information about application procedures and copies of the Program Announcement (discusses the nature and purpose of the program and describes application requirements and deadlines) and the Application Kit (includes application forms and instructions that apply to all OJJDP funding opportunities) are available from OJJDP's Juvenile Justice Clearinghouse (ordering and contact information is found in the Background section). Specific questions about the Program Announcement and related requirements should be directed to the Program Managers referenced in the Program Announcement.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, section 288B, 42 U.S.C. 5667e–2 (1994).

Background

Prospective applicants should contact the Juvenile Justice Clearinghouse (JJC) for copies of the Program Announcement and Application Kit by calling 800–638–8736. To request that a copy be mailed to you, select option 2 or 3, and ask for SL 251 for the Program Announcement and SL 254 for the Application Kit. To have the 27-page Program Announcement faxed to you, call 800–638–8736 and select option 1 to reach JJC's fax-on-demand service, then choose option 2, and enter 9044. The Program Announcement and the Application Kit are also available on the Internet at www.ncjrs.org/ojjhome.htm; see Grants and Funding or New Initiatives sections.

Dated: May 28, 1998.

John J. Wilson

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 98–14567 Filed 6–1–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1179]

RIN 1121–ZB16

Announcement of the Availability of the Office of Juvenile Justice and Delinquency Prevention FY 1998 Discretionary Program Announcement: Missing and Exploited Children's Program

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of solicitations.

SUMMARY: Announcement of the availability of the Office of Juvenile Justice and Delinquency Prevention FY 1998 Discretionary Program Announcement: Missing and Exploited Children's Program.

DATES: Due dates for receipt of applications are specified in the solicitations in the Program Announcement.

ADDRESSES: Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: General information about application procedures and copies of the Program Announcement (discusses the nature and purpose of the program and describes application requirements and deadlines) and the Application Kit (includes application forms and instructions that apply to all OJJDP funding opportunities) are available from OJJDP's Juvenile Justice Clearinghouse (ordering and contact information is found in the Background section). Specific questions about the Program Announcement and related

requirements should be directed to the Program Managers referenced in the Program Announcement.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, section 406, 42 U.S.C. 5776 (1994).

Background

Prospective applicants should contact the Juvenile Justice Clearinghouse (JJC) for copies of the Program Announcement and Application Kit by calling 800–638–8736. To request that a copy be mailed to you, select option 2 or 3, and ask for SL 273 for the Program Announcement and SL 254 for the Application Kit. To have the 23-page Program Announcement faxed to you, call 800–638–8736 and select option 1 to reach JJC's fax-on-demand service, then choose option 2, and enter 9043. The Program Announcement and the Application Kit are also available on the Internet at www.ncjrs.org/ojjhome.htm; see Grants and Funding or New Initiatives sections.

Dated: May 28, 1998.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 98–14569 Filed 6–1–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Prohibited Transaction Class Exemption 76–1

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Class Exemption 76–1. A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 3, 1998. The Department of Labor (Department) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 219–4782 (not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 76–1 permits parties in interest, under specified conditions, to (A) make delinquent employer contributions, (B) receive loans, and (C) obtain office space, administrative services and goods from plans. In the absence of this exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act (ERISA).

II. Current Actions

This existing collection of information should be continued because without the relief provided by this exemption, contributing employers would not be able to make late or partial payments to plans, even in justifiable circumstances; contributing employers would be unable to obtain construction financing from plans and the plans would be denied this investment opportunity; and plans would not be able to receive income from leasing available office space or provide services to certain parties in interest. The recordkeeping requirements incorporated within the class exemption are intended to protect the interests of plan participants and beneficiaries. Each part of the exemption differs somewhat in paperwork. Under Part A, the terms of an arrangement or agreement between a plan and a participating employer extending time for a contribution or accepting less than the amount owed must be set forth in writing. Also, a determination by a plan to consider an unpaid employer contribution as uncollectible must be set forth in writing. Under Part B, before a construction loan is made by a plan to a participating employer, the employer and the plan must receive a written commitment for permanent financing from a person other than the plan concerning full repayment of the loan upon completion of construction. In addition, the plan must maintain for six years such records as are necessary to enable the Department, Internal Revenue Service (IRS), et al., to determine whether the conditions of the exemption have been met. Part C permits plans to lease office space and provide administrative services or sell goods to a participating employer or union or to another plan. Under Part C, the plan must maintain for six years following the date of termination of the lease or of the provision of services such records as are necessary to enable persons from the DOL, IRS, et al., to determine whether the conditions of the exemption have been met.

Type of Review: Extension.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Class Exemption 76–1.

OMB Number: 1210–0058.

Recordkeeping: 6 years.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents: 3,000.

Frequency: On occasion.

Total Responses: 3,000.

Average Time Per Response: 15 minutes.

Estimated Total Burden Hours: 750.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 28, 1998.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 98–14544 Filed 6–1–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training

Secretary of Labor's Advisory Committee for Veterans' Employment and Training; Open Meeting

The Secretary's Advisory Committee for Veterans' Employment and Training was established under section 4110 of title 38, United States Code, to bring to the attention of the Secretary, problems and issues relating to veterans' employment and training.

Notice is hereby given that the Secretary of Labor's Advisory Committee for Veterans' Employment and Training will meet on Monday, June 22, 1998, at the U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–2508, Washington, DC 20210 from 9 a.m. to 1 p.m.

Written comments are welcome and may be submitted by addressing them to: Ms. Polin Cohanne, Designated Federal Official, Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S–1315, Washington, DC 20210.

The primary items on the agenda are:

- Adoption of Minutes of the Previous Meeting
- Update on Interagency Task Force on Certification and Licensing of Military Personnel
- Update on Pilot Programs to Ensure Priority of Service on America's Job Bank/America's Talent Bank
- Update on Vocational Rehabilitation and Counseling
- Rechartering of Advisory Committee

The meeting will be open to the public.

Persons with disabilities needing special accommodations should contact Ms. Polin Cohanne at telephone number 202–219–9116 no later than June 15, 1998.

Signed at Washington, DC, this May 29, 1998.

Espiridion (Al) Borrego,

Assistant Secretary of Labor for Veterans' Employment and Training.

[FR Doc. 98–14543 Filed 6–1–98; 8:45 am]

BILLING CODE 4510–79–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Reinstatement of Collection With Changes; Comment Request; Antarctic Conservation Act Application Permit Form

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed reinstatement of information collection with changes.

DATES: NSF should receive comments on or before August 3, 1998.

ADDRESSES: Submit written comments to Anita Eisenstadt, Assistant General Counsel, through surface mail (National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230); e:mail (aeisenst@nsf.gov) or fax (703–306–0149).

FOR FURTHER INFORMATION CONTACT: Call or write Anita Eisenstadt, Assistant General Counsel, for a copy of the collection instrument and instructions at National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230; call (703) 306–1060, or send e:mail to aeisenst@nsf.gov.

SUPPLEMENTARY INFORMATION: *Abstract:* The National Science Foundation, pursuant to the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 *et seq.*) (''ACA'') regulates via a permit system certain activities in Antarctica. The subject form is used by NSF to collect information needed in permit administration. The ACA was amended in 1996 by the Antarctic Science, Tourism, and Conservation Act and NSF is revising its regulations, and making minor revisions to the ACA permit application form, to implement these statutory amendments. The information collection cited in this notice is contained in the proposed rule found elsewhere in this issue of the **Federal Register**.

Expected respondents. Respondents may include individuals, for-profit, Federal agencies, non-profits, and small businesses. The majority of respondents are scientists at educational institutions who plan to conduct scientific research in Antarctica.

Burden on the Public. The Foundation estimates that a total annual reporting and recordkeeping burden of ten hours will result from the collection of information. The calculation is 20 respondents × 1 response per year × ½ hour/respondent = 10 hours.

Dated: May 21, 1998.

Lawrence Rudolph,

General Counsel.

[FR Doc. 98–14473 Filed 6–1–98; 8:45 am]

BILLING CODE 7555–01–U

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* Security Termination Statement; Request for Access Authorization; Request for Visit or Access Approval.

3. *The form number if applicable:* NRC Form 136; NRC Form 237; NRC Form 277.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* NRC Form 136, licensee and contractor employees, who have been granted an NRC access authorization; NRC Form 237, any employee of approximately 20 licensees and 2 contractors who will require an NRC access authorization; NRC Form 277, any employee of two current NRC contractors who (1) holds an NRC access authorization, and (2) needs to make a visit to NRC, other contractors/licensees or government agencies in which access to classified information will be involved or unescorted area access is desired.

6. *An estimate of the number of responses:* NRC Form 136, 400; NRC Form 237, 80; NRC Form 277, 6.

7. *The estimated number of annual respondents:* NRC Form 136, 22; NRC Form 237, 22; NRC Form 277, 2.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* NRC Form 136, 40; NRC Form 237, 16; NRC Form 277, 1.

9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* Not applicable.

10. *Abstract:* The NRC Form 136 affects the employees of licensees and contractors who have been granted an NRC access authorization. When access authorization is no longer needed, the completion of the form apprises the respondent of their continuing security responsibilities. The NRC Form 237 is completed by licensees, NRC contractors or individuals who require an NRC access authorization. The NRC Form 277 affects the employees of contractors who have been granted an NRC access authorization and require verification of that access authorization and need-to-know in conjunction with a visit to NRC or another facility.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by July 2, 1998: Erik Godwin, Office of Information and Regulatory Affairs (3150–0049, 3150–0050, 3150–0051), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 19th day of May 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–14520 Filed 6–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410]

Central Hudson Gas & Electric Corporation; Nine Mile Point Nuclear Station, Unit No. 2

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an Order approving, under 10 CFR 50.80, an application regarding a transfer of control of possessory rights held by Central Hudson Gas & Electric Corporation (Applicant) under the operating license for Nine Mile Point Nuclear Station, Unit No. 2 (NMP2). The transfer would be to a holding company, not yet named, to be created over Applicant in accordance with a New York State Public Service Commission order, issued and effective February 19, 1998 (Case 96–E–0909), and related documents entitled ''Amended and Restated Settlement Agreement'' dated January 2, 1998, and ''Modifications to Amended and Restated Settlement Agreement'' dated February 26, 1998 (see Exhibits G–G2 in the application). Applicant is licensed by the Commission to own and possess a 9 percent interest in NMP2.

By application dated April 8, 1998, Applicant informed the Commission of a proposed corporate restructuring under which Applicant would become a subsidiary of a newly formed holding company. The outstanding shares of Applicant's common stock will be exchanged on a share-for-share basis for common stock of the holding company, such that the holding company will own all of the outstanding common stock of Applicant. The holding company will own, directly or indirectly, the stock of any non-utility subsidiaries except that Applicant will continue to own one unregulated subsidiary. Under this restructuring, Applicant will sell at auction its fossil-fueled electric generation facilities at its Danskammer Steam Generating Plant and its partial interest in the Roseton Electric Generation Plant (hereafter, collectively referred to as ''Generation Assets''). However, Applicant will continue to be an ''electric utility'' as defined in 10 CFR 50.2 engaged in the transmission, distribution and, in the case of NMP2, combustion turbine facilities, hydroelectric facilities, and (until structurally separated or divested), the Generation Assets, the generation of electricity. Applicant would retain its ownership interest in NMP2 and continue to be a licensee of NMP2. No direct transfer of the operating license or ownership interests in the station will result from the proposed restructuring. The transaction would not involve any change to either the management organization or technical personnel of Niagara Mohawk Power Corporation, which is responsible for operating and maintaining NMP2.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license after notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this proposed action, see the Applicant's application dated April 8, 1998, as supplemented April 22, 1998. These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC, and at the local public document room located at the Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland this 26th day of May 1998.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14517 Filed 6–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

GPU Nuclear Inc., et al., Oyster Creek Nuclear Generating Station; Confirmatory Order Modifying License; Effective Immediately

I

GPU Nuclear Inc., (GPUN or the Licensee) is the holder of Facility Operating License No. DRP–16, which authorizes operation of Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

II

The staff of the U.S. Nuclear Regulatory Commission (NRC) has been concerned that Thermo-Lag 330–1 fire barrier systems installed by licensees may not provide the level of fire endurance intended and that licensees that use Thermo-Lag 330–1 fire barriers may not be meeting regulatory

requirements. During the 1992 to 1994 timeframe, the NRC staff issued Generic Letter (GL) 92–08, ''Thermo-Lag 330–1 Fire Barriers'' and subsequent requests for additional information that requested licensees to submit plans and schedules for resolving the Thermo-Lag issue. The NRC staff has obtained and reviewed all licensees' corrective plans and schedules. The staff is concerned that some licensees may not be making adequate progress toward resolving the plant-specific issues, and that some implementation schedules may be either too tenuous or too protracted. For example, several licensees informed the NRC staff that their completion dates had slipped by 6 months to as much as 3 years. For plants that have completion action scheduled beyond 1997, the NRC staff has met with these licensees to discuss the progress of the licensees' corrective actions and the extent of licensee management attention regarding completion of Thermo-Lag corrective actions. In addition, the NRC staff discussed with licensees the possibility of accelerating their completion schedules.

GPUN was one of the licensees with which the NRC staff held a meeting. At this meeting, the NRC staff reviewed with GPUN the schedule of Thermo-Lag corrective actions. Subsequent to that meeting GPUN submitted by letter dated October 1, 1997, a supplement to their integrated schedule which changed the implementation schedule of Thermo-lag corrective actions. Based on the information submitted by GPUN, the NRC staff has concluded that the schedule presented by GPUN is reasonable. This conclusion is based on the (1) amount of installed Thermo-Lag, (2) the complexity of the plant-specific fire barrier configurations and issues, (3) the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power, and (4) integration with other significant, but unrelated issues that GPUN is addressing at its plant. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by GPUN must be completed in accordance with the current GPUN schedule. By letter dated April 27, 1998, the NRC staff notified GPUN of its plan to incorporate GPUN's schedule commitment into a requirement by issuance of an order and requested consent from the Licensee. By letter dated May 11, 1998, the Licensee provided its consent to issuance of a Confirmatory Order.

III

The Licensee's commitment as set forth in its letter of May 11, 1998, is acceptable and is necessary for the NRC to conclude that public health and safety are reasonably assured. To preclude any schedule slippage and to assure public health and safety, the NRC staff has determined that the Licensee's commitment in its May 11, 1998, letter be confirmed by this Order. The Licensee has agreed to this action. Based on the above, and the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *it is hereby ordered*, effective immediately, that:

GPUN shall complete final implementation of Thermo-Lag 330–1 fire barrier corrective actions at Oyster Creek Nuclear Generating Station described in the GPUN submittal to the NRC dated October 1, 1997. The scheduled completion date for all corrective actions is Refueling Outage 18. Overall work package closeout will be completed by December 31, 2000.

The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Chief, Rulemaking and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Rd., King of Prussia, PA 19406–1415, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland, this 22nd day of May 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14518 Filed 6–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–220 and 50–410]

Niagara Mohawk Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–63 and NPF–69 issued to Niagara Mohawk Power Corporation (the licensee or NMPC) for operation of the Nine Mile Point Nuclear Station, Unit 1 (NMP1) and Unit 2 (NMP2), respectively, located in the town of Scriba, Oswego County, New York.

The proposed amendments would change administrative sections of the Technical Specifications (TS) (Sections 6.1, ''Responsibility''; 6.2, ''Organization''; 6.5, ''Review and Audit''; 6.6, ''Reportable Occurrence Action''; and 6.7, ''Safety Limit Violation'') to reflect a restructuring of

the licensee's upper management organization for the Nuclear Division. The Nuclear Division organizational restructuring would involve the elimination of the Vice President and General Manager—Nuclear position and the establishment of the Vice President—Nuclear Generation position. The Chief Nuclear Officer (CNO) would assume corporate and TS responsibility for overall plant nuclear safety (a responsibility currently assigned to the Vice President and General Manager—Nuclear). The TS responsibility for plant operation (also currently assigned to the Vice President and General Manager—Nuclear) would be assumed by the Vice President—Nuclear Generation. The new Vice President—Nuclear Generation position would report directly to the CNO. In addition to existing responsibilities delineated by TS 6.5.3.1, 6.5.3.9, and 6.5.3.10, the CNO would have overall responsibility for oversight of the Nuclear Division, including corporate and TS responsibility for overall plant nuclear safety, with authority to take such measures as may be needed to ensure acceptable performance of his staff in operating, maintaining, and providing technical support to the plant. The CNO would be responsible for periodically issuing management direction emphasizing the primary responsibilities of the Shift Supervisor. The changes for NMP1 would also correct a clerical error in which a previous Amendment No. (No. 144) was omitted when designating superseded amendments during preparation of prior Amendment No. 157.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

11. *The operation of Nine Mile Point Unit 1 [or Unit 2], in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed amendment updates the * * * TS to reflect the revised NMPC Nuclear Division upper management organizational structure and associated reassignments of responsibilities. The proposed organizational structure provides more direct lines of authority by re-establishing the position and responsibilities of Vice President—Nuclear Generation and eliminating the position of Vice President and General Manager—Nuclear. The Vice President—Nuclear Generation will assume TS responsibility for plant operation. The Chief Nuclear Officer is reassigned corporate and TS responsibility for overall plant nuclear safety with direct reporting from the Vice Presidents responsible for Nuclear Generation, Engineering, and Safety Assessment and Support. The Chief Nuclear Officer is also assigned the responsibility for periodically issuing management direction emphasizing the primary responsibilities of the Shift Supervisor. The proposed organizational structure and associated reassignments of responsibilities provide for the integrated management of activities necessary to support the safe operation of the * * * nuclear facility * * *.

The proposed changes are limited to the administrative sections of the TS and the changes do not alter the technical content or intent of the affected administrative requirements and responsibilities. The revised organizational structure will not affect the design, function, or operation of any plant structure, system, or component (SSC), nor will it affect any maintenance, modification, or testing activities. Thus, there will be no impact on the capability of any SSC to perform its credited safety function to prevent an accident or mitigate the consequences of an accident as previously evaluated. Since the proposed changes are limited to administrative requirements and responsibilities, the changes do not involve accident precursors or initiators previously evaluated. It is, therefore, concluded that the probability of accident initiation will remain as previously evaluated and there will be no adverse effect on the conditions and assumptions of any previously evaluated accident. Hence, there will be no degradation of any fission product barrier which could increase the radiological consequences of any accident. Accordingly, operation in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *The operation of Nine Mile Point Unit 1 [or Unit 2], in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The revised Nuclear Division organizational structure will not affect the design, function, or operation of any plant SSC, nor will it affect any maintenance, modification, or testing activities. The proposed changes are limited to the administrative sections of the TS and the changes do not alter the technical content or intent of the affected administrative requirements and responsibilities. As a result, the proposed changes will not impact the process variables, characteristics, or functional performance of any SSC in a manner that could create a new failure mode, nor will the changes introduce any new modes of plant operation or eliminate any requirements or impose any new requirements which could affect plant operation such that new credible accidents are introduced. Accordingly, operation in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *The operation of Nine Mile Point Unit 1 [or Unit 2], in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.*

The proposed amendment updates the TS to reflect the revised NMPC Nuclear Division upper management organizational structure and associated reassignments of responsibilities. The proposed changes are limited to the administrative sections of the TS and the changes do not alter the technical content or intent of the affected administrative requirements and responsibilities. As such, the proposed changes do not involve any hardware changes or physical alteration of the plant and the changes will have no impact on the design or function of any SCC. Implementation of the proposed changes will promote clear management control and effective lines of authority and communication between the organizational units to assure necessary attention to nuclear safety matters. It is, therefore, concluded that the proposed changes do not eliminate any requirements or responsibilities, impose any new requirements or responsibilities, or alter any physical parameters which could reduce the margin to an acceptance limit. Accordingly, operation in accordance with the proposed amendment will 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 amendments requests involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the 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. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 2, 1998, 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 located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the 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 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW, Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

For further details with respect to this action, see the applications for amendment dated May 15, 1998 (two letters, one for each unit), which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 28th day of May 1998.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14516 Filed 6–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft NUREG: Issuance, Availability

The U. S. Nuclear Regulatory Commission (NRC) has published a draft report entitled ''Analysis of Spent Fuel Heatup Following Loss of Water in a Spent Fuel Pool'' (NUREG/CR–6441). The report describes a methodology for predicting the spent fuel heatup in the event of loss of water in the spent fuel pool. The methodology has been formulated and implemented within a computer code called SHARP (Spent-fuel Heatup: Analytical Response Program). The code modeling framework, including the mathematical models and solution methods are described in the draft NUREG/CR–6441. NUREG/CR–6441 has incorporated a users' manual for the SHARP code and it discusses how to compute the results of the spent fuel heatup characteristics using representative design parameters and fuel loading assumptions. The SHARP code is intended to provide NRC a method for analyzing the safety of spent fuel in the pool for post shutdown conditions. This situation may occur when a licensee requests relief from regulatory requirements during the decommissioning process at their nuclear reactor facility.

NUREG/CR–6441 has been prepared for the NRC by Brookhaven National Laboratory (BNL) and is now available for review and comment. Copies of draft report may be obtained from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. The software for the SHARP code can be obtained by contacting Kia L. Jackson, Mail Stop T–9 F31, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Phone (301) 415–6250; E-mail: klj@nrc.gov. For additional information, please contact the NRC program manager, George J. Mencinsky, Mail Stop T–9 F31, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Phone (301) 415–6206; E-mail: gjm@nrc.gov.

Comments on the draft report should be sent to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Mail Stop P–223, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the comments received may be examined at the NRC Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC. Comments will be most helpful if they are received by August 3, 1998.

Dated at Rockville, Maryland, this 28th day of April, 1998.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 98–14515 Filed 6–1–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–3882]

Commercial Fishing Industry Vessel Advisory Committee (CFIVAC); Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC). CFIVAC provides advice and makes recommendations to the Coast Guard on the safety of the commercial fishing industry.

DATES: Applications must reach the Coast Guard on or before October 1, 1998.

ADDRESSES: You may request an application form by writing to Commandant (G–MSO–2); U.S. Coast Guard, room 1210, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–0214; or by faxing 202–267–4570. Submit applications to the same address. This notice is available on the internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Lieutenant Commander Randy Clark, Assistant Executive Director of CFIVAC, rclark@comdt.uscg.mil, or, LTJG Karen Weaver, kweaver@comdt.uscg.mil, telephone 202–267–0214, fax 202–267–4570. For questions on this docket, contact Carol Kelly, Coast Guard Dockets Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9329.

SUPPLEMENTARY INFORMATION: The Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) is a Federal advisory committee constituted under 5 U.S.C. App. 2. As required by the Commercial Fishing Industry Vessel Safety Act of 1988, the Coast Guard established CFIVAC to provide advice to the Coast Guard on issues related to the safety of commercial fishing vessels regulated under chapter 45 of title 46, United States Code, which includes uninspected fishing vessels, fish processing vessels, and fish tender vessels. CFIVAC consists of 17 members as follows: Ten members from the commercial fishing industry who reflect a regional and representational balance and have experience in the operation of vessels to which chapter 45 of Title 46, United States Code applies, or as a crew member or processing line member on an uninspected fish processing vessel; one member representing naval architects or marine surveyors; one member representing manufacturers of equipment for vessels to which chapter 45 applies; one member representing education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety, or personnel qualifications; one member representing underwriters that insure vessels to which chapter 45 applies; and three members representing the general public, including whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which chapter 45 applies and persons representing the marine insurance industry.

CFIVAC meets at least once a year in different seaport cities nationwide. Special meetings may also be called. Subcommittee meetings are held to consider specific problems as required.

Applications will be considered for six positions that expire or become vacant in October 1999 in the following categories: (a) Commercial Fishing Industry (four positions); (b) General Public (one position); (c) Equipment Manufacturers (one position). Persons selected as general public members are required to complete a Confidential Financial Disclosure Report, OGE Form 450, on an annual basis. Neither the report nor the information it contains may be released to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Each member serves for a term of three years. A limited portion of the

membership may serve consecutive terms. Members of the CFIVAC serve without compensation from the Federal Government, although travel reimbursements and per diem are provided.

In support of the policy of the Department of Transportation on ethnic and gender diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Dated: May 22, 1998.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 98–14453 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 1998–3883]

National Offshore Safety Advisory Committee; vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the National Offshore Safety Advisory Committee (NOSAC). NOSAC provides advice and makes recommendations to the Coast Guard on matters affecting the offshore industry.

DATES: Applications must reach the U.S. Coast Guard on or before November 30, 1998.

ADDRESSES: You may request an application form by writing to Commandant (G–MSO–2), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–1181; or by faxing 202–267–4570. Submit application forms to same address. This notice is available on the Intent at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Captain Robert L. Skewes, Executive Director, or James M. Magill, Assistant to the Executive Director, NOSAC, at (202) 267–1181, or by fax at (202) 267–4570. For questions on this docket, contact Carol Kelly, Coast Guard Dockets Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, (202) 366–9329.

SUPPLEMENTARY INFORMATION: NOSAC is a Federal advisory committee constituted under 5 U.S.C. App. 2. It provides advice and makes recommendations to the Assistant Commandant for Marine Safety and Environmental Protection, on safety and rulemaking matters relating to the offshore mineral and energy industries. NOSAC consists of 14 regular members who have particular expertise, knowledge, and experience regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration or recovery of offshore mineral resources. The advice and recommendations of NOSAC also assist the U.S. Coast Guard in formulating U.S. positions at meetings of the International Maritime Organization.

NOSAC meets at least once a year at Coast Guard Headquarters in Washington, DC. Special meetings may also be called. Subcommittee meetings are held as required to consider specific problems.

Applications will be considered for five positions that expire or become vacant in January 1999. To be eligible, applicants should have experience in offshore operations, drilling, production, construction, or offshore supply vessel operations. Each member serves a term of 3 years. A limited portion of the membership may serve consecutive terms. Members of NOSAC serve at their own expense, and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the policy of the U.S. Department of Transportation on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and minority group members.

Applicants selected may be required to complete a Confidential Financial Disclosure Report (OGE Form 450). Neither the report nor the information it contains may be released to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: May 22, 1998.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 98–14454 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA; Joint RTCA Special Committee 180 and Eurocae Working Group 46 Meeting; Design Assurance Guidance for Airborne Electronic Hardware

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee 180 and EUROCAE Working Group 46 meeting to be held June 16–19, 1998, starting at 8:30 a.m. on June 16. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes of Previous Joint Meeting; (4) Leadership Team Meeting Report; (5) Review Action Items; (6) FAR Part 21 Revision Activity Report; (7) Review Issue Logs; (8) Issue Team Status; (9) Plenary Disposition of Document Comments; (10) New Items for Consensus; (11) Special Committee 190 Committee Activity Report; (12) Other Business; (13) Establish Agenda for Next Meeting; (14) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 27, 1998.

Janice L. Peters,

Designated Official.

[FR Doc. 98–14536 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Gulfport-Biloxi Regional Airport, Gulfport, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue a PFC at Gulfport-Biloxi Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of

the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 2, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bruce Frallic, Executive Director of the Gulfport-Biloxi regional Airport Authority at the following address: 14035–L Airport Road, Gulfport, MS 39503.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Gulfport-Biloxi regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Rans D. Black, Airports Area Representative, FAA Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306, telephone number 601–965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Gulfport-Biloxi Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 19, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Gulfport-Biloxi Regional Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 5, 1998.

The following is a brief overview of the application.

PFC Application Number: 98–04–C–00–GPT.

Level of the proposed PFC: $3.00.

Proposed charge effective date: February 1, 2002.

Proposed charge expiration date: January 1, 2003.

Total estimated PFC revenue: $1,329,000.

Brief description of proposed project(s):

1. Construct Terminal Phase II, Concourse ''B'', & Install Jetway. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Gulfport-Biloxi Regional Airport Authority.

Issued in Jackson, Mississippi, on May 20, 1998.

Wayne Atkinson,

Manager, Airports District Office, Southern Region, Jackson, Mississippi.

[FR Doc. 98–14534 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Mid-Delta Regional Airport, Greenville, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Mid-Delta Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 2, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Cliff Nash, Airport Director, of the City of Greenville at the following address: 166 Fifth Avenue, Suite 300, Greenville, MS 38703–9737.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Greenville under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Keafur Grimes, Airports Area Representative, Southern Region, FAA Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306, telephone number 601–965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Mid-Delta Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 19, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Greenville was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 12, 1998.

The following is a brief overview of the application.

PFC Application Number: 98–01–C–00–GLH.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1998.

Proposed charge expiration date: May 30, 2000.

Total estimated PFC revenue: $57,897.00.

Brief description of proposed project(s): Rehabilitate Storm Sewer; and Rehabilitate taxiway pavement.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Mid-Delta Regional Airport.

Issued in Jackson, Mississippi, on May 22, 1998.

Wayne Atkinson,

Manager, Airports District Office, Southern Region, Jackson, Mississippi.

[FR Doc. 98–14533 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Pellston Regional Airport of Emmet County, Pellston, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Pellston Regional Airport of Emmet County under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158),

DATES: Comments must be received on or before July 2, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Raymond Thompson, Airport Manager, of the County of Emmet at the following address: Pellston Regional Airport of Emmet County, U.S. Highway 31 North, Pellston, Michigan 49769.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Emmet under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (734–487–7281). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Pellston Regional Airport of Emmet County under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 12, 1998, the FAA determined that the application to impose a PFC submitted by the County of Emmet was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 19, 1998.

The following is a brief overview of the application.

PFC Application No.: 98–07–I–00–PLN.

Level of the PFC: $3.00.

Proposed charge effective date: August 1, 1998.

Proposed charge expiration date: February 1, 2003.

Total estimated PFC revenue: $115,360.00.

Brief description of proposed projects: Rehabilitate Apron and Airport Entrance Road; Acquire Emergency Generator, ADA Lift, Snow Removal Equipment (SRE) including Plow, Blower and Sweeper; Construct Runway 32 Access Road; Land Acquisition.

Class or classes of air carriers that the public agency has requested not be required to collect PFC's: FAR Part 135 operators who file FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the County of Emmet.

Issued in Des Plaines, Illinois, on May 22, 1998.

Benito DeLeon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 98–14535 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–98–3599 (PDA–19(R))]

Application by National Tank Truck Carriers, Inc. for a Preemption Determination as to New York Department of Environmental Conservation Requirements on Gasoline Transport Vehicles

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public Notice and Invitation to Comment.

SUMMARY: Interested parties are invited to submit comments on an application by the National Tank Truck Carriers, Inc. (NTTC) for an administrative determination whether Federal hazardous material transportation law preempts certain requirements of the New York Department of Environmental Conservation applicable to gasoline transport vehicles.

DATES: Comments received on or before July 17, 1998, and rebuttal comments received on or before August 31, 1998, will be considered before an administrative ruling is issued by RSPA's Associate Administrator for Hazardous Materials Safety. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and all comments received may be reviewed in the Dockets Office, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. The application and all comments are also available on-line through the home page of DOT's Docket Management System, at ''http://dms.dot.gov.''

Comments may be submitted to the Dockets Office at the above address. Three copies of each written comment should be submitted. Comments may also be submitted by E-mail to ''rspa.counsel@rspa.dot.gov.'' Each comment should refer to the Docket Number set forth above. A copy of each comment must also be sent to (1) Mr. Clifford J. Harvison, President, National Tank Truck Carriers, Inc., 2200 Mill Road, Alexandria, VA 22314, and (2) Mr. John P. Cahill, Commissioner, Department of Environmental Conservation, State of New York, 50 Wolf Road, Albany, NY 12233. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: ''I certify that copies of this comment have been sent to Messrs. Harvison and Cahill at the addresses specified in the **Federal Register**.'')

A list and subject matter index of hazardous materials preemption cases, including all inconsistency rulings and preemption determinations, are available through the home page of RSPA's Office of the Chief Counsel, at ''http://rspa-atty.dot.gov.'' A paper copy of this list and index will be provided at no cost upon request to Ms. O'Berry, at the address and telephone number set forth in **FOR FURTHER INFORMATION CONTACT** below.

FOR FURTHER INFORMATION CONTACT: Donna L. O'Berry, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Application for a Preemption Determination

NTTC has applied for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts New York Codes, Rules and Regulations (NYCRR) Sections 230.4(a)(3) and 230.6(b) and (c). These provisions were issued by the New York State Department of Environmental Conservation and concern marking and recordkeeping and reporting requirements applicable to vehicles used to transport gasoline. Part 230 of NYCRR pertains to gasoline-dispensing sites and transport vehicles. The text of NTTC's application and a list of the attachments are set forth in Appendix A. A paper copy of the attachments to NTTC's application will be provided at no cost upon request to Ms. O'Berry, at the address and telephone number set forth in **FOR FURTHER INFORMATION CONTACT** above.

Marking. Section 230.4(a)(3) provides as follows:

(a) No owner or operator of a gasoline transport vehicle subject to the Part will allow said vehicle to be filled or emptied unless the gasoline transport vehicle:

(3) displays a marking, near the U.S. Department of Transportation certificate plate, in letters and numerals at least two inches high, which reads NYS DEC and the date on which the gasoline transport vehicle was last tested.

NTTC asserts this section is preempted because the requirement is not substantively the same as requirements in 49 CFR 180.415 for marking cargo tank motor vehicles used to transport hazardous materials.

Recordkeeping and Reporting. NTTC challenges subsections (b) and (c) of Section 230.6. That section provides as follows:

(a) The owner of any gasoline transport vehicle subject to this Part must maintain records of pressure-vacuum testing and repairs. The records must include the identity of the gasoline transport vehicle, the results of the testing, the date that the testing and repairs, as needed were done, the nature of needed repairs and the date of retest where appropriate.

(b) A copy of the most recent pressure-vacuum test results, in a form acceptable to the commissioner, must be kept with the gasoline transport vehicle.

(c) Records acceptable to the commissioner must be retained for two years after the testing occurred, and must be made available to the commissioner or his representative on request at any reasonable time.

NTTC claims that subsections (b) and (c) are preempted under the ''obstacle'' test. NTTC compares the requirements to maintain test results with the vehicle with 49 CFR 180.417(a)(2). That Federal regulation requires a motor carrier who is not the owner of the cargo tank motor vehicle to retain a copy of the vehicle certification report at its principal place of business or, upon approval from the Federal Highway Administration, at a regional or terminal office. NTTC also compares the requirement to retain test records for two years after testing occurs with Section 180.417(c)(2), which requires retention for the time the cargo tank is in the carrier's service, plus one year.

NTTC asserts that New York's regulation requiring documents to be retained in vehicles creates an unnecessary delay by forcing a carrier to maintain and reproduce documents and ensure that copies are placed in vehicles that are moved from State to State. NTTC further contends that this regulation could create a multiplicity of non-uniform restrictions that could potentially compromise safety if it is replicated by other jurisdictions.

II. Federal Preemption

Section 5125 of Title 49 U.S.C. contains several preemption provisions that are relevant to NTTC's application. Subsection (a) provides that—in the absence of a waiver of preemption by DOT under section 5125(e) or specific authority in another Federal law—a requirement of a State, political subdivision of a State, or Indian tribe is preempted if

(1) Complying with a requirement of the State, political subdivision or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or

(2) The requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to the accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

These two paragraphs set forth the ''dual compliance'' and ''obstacle'' criteria which RSPA had applied in issuing inconsistency rulings before 1990, under the original preemption provisions in the Hazardous Materials Transportation Act (HMTA). Pub. L. 93–633 section 112(a), 88 Stat. 2161 (1975). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.*, 435 U.S. 151 (1978).

Subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement concerning any of the following subjects, that is not ''substantively the same as'' a provision of Federal hazardous materials transportation law or a regulation prescribed under that law, is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

(A) The designation, description, and classification of hazardous material.

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

These preemption provisions in 49 U.S.C. carry out Congress's view that a single body of uniform Federal regulations promotes safety in the transportation of hazardous materials. In considering the HMTA, the Senate Commerce Committee ''endorse(d) the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation.'' S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). When it amended the HMTA in 1990, Congress specifically found that:

(3) Many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) Because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) In order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L.101–615 section 2, 104 Stat. 3244. A Federal Court of Appeals has found that uniformity was the ''linchpin'' in the design of the HMTA, including the 1990 amendments which expanded the preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991). (In 1994, the HMTA was revised, codified

and enacted ''without substantive change,'' at 49 U.S.C. Chapter 51. Pub. L. 103–272, 108 Stat. 745.)

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. The Secretary of Transportation has delegated authority to make determinations of preemption that concern highway routing to FHWA and those concerning all other hazardous materials transportation issues to RSPA. 49 CFR 1.48(u)(2), 1.53(b).

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. Following the receipt and consideration of written comments, RSPA will publish its determination in the **Federal Register**. *See* 49 CFR 107.209(d). A short period of time is allowed for filing of petitions for reconsideration. 49 CFR 107.211. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause of the Constitution or under statutes other than the Federal hazardous materials transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statue. *Colorado Pub. Util. Comm'n* v. *Harmon*, above, 951 F2d at 1581 n.10. In making preemption determinations under 49 U.S.C. 5125(d), RSPA is guided by the principles and policy set forth in Executive Order No. 12612, entitled ''Federalism'' (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which RSPA has implemented through its regulations.

III. Public Comment

Comments should be limited to whether Federal hazardous material transportation law preempts the provision of New York state's marking requirements in Section 230.4(a)(3) and recordkeeping and retention requirements in Section 230.6, respectively. Comments should:

(1) Set forth in detail the manner in which these marking and recordkeeping and retention requirements are applied and enforced; and

(2) Specifically address the preemption criteria described in Part II above (''obstacle'' and ''covered subjects'').

Persons intending to comment should review the standards and procedures governing RSPA's consideration of applications for preemption determinations, set forth at 49 CFR 107.201–107.211.

Issued in Washington, DC, on May 22, 1998.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

Appendix A

Before the Research & Special Programs Administration, United States Department of Transportation

In the matter of: An Application For A Preemption Determination In the Matter of Certain Regulations Codified and Enforced By the State of New York

Petition filed by: National Tank Truck Carriers, Inc., 2200 Mill Road, Alexandria, VA 22314, (703) 838–1960; Fax (703) 684–5753, Clifford J. Harvison, President

February 1, 1998.

Before the Administrator: National Tank Truck Carriers, Inc. (NTTC) is a trade association representing over 200 corporate members specializing in the highway transportation of hazardous materials, hazardous substances and hazardous wastes, in cargo tank motor vehicles, throughout the continental United States. Several NTTC members conduct high volume operations within the State of New York. Certain regulations (codified and enforced by that state) are the subject of this petition.

The Regulations In Question—New York State's Department of Environmental Conservation (DEC) is charged with enforcement of 6 NYCRR, Part 230 entitled ''Gasoline Dispensing Sites and Transport Vehicles (a copy of relevant portions is attached). Therein, Section 230.6 (Gasoline transport vehicles—recordkeeping and reporting) proscribes the following:

''(a) The owner of any gasoline transport vehicle subject to this Part must maintain records of pressure-vacuum testing and repairs. The records must include the identity of the gasoline transport vehicle, the results of the testing, the date that the testing and repairs, as needed, were done, the nature of needed repairs and the date of retests where appropriate.

''(b) A copy of the most recent pressure-vacuum test results, in a form acceptable to the commissioner, must be kept with the gasoline transport vehicle.

''(c) Records acceptable to the commissioner must be retained for two years after the testing occurred, and must be made available to the commissioner or his representative on request at any reasonable time.''

Furthermore, that same body of state regulations contains the following provision at 230.4 (a) and (a) (3):

''(a) No owner or operator of a gasoline transport vehicle subject to this Part will allow said vehicle to be filled or emptied unless the gasoline transport vehicle:

''(3) displays a marking, near the U.S. Department of Transportation certificate plate, in letters and numerals at least two inches high, which reads: NYS DEC and the date on which the gasoline transport vehicle was last tested.''

NTTC has been informed (by various members) that they have received citations, issued by (DEC) enforcement personnel for violations of these regulations; thus, it is evident that they are being actively enforced.

NTTC's Position—NTTC holds that Section 230.4 (a)(3) is preempted because it is not ''substantively the same'' as current Federal requirements dealing with the ''marking'' of a container or package which is represented, marked, certified or sold as qualified for use in the transportation of a hazardous material. This latter state requirement is (in the vernacular of the Administrator) a ''covered subject''.

Additionally, this Association holds that Section 230.6 is preempted by applicable provisions of the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) (as amended) in that the provisions violate the so-called ''obstacle test'' (a traditional criterion used by the Administrator in evaluating non-Federal laws and regulations in applications for preemption determination). Moreover, as enforced, the state regulation creates unnecessary delay, and—if replicated by other jurisdictions—would serve to create a multiplicity of non-uniform restrictions that would (potentially) compromise safety.

In the alternative, the State of New York may petition the Administrator to amend Federal regulations (should the state feel that the amendments would enhance safety); or, the State may acknowledge Federal preemption and apply for a ''Waiver of Preemption'' under procedures established by the Administrator.

The Relevant Element of the Hazardous Materials Regulations (HMR)—Pursuant to HMTUSA's mandate, the Secretary of Transportation has delegated to the Administrator of the Department's Research and Special Programs Administration (RSPA) the authority to issue regulations specific to the transportation of hazardous materials. The Administrator has fulfilled that mandate by promulgation of the HMR, Parts 171–180.

Specifically, Part 180 of the HMR (''Continuing Qualification And Maintenance of Packagings'') sets forth a comprehensive series of regulations dealing with the inspection, testing, maintenance and repair of cargo tank motor vehicles which are represented (by the owner/operator) as being constructed and operated in compliance with the HMR.

Argument—In terms of the requested preemption of Section 230.6 of New York's

Code, we wish to note at the outset that we have no quarrel with the provisions of subsection ''(a)'' of that Section.

In contrast, however, NTTC notes that 49 CFR 180.417 contains direct requirements for ''Reporting and Record Retention Requirements''. Significantly, there is no Federal requirement for copies of reports and/or records to be carried in the cargo tank motor vehicle. Instead, the Administrator relies on certain (and specified) markings on the cargo tank as indicia of compliance. Moreover, 49 CFR 180.417(a)(2) allows carriers to retain relevant documents at either their ''principal place of business'', or (upon application to the Federal Highway Administration) ''at a regional or terminal office''.

Conversely, the state's regulations require documentation to be retained ''in the vehicle.'' NTTC holds that Section 230.6(b) is preempted by the HMR. As the Administrator well knows, cargo tanks regularly move from jurisdiction to jurisdiction. For instance, nationwide carriers may move vehicles from southern states into the New England area to move gasoline when transportation demands for MC 306/DOT406 equipment accelerate because of the winter ''fuel oil season''. Unnecessary delay is created when carriers are compelled to retrieve documents from storage, reproduce those documents, and exercise the management controls necessary to put copies in some vehicles but not in others. The situation is compounded when one realizes the potential for other jurisdictions to play havoc with the current system. For instance, should the Administrator not preempt, what would prevent a state or locality from requiring all service and maintenance records (including the vehicle manufacturer's original certification) to be retained in the vehicle?

In Docket HM–183 (the administrative proceeding which created Part 180), the Administrator decided that the proper indicia for compliance with Part 180 is vehicle marking (as codified at 180.415). As has often been noted in both (the former) ''inconsistency petitions'' and in ''preemption determinations'', the Administrator's regulations are ''presumed safe''. New York State is not free to unilaterally amend RSPA's requirements.

With regard to the state's requirement at 230.6(c), the same arguments and fact patterns apply. At 49 CFR 180.417(c)(2), the specified retention time is length of (cargo tank) ownership plus one year. New York requires ''. . . two years after the testing occurred.'' It, too, must be preempted.

Our problem with New York's requirement at 230.4(a)(3) is more direct and concise. Simply stated, this regulation is a ''hazardous materials specific'' marking requirement. It applies only to DOT Specification tanks (authorized for the transportation of gasoline). HMTUSA specifies that ''marking'' (of a package or container) is a ''covered subject''. The Administrator's relevant requirements at 49 CFR 180.415 ''occupy the field''. New York's regulation must be stricken.

Precedent On These Issues Is Abundant—NTTC believes that the Administrator's decisions in both ''Inconsistency Rulings'' (IR) and ''Preemption Determinations'' (PD) buttress our claims with respect to the New York State regulations under question.

For instance, in both IR#19 and #IR 28, the Administrator ruled that, ''. . . the HMTA and HMR provide sufficient information and documentation requirements for the safe transportation of hazardous materials; state and local requirements in excess of them constitute obstacles to implementation of the HMTA and HMR and thus are inconsistent with them.''

Similarly, in those two rulings (plus a host of others), it was ruled that, ''Requirements for information or documentation in excess of Federal requirements create potential delay, constitute an obstacle to execution of the Federal hazmat law and the HMR, and thus are preempted.''

In at least 14 prior proceedings of this type (IR's and PD's), RSPA has struck down state and local requirements found to be ''* * * likely to cause'' and/or ''* * * the mere threat'' of unnecessary delays in hazardous materials transportation.

As the Administrator ruled in PD–4 (R), ''Required markings of packagings (cargo tanks and portable tanks) to certify current registration and inspection are preempted since they are not substantively the same as the markings required by the HMR.'' (emphasis added)

Even the United States Court of Appeals for the 10th Circuit weighed in most directly. In reversing a District Court decision in the matter of Colorado Pub. Utilities Commission v. Harmon, the Court went to the heart of NTTC's complaint specifying that a state may not require a carrier to retain inspection reports in a vehicle; and, that such an additional documentation requirement could ''* * * create confusion and increase hazards.''

Given the fact that the State of New York is aggressively enforcing the regulations cited above, we ask expedited consideration of NTTC's application for a preemption determination.

I hereby certify that I have sent a copy of this petition to: Mr. John P. Cahill, Commissioner, Department of Environmental Conservation, State of New York, 50 Wolf Road, Albany, NY 12233.

Respectfully submitted:

Clifford J. Harvison,

President.

Attachments

(A) Part 230 of New York Codes, Rules and Regulations.

[FR Doc. 98–14562 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Intermountain Tariff Bureau, Inc.; Section 5a Application No. 62

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of tentative approval of request to withdraw Section 5a Application No. 62 and cancel the agreement.

SUMMARY: Intermountain Tariff Bureau, Inc. (ITB), has filed a letter seeking to withdraw its Section 5a Application No. 62 and cancel the agreement. The Board has tentatively granted ITB's request, and, if no opposing comments are timely filed, this decision will be the final Board action.

DATES: Written comments must be filed with the Board no later than June 22, 1998. If no opposing comments are filed by the expiration of the comment period this decision will take effect automatically.

ADDRESSES: An original and 10 copies of comments referring to Section 5a Application No. 62 should be sent to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N. W., Washington, DC 20423–0001. A copy of any comments filed with the Board must be served on Larry H. Wilkinson, Secretary, Intermountain Tariff Bureau, Inc., 125 West 1500 North, Bountiful, UT 84010.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: ITB indicates that it has ceased operations and that shortly it will be dissolved as a corporation. ITB states that, to the best of its knowledge, all obligations to members, customers and debtors have successfully been completed. ITB requests cancellation of Section 5a Application No. 62 (and any other formal agreements involving ITB) approved by the Interstate Commerce Commission.[1]

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

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

It is ordered:

1. The request to cancel Section 5a Application No. 62 (and any amendments) is approved, and the proceeding(s) is (are) dismissed, subject to the filing of opposing comments.

2. If timely opposing comments are filed, this decision will be deemed vacated.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat., which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This decision relates to functions that are subject to Board jurisdiction pursuant to 49 U.S. 13703.

3. This decision will be effective on June 22, 1998, unless timely opposing comments are filed.

Decided: May 27, 1998.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams,

Secretary.

[FR Doc. 98–14470 Filed 6–1–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33591]

The Indiana & Ohio Rail Passenger Corporation—Trackage Rights Exemption—Indiana & Ohio Railway Company, Inc.

Indiana & Ohio Railway Company, Inc. (IORY) has agreed to grant local trackage rights to The Indiana & Ohio Rail Passenger Corporation (IORP), for the operation of rail passenger service over the following points: (1) from milepost 39.8, near Diann, MI, to milepost 107.3, near Leipsic, OH; (2) from milepost 110.8 to milepost 114.9 in Ottaway, OH; and (3) from milepost 128.3, near Lima, OH, to milepost 202.7, near Springfield, OH, a distance of approximately 146.02 miles.[1]

The parties expected to consummate the transaction on or about May 26, 1998. The earliest the transaction could be consummated was May 22, 1998, the effective date of the exemption (7 days after the notice of exemption was filed).

The purpose of the trackage rights is to extend IORP's passenger operations over newly-acquired IORY lines.[2]

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33591, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert L. Calhoun, Esq., Redmon, Boykin & Braswell, L.L.P., 510 King Street, Suite 301, Alexandria, VA 22314.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: May 26, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–14467 Filed 6–1–98; 8:45 am]

BILLING CODE 4915–00–P

[1] The agreement that is the subject of this notice is a confirmation of and an amendment to an earlier trackage rights agreement between IORP and IORY and certain other Class III railroads affiliated with the IORY. *See* STB Finance Docket No. 32976, *The Indiana & Ohio Rail Passenger Corporation—Acquisition by Trackage Rights and Operation Exemption—Cincinnati Terminal Railway Corp., Indiana and Ohio Railroad Company, Indiana & Ohio Railway Company, Inc., and Indiana & Ohio Central Railroad Company, Inc.,* (STB served June 21, 1996).

[2] *See* STB Finance Docket No. 33180, *Indiana & Ohio Railway Company—Acquisition Exemption—Lines of The Grand Trunk Railroad Inc.,* (STB served Feb. 10, 1997).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33587]

City of Rochelle, Illinois; Notice of Exemption; Commencement of Rail Common Carrier Operations

The City of Rochelle, IL (the City), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to commence operations over 2.06 miles of track located within the limits of Rochelle, IL.[1] The City states that its projected revenues will not exceed those of a Class III railroad.

The effective date of the exemption was May 5, 1998 (7 days after the exemption was filed).[2]

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time.[3] The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33587, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on counsel for the City: John W. Robinson, 9616 Old Spring Road, Kensington, MD 20895.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: May 27, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–14571 Filed 6–1–98; 8:45 am]

BILLING CODE 4915–00–P

[1] The line was not further described in the notice filed by the City, but a map included with the filing indicates that it begins at a switch near the intersection of Caron Road and Creston Road and ends in a stub east of Gredco Drive.

[2] Under 49 CFR 1150.32(b), a notice of exemption becomes effective 7 days after filing.

[3] By petition filed on May 1, 1998, the Rochelle Railroad Company requests that the Board reject and or revoke this exemption. That petition will be addressed in a decision to be issued by the Board.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33600]

Wisconsin Central Ltd.—Trackage Rights Exemption—Wisconsin & Southern Railroad Company

Wisconsin & Southern Railroad Company (WSOR), a Class III rail carrier, has agreed to grant non-exclusive overhead trackage rights to Wisconsin Central Ltd (WCL), a Class II rail carrier, over WSOR's line of railroad between milepost 112.6, at Rugby Junction, WI, and milepost 93.4, at North Milwaukee, WI, including trackage connecting with Fox Valley & Western Ltd.''s (FVW) main line at DBR Junction (milepost 103.1), a distance of approximately 19.2 miles.

The purpose of the trackage rights is to interchange cars between WCL and the Canadian Pacific and Union Pacific and between WCL and FVW, as well as connecting various WCL and FVW lines and trackage rights.

As a condition to this exemption, any employees affected by the trackage rights will be protected as required by 49 U.S.C. 11326(b), subject to the procedural interpretations of the analogous statutory provisions at 49 U.S.C. 10902 contained in the Board's decision in *Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad Company,* STB Finance Docket No. 33116 (STB served Apr. 17, 1997) (*WCL Exemption*).[1]

[1] WCL has stated that it is alternatively willing to accept the conditions set out in *Norfolk and*

The transaction is scheduled to be consummated on or after June 1, 1998.[2]

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33600, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Michael J. Barron, Jr., Esq., Wisconsin Central Ltd., 6250 North River Road, Suite 9000, Rosemont, IL 60018.

Decided: May 26, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–14468 Filed 6–1–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

[No. 981–0158]

Notice Inviting Applications to the Presidential Awards for Excellence in Microenterprise Development

AGENCY: Community Development Financial Institutions Fund, Treasury.

ACTION: Notice inviting applications.

SUMMARY: The Presidential Awards for Excellence in Microenterprise Development (''Microenterprise Awards'') is a non-monetary awards program created as a result of one of the commitments made by the United States at the United Nations Fourth World Conference on Women held in Beijing, China in September 1995. As a key development finance initiative of the Administration, the Community Development Financial Institutions Fund (''Fund'') of the U.S. Department of the Treasury was selected to administer the Microenterprise Awards Program. The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) created the Fund to promote economic revitalization and community development through investment in community development financial institutions. This Notice provides guidance on the Microenterprise Awards Program requirements, selection criteria and how to obtain an application packet.

DATES: Applications are currently being accepted by the Fund. The deadline for receipt of an application is 6 p.m. EDT, July 31, 1998. Applications received in the office of the Fund after that date and time will be returned to the sender. Applications sent electronically or by facsimile will not be accepted.

ADDRESSES: Applications shall be sent to: Awards Manager, the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 Thirteenth Street, NW., Washington DC 20005.

FOR FURTHER INFORMATION CONTACT: Microenterprise Awards Program Manager, the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 Thirteenth Street, NW., Suite 200 South, Washington DC 20005, (202) 622–8662. (This is not a toll free number.) If you have any questions about this Notice or the application packet, you may call or write to the Fund at the above telephone number or address, or you may send questions via facsimile to (202) 622–7754. To request an application packet, please send by facsimile a written request which includes the name of the requester, the organization, mailing address, telephone number and facsimile number. Requests for an application packet should be sent by facsimile to (202) 622–7754.

SUPPLEMENTAL INFORMATION:

I. Background

The Presidential Awards for Excellence in Microenterprise Development (''Microenterprise Awards'') were created to recognize the important and growing role of microenterprises within the economy of the United States. In the past decade, the number of microenterprises and Microentrepreneurs has grown significantly, as well as the number of community development organizations that have worked to facilitate the growth and development of this Microenterprise industry. A microenterprise is a sole proprietorship, partnership, family business or an incorporated entity that has no more than five employees, including the owner(s), does not generally have access to the commercial banking sector, and has use for and/or seeks a loan of $25,000 or less. The Microenterprise Awards reflect a national commitment to advance the role that microenterprise development plays in enhancing entrepreneurial opportunities for all Americans, particularly women, low income people, and others that have had difficulty gaining access to the financial services industry and the economic mainstream. By recognizing outstanding microenterprise development and support organizations, the Microenterprise Awards' mission is to advance an understanding of ''best practices'' in the field of microenterprise development and bring wider public attention to the important successes of microenterprise development in the United States. Awards are non-monetary and given annually. They are available in different categories designed to reflect the diverse activities, purposes and challenges faced by the microenterprise industry.

II. Definitions

(a) *Low Income* means having an income of no more than 80 percent of the area median family income.

(b) *Microenterprise Development Organization (MDO)* means a ''practitioner'' organization that works directly with Microentrepreneurs and meets three tests, primary purpose, domestic program and program activities.

(i) *Primary Purpose.* The organization must have a primary purpose of promoting Microenterprise development. An applicant will be considered to have such a primary purpose if it:

(A) Has been in operation for at least two complete calendar or fiscal years;

(B) Made at least one Micro Loan to a Microenterprise within the past 12-months; and

(C) Has targeted its efforts principally to activities that support Microentrepreneurs. Such activity targeting may be evaluated by the number of Microentrepreneurs served, number of Micro Loans made, the total dollar amount of Micro Loans made, or other criteria deemed appropriate by the Fund. The primary purpose requirement will be applied to the applicant as a whole or an affiliate, division or a discrete program of a larger organization, as deemed appropriate by the Fund.

(ii) *Domestic Program.* The organization must exclusively serve or have a program that exclusively serves

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Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980). Section 11326(b) provides that parties may agree to terms other than as provided in that subsection.

[2] The notice to employees discussed in *WCL Exemption* and recently adopted as a requirement for certain transactions in *Acquisition of Rail Lines Under 49 U.S.C. 10901 and 10902—Advance Notice of Proposed Transactions,* STB Ex Parte No. 562 (STB served Sept. 9, 1997), does not apply to exempt trackage rights transactions.

individuals that are residents of the United States, including the District of Columbia, or any territory of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territories of the Pacific Islands, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(iii) *Program Activities.* The organization must currently provide the following services to Microentrepreneurs:

(A) Access to Micro Loans, directly or through a formal partnership, as evidenced by a written agreement or letter of understanding, with another organization; and

(B) Access to training, counseling or technical assistance, directly or through a formal partnership, as evidenced by a written agreement or letter of understanding, with another organization. Such training, counseling or technical assistance must provide assistance to Microentrepreneurs for the purpose of enhancing business planning, marketing, management, financial management, or other aspects of developing a successful business.

(c) *Microenterprise Support Organization (MSO)* means an entity that does not work directly with Microentrepreneurs but supports the efforts of MDOs through financial or technical assistance, research or other activities. An MSO shall either:

(i) Provide financial or technical assistance directly to MDOs; or

(ii) Make contributions indirectly to the field of MDOs through research or other activities that enhance the knowledge, capacity, or visibility of the Microenterprise field.

Further, an MSO shall not provide services directly to Microentrepreneurs as its principal line of business.

(d) *Micro Loan* means a loan made for business purposes to a Microentrepreneur in a principal amount which does not exceed $25,000. A loan for business purposes does not include a loan made for the purpose of the acquisition, construction, or rehabilitation of real estate.

(e) *Microenterprise* means a sole proprietorship, partnership, family business, or an incorporated entity that has no more than five employees, including the owner(s), does not generally have access to the commercial banking sector, and has use for and/or seeks a loan of $25,000 or less.

(f) *Microentrepreneur* means the owner of a Microenterprise or an individual seeking to establish a Microenterprise.

(g) *Poverty* means the state or condition of being poor as defined by the U.S. Bureau of the Census.

III. Award Categories

The Microenterprise Awards Program consists of five categories in which awards may be given. The award categories are intended to embrace the diverse activities and purposes of Microenterprise development and the key opportunities and challenges faced by the Microenterprise field. Up to two awards may be made in each award category. Applicants may apply under only one award category each year. The award categories are as follows:

(a) *Excellence in Providing Access to Capital.* This award category recognizes MDOs that have achieved outstanding success in broadening the availability of credit to Microentrepreneurs through the provision of Micro Loans or Micro Loan guarantees;

(b) *Excellence in Developing Entrepreneurial Skills.* This award category recognizes MDOs that have demonstrated effectiveness in building entrepreneurial skills through providing training, technical assistance or other skill development activities that help develop successful Microentrepreneurs;

(c) *Excellence in Poverty Alleviation.* This award category recognizes MDOs that have developed effective and innovative strategies or methods of alleviating poverty and/or improving the well being of Low Income individuals through the development of Microentrepreneurs. (Applicants in this category need not work exclusively with Low Income clients. However, this category is intended to recognize programs that target a significant portion of their efforts to serve Low Income clients.);

(d) *Excellence in Program Innovation.* This award category recognizes MDOs that best reflect a new level of development for the Microenterprise field and/or a new strategy for addressing a problem of significant concern to the Microenterprise field; and

(e) *Excellence in Public or Private Support for Microenterprise Development.* This award category recognizes outstanding MSOs that have provided significant or innovative support to MDOs or the development of the Microenterprise field.

IV. Eligibility

The eligibility requirements of the Microenterprise Awards are established by each award category. MDOs are eligible to apply under the following categories: Excellence in Providing Access to Capital; Excellence in Developing Entrepreneurial Skills; Excellence in Poverty Alleviation; and Excellence in Program Innovation. MSOs are eligible to apply under the Excellence in Public or Private Support for Microenterprise Development award category. If an applicant has previously received an award in a specific award category, such applicant is ineligible to apply for an award in the same category for a period of three years. (For example, a 1997 award winner in a category cannot apply for an award in that same category until the year 2000.)

V. Selection Process and Criteria

Winners of the Microenterprise Awards will be selected through a competitive application and review process. Each award category has a set of ''category specific'' criteria that will be used to evaluate the extent of an applicant's achievement of excellence. In addition, all applicants will be evaluated using ''organization'' criteria which will gauge their viability and overall condition. Successful applicants must demonstrate both qualitatively and quantitatively their effectiveness and/or excellence under both the category-specific and the organization selection criteria.

The Microenterprise Awards application packet includes application forms and questions that are tailored to each award category. The category-specific criteria are summarized below:

(a) *Excellence in Providing Access to Capital:* scope and scale; impact; program design effectiveness; quality; and sustainability.

(b) *Excellence in Developing Entrepreneurial Skills:* scope and scale; impact; program design effectiveness; and creativity.

(c) *Excellence in Poverty Alleviation:* scope and scale; impact; program design effectiveness; and extent of targeting.

(d) *Excellence in Program Innovation:* scope and scale; impact; program design effectiveness; creativity; and relevance to the industry.

(e) *Excellence in Public or Private Support for Microenterprise Development:* scope and scale; impact; program design effectiveness; creativity; and commitment.

The ''organization'' criteria for the Excellence in Providing Access to Capital, Excellence in Developing Entrepreneurial Skills, Excellence in Poverty Alleviation, and Excellence in Program Innovation award categories are: financial health and organizational strength; program management and implementation; replicability; and leadership. The ''organization'' evaluation criteria for the Excellence in Public or Private Support for Microenterprise Development award category are program implementation, replicability, and leadership. The

category specific and organization criteria are fully discussed in the application materials which can be obtained from the Fund.

Authority: Pub. L. 103–325, 108 Stat. 2166, 2189 (12 U.S.C. 4703); chapter X, Pub. L. 104–19, 109 Stat. 237 (12 U.S.C. 4703 note).

Dated: May 28, 1998.

Ellen Lazar,

Director, Community Development Financial Institutions Fund.

[FR Doc. 98–14531 Filed 6–1–98; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–53]

Customs Bond Cancellation Standards for Imports of Softwood Lumber From Canada

AGENCY: U. S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Under section 623(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1623(c)), the Secretary of the Treasury is required to publish guidelines for the cancellation of Customs bonds or charges thereunder. On February 26, 1997, Customs published T.D. 97–9 in the **Federal Register** (62 FR 8620) setting forth interim amendments to the Customs Regulations concerning the entry of certain softwood lumber products from Canada. Those amendments included additions to the conditions of the basic importation bond (19 CFR 113.62) to cover the production of, and liability for liquidated damages for failure to produce, export permit information pertaining to such softwood lumber products. This document publishes guidelines for cancellation of bond charges arising from such defaults.

EFFECTIVE DATE: These guidelines will take effect on June 2, 1998, and shall be applicable to all cases which are currently open at the petition or supplemental petition stage.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings (202–927–2344).

SUPPLEMENTARY INFORMATION:

Background

Section 1904 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, 102 Stat. 1107) amended section 623(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1623(c)), to require that the Secretary of the Treasury publish guidelines establishing standards for setting the terms and conditions for cancellation of Customs bonds or charges thereunder. The authority to promulgate such guidelines had been delegated to the Commissioner of Customs by Paragraph 1 of Treasury Department Order No. 165, revised (T.D. 53654). Guidelines pursuant to section 623(c) were initially published by Customs in the **Federal Register** in T.D. 89–48 on April 21, 1989 (54 FR 16182), and those guidelines were subsequently revised and republished in their entirety in T.D. 94–38 which appeared in the **Federal Register** on April 14, 1994 (59 FR 17830).

On February 26, 1997, Customs published T.D. 97–9 in the **Federal Register** (62 FR 8620) setting forth interim amendments to the Customs Regulations concerning the entry of certain softwood lumber products from Canada. Those amendments included the addition of a new § 12.140 (19 CFR 12.140) which sets forth special entry requirements for the subject lumber, including the obligation of the importer of record to obtain and provide to Customs information regarding the issuance of a Canadian export permit for the lumber. T.D. 97–9 also amended the provisions of the basic importation bond in § 113.62 (19 CFR 113.62) by the addition of a new paragraph (k) (with existing paragraph (k) redesignated as paragraph (l)) and by the addition of a new subparagraph (5) under newly designated paragraph (l). New paragraph (k) obligates the bond principal, as required by new § 12.140(a), to assume the obligation to ensure within 20 working days of release of the merchandise, and establish to the satisfaction of Customs, that the applicable export permit has been issued by the Government of Canada. Under new paragraph (l)(5), failure of the bond principal to meet the paragraph (k) obligation will result in assessment of liquidated damages equal to $100 per thousand board feet of the imported lumber.

In accordance with the provisions of section 623(c), this document sets forth standards for the cancellation of claims for liquidated damages assessed under §§ 12.140, 113.62(k) and 113.62(l)(5). These standards distinguish those claims in which the required export permits are presented in an untimely fashion from those instances where the export permits are not presented at all. The standards permit cancellation of liquidated damages incurred for late presentation of the necessary information upon payment of an amount between 25 and 50 percent of the claim but not less than $500 and not more than $3,000 per entry depending upon the experience of the importer and the number of violations incurred by the importer as compared to the number of importations made. If the claim is issued for $500 or less, no relief will be granted. If the necessary information is never provided, the claim will be collected in full. These claims for liquidated damages may only be assessed with regard to entries filed subsequent to the effective date of the interim regulations.

The text of the new guidelines is set forth below:

Guidelines for Cancellation of Claims for Late Filing or Failure to File Softwood Lumber Information (19 CFR 12.140, 19 CFR 113.62(k), 19 CFR 113.62(l)(5))

A. Late presentation of export permit information. Claims for liquidated damages for late presentation of export permit information shall be processed in accordance with the following guidelines.

1. Modified CF–5955A. Notices of liquidated damages incurred may be issued on a modified CF–5955A. The modified form shall specify two options from which the petitioner may choose to resolve the demand.

a. *Option 1.* He may pay a specified sum within 60 days and the case will be closed. By electing this option in lieu of petitioning, he waives his right to file a petition.

b. *Option 2.* Petition for relief. The bond principal or surety may file a petition for relief. By filing a petition for relief, the petitioner will no longer be afforded the Option 1 mitigation amount. The Fines, Penalties, and Forfeitures Officer shall grant full relief when the petitioner demonstrates that the violation did not occur or occurred solely as a result of Customs error. If the petitioner fails to demonstrate that the violation did not occur or occurred solely as a result of Customs error, the Fines, Penalties, and Forfeitures Officer may cancel the claim upon payment of an amount no less than $100 greater than the Option 1 amount.

2. Cancellation of claims for late presentation of export permit information. Liquidated damages incurred for late presentation of the necessary information may be cancelled upon payment of an amount between 25 and 50 percent of the claim but not less than $500 and not more than $3,000. Such amount may be afforded as an Option 1 amount. Mitigation shall be based upon the experience of the importer and the number of violations incurred compared with the number of importations made. No relief shall be

granted from any claim issued for $500 or less.

B. Failure to present export permit information. If the importer fails to present the appropriate export permit information, no relief from the claim for liquidated damages will be granted unless the importer can show that the information was not required or that the violation occurred solely as a result of Customs error. Upon presentation of proof which satisfies the Fines, Penalties, and Forfeitures Officer that the information was not required or that the violation occurred solely as a result of Customs error, the claim shall be cancelled without payment.

Dated: May 27, 1998.

Samuel H. Banks,

Acting Commissioner of Customs.

[FR Doc. 98–14512 Filed 6–1–98; 8:45 am]

BILLING CODE 4820–02–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''David Goldblatt: Photographs from South Africa'' (See list),[1] imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The Museum of Modern Art, New York, New York, from approximately July 16, 1998 through October 6, 1998, is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register**.

Dated: May 26, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–14486 Filed 6–1–98; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. Paul Manning, Attorney Advisor, at (202) 619–5997, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001.

Corrections

Federal Register

Vol. 63, No. 105

Tuesday, June 2, 1998

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 ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-406-000]

CNG Transmission Corporation; Informal Settlement Conference

Correction

In notice document 98–13360, appearing on page 27720, in the issue of Wednesday, May 20, 1998, the docket number should read as set forth above.

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Correction

In notice document 98–13348, appearing on page 27731, in the issue of Wednesday, May 20, 1998, make the following correction:

In the third column, in the second paragraph, in the seventh line ''Miami, Inc.'' should read ''Miamai, Inc.''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–9]

Amendment to Class E Airspace; Gordon, NE

Correction

In rule document 98–13270, beginning on page 27476, in the issue of Tuesday, May 19, 1998, make the following correction:

§ 71.1 [Corrected]

On page 27477, in the second column, under the heading ''**ACE NE E5 Gordon, NE. [Revised]**'', the second line should read ''(Lat. 42° 48′ 21″ N., long. 102° 10′ 31″ W.)

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–10]

Amendment to Class E Airspace; Kimball, NE

Correction

In rule document 98–13269, beginning on page 27477, in the issue of Tuesday, May 19, 1998, make the following correction:

§ 71.1 [Corrected]

On page 27478, in the third column, under the heading **ACE NE E5 Kimball, NE [Revised]**, the second line should read ''(Lat. 41°11′17″N., long. 103°40′39″W.)

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–20]

Remove Class E Airspace and Establish Class E Airspace; Springfield, MO

Correction

In rule document 98–13273, beginning on page 27479, in the issue of Tuesday, May 19, 1998, make the following correction:

§ 71.1 [Corrected]

On page 27480, in the second column, the heading ''**ACE MO E3 Springfield, MO [Removed]''** should read ''**ACE MO E3 Springfield, MO [New]**

BILLING CODE 1505-01-D

federal register

Tuesday
June 2, 1998

Part II

Department of the Interior

Fish and Wildlife Service

Migratory Bird Hunting; Application for Approval of Tungsten-Matrix as a Nontoxic Shot Material for Waterfowl Hunting; Notice

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Migratory Bird Hunting; Application for Approval of Tungsten-Matrix as a Nontoxic Shot Material for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of application.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is providing public notification that the Kent Cartridge Manufacturing Company, Ltd. (Kent Cartridge), of Kearneysville, West Virginia, has applied for approval of Tungsten-matrix shot as nontoxic for waterfowl hunting in the United States. The Service has initiated review of Tungsten-matrix under the criteria set out in Tier 1 of the nontoxic shot approval procedures given at 50 CFR 20.134.

DATES: A comprehensive review of the Tier 1 information is to be concluded by August 3, 1998.

ADDRESSES: The Kent Cartridge application may be reviewed in Room 634 at the Fish and Wildlife Service, Office of Migratory Bird Management, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, (703) 358–1714, or Keith A. Morehouse, Wildlife Biologist, North American Waterfowl and Wetlands Office, (703) 358–1784.

SUPPLEMENTARY INFORMATION: The Service continues to seek to identify shot for waterfowling that, when spent, does not pose a significant toxic hazard to migratory birds and other wildlife when ingested. Currently, only bismuth-tin and steel shot are approved by the Service for use in waterfowling. Tungsten-iron shot received temporary conditional approval for the 1997–98 waterfowl hunting season (published August 18, 1997; 62 FR 43444). The Service is currently reviewing applications for approval for shot types other than those previously referenced in this notice, and it is anticipated that the certification of additional suitable candidate shot materials as nontoxic is feasible in the near future.

On March 13, 1998, Kent Cartridge submitted its application with the counsel that it contained all of the specified information for a complete Tier 1 submittal and requested unconditional approval pursuant to the Tier 1 time frame. Kent Cartridge also advised that it had arranged for Tier 2 level acute toxicity studies to support its Tier 1 submittal and would soon be providing those results to the Service. Approval is sought by Kent Cartridge for Tungsten-matrix (see composition below) as nontoxic pursuant to 50 CFR 20.134 (recently amended, see 62 FR 63608; December 1, 1997).

The Service has determined that the application is complete, and has initiated a comprehensive review of the Tier 1 information. After this review, the Service will either: (1) publish a Notice of Review to inform the public that the Tier 1 test results are inconclusive; or (2) publish a proposed rule for approval of the candidate shot. The Notice of Review will indicate whether other tests will be required before nontoxic approval of the Tungsten-matrix shot is again considered. If the Tier 1 data review results in a preliminary determination that the candidate material does not pose a significant hazard to migratory birds, other wildlife, and their habitats, the Service will go forward with a rulemaking which proposes to approve the candidate shot.

Kent Cartridge's candidate shot is fabricated from what is described in their application as ''* * * a mixture of powdered metals in a plastic matrix whose density is comparable to that of lead. All component metals are present as elements, not compounds. Tungsten-matrix pellets have specific gravity of 9.8 g/cm^3 and is composed of 88 percent tungsten, 4 percent nickel, 2 percent iron, 1 percent copper, and 5 percent polymers by mass.''

Part A of the application contains a statement of proposed use, a chemical and physical description of the shot material, a statement of the expected variability of shot during production, an estimate of yearly production, and a 5-pound sample of the fabricated shot. Part B of the application contains a discussion of the acute toxicities of the Tungsten-matrix components to mammals and to birds, the fate of ingested shot on captive-reared mallard ducks, ingestion of the shot by other vertebrates, and a summary of the known Tungsten-matrix toxicity information for vertebrates. Part C of the application considers the effects of firing on the shot, the half-life of components of breakdown products, the estimated environmental concentration in soil and water, other environmental impacts of components of the shot, and a summarized request for approval. References are provided to support the information and conclusions contained in the application; the list of references cited is available from the Service upon request.

Authorship: The primary author of this Notice of Application is Keith A. Morehouse, Wildlife Biologist, North American Waterfowl and Wetlands Office.

Dated: May 19, 1998.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 98–14472 Filed 6–1–98; 8:45 am]

BILLING CODE 4310–55–P

federal register

Tuesday
June 2, 1998

Part III

Department of Housing and Urban Development

24 CFR Parts 50, 55 and 58

Floodplain Management and Protection of Wetlands; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 50, 55 and 58

[Docket No. FR–4142–P–01]

RIN 2501–AC33

Floodplain Management and Protection of Wetlands

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adopt procedures implementing Executive Order 11990, Protection of Wetlands. The rule proposes to codify policies and procedures to avoid the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. The procedures would apply to HUD and certain State and local responsible entities before their respective decisions to approve a proposed action that involves HUD financial assistance and that would affect a wetland. The wetland procedures would be incorporated into HUD's existing floodplain management regulations.

The rule proposes several other changes to HUD's regulations that govern floodplain management and that would also govern the protection of wetlands. These include, among others, broadening the use of the abbreviated four-step decision making process used by HUD and responsible entities when considering the impact on floodplains in connection with the repair of existing structures. Specifically, the rule proposes to authorize the use of the abbreviated process for all of HUD's rehabilitation programs, not just for repairs financed under its mortgage insurance programs. This rule would also add a requirement that, for residential new construction in a 100-year floodplain, an applicant must secure a final Letter of Map Amendment or final Letter of Map Revision as a condition for approval of HUD financial assistance.

DATES: *Comment due date:* August 3, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Comments should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. Eastern time) at the above address.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Director, Office of Community Viability, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7240, 451 Seventh Street, SW, Washington, DC 20410–7000. For inquiry by phone or e-mail: contact Walter Prybyla, Deputy Director for Policy, Environmental Review Division at (202) 708–1201, Ext. 4466 or e-mail: Walter__Prybyla@hud.gov. This phone number is not toll-free. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Discussion

Wetland-Related Amendments

This rule proposes to codify the procedures for complying with Executive Order 11990, Protection of Wetlands (42 FR 26961, May 25, 1977). The Executive Order directs each agency to provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

The Department published a proposed rule on January 4, 1990 (55 FR 396) to implement Executive Order 11990 and also Executive Order 11988, Floodplain Management (42 FR 26951, May 25, 1977). The January 4, 1990 rule proposed to codify HUD's policies and procedures implementing these Executive Orders in a new 24 CFR part 55. Because the wetland policies were under review by the Administration, the part 55 final rule (59 FR 19100, April 21, 1994) implemented only the floodplain management Executive Order. The Department advised the public (59 FR at 19100) that it would continue to follow outstanding instructions in implementing the wetlands Executive Order.

This proposed rule would amend 24 CFR part 55 to implement the requirements of Executive Order 11990. The proposed rule generally reflects HUD's current practices for complying with the Executive Order.

The rule would amend § 55.2 (Terminology) by adding a definition of the term ''wetlands'' (§ 55.2(b)(9)). The proposed definition provides that wetlands are designated wetland areas identified or delineated on maps issued by the Fish and Wildlife Service of the U.S. Department of the Interior as areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances do or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth or reproduction. This definition would encompass, but not be limited to, swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

The proposed rule would also make several conforming amendments to 24 CFR part 55 to reflect the implementation of Executive Order 11990. For example, § 55.1, which describes the purpose of 24 CFR part 55, would be amended to state that part 55 implements the requirements of Executive Order 11990. The proposed rule would also make conforming amendments to HUD's environmental regulations at 24 CFR part 50 (Protection and Enhancement of Environmental Quality) and 24 CFR part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities) to reflect the amendments made to 24 CFR part 55.

Other Amendments

Abbreviated decision making process. HUD's current regulations at § 55.12(a) authorize HUD or the responsible entity (as applicable) to use an abbreviated decision making process when considering the impact on floodplain management in connection with several listed categories of actions. The steps currently include identifying floodplain location (and wetland location under this proposed rule), determining impact, considering minimization of impact, reevaluating the proposed action, and deciding on the action.

This rule proposes two changes to this procedure. The first proposed revision is a clarification. As § 55.12(a) is currently drafted, step 6 (§ 55.20(f)), reevaluate proposed action, is part of the abbreviated process. A major component of that reevaluation, however, is to reconsider alternatives to

locating the proposed action in the floodplain or wetland that had been addressed under step 3 (§ 55.20(c)). The reference to step 3 in the context of the abbreviated process is confusing because step 3 is not a part of the abbreviated process. The rule, accordingly, would add step 6 to the list of steps in § 55.12(a) that do not apply under the abbreviated process.

For proposed actions covered by the abbreviated decision making process, the balance of reevaluation described in step 6 (§ 55.20(f)(1)) can be addressed in considering minimization of impact in step 5. Therefore, step 5 (§ 55.20(e)) would be revised to provide that actions covered by § 55.12(a) must be rejected if the proposed minimization is financially or physically unworkable.

The second proposed revision concerns § 55.12(a)(3), which currently applies the abbreviated decision making process to HUD mortgage insurance actions for the repair, rehabilitation, modernization or improvement of existing multifamily housing projects. This procedure has proven to be efficient and effective for the covered programs. The Department, therefore, proposes to include all of its programs that involve repair, rehabilitation, modernization or improvement of existing multifamily housing projects.

The proposed rule also would add a reference to § 55.12(a) in the introductory text of § 55.20 to make it clearer that not all actions are subject to all eight steps in the decision making process.

The rule also would revise paragraph (b) of § 55.12 to exclude the leasing of not more than a total of four units of existing housing located in a building in a 100-year floodplain (or the 500-year floodplain for Critical Actions) from the floodplain management decision making process at § 55.20. For example, such exclusion would occur under HUD's programs providing assistance to the homeless. This exclusion would cover leasing of not more than four units in a building under the circumstances described in § 582.100(c) for sponsor-based rental assistance under the Shelter Plus Care Program regulations as well as in § 583.115 for grants for leasing under the Supportive Housing Program regulations. Under § 582.100(c), a sponsor, itself, may lease from an owner the housing in which the program participants will reside. The exclusion would not apply, however, if the sponsor owned the project. Under § 583.115, HUD may provide grants to support the recipient's cost of leasing structures or a portion of a structure that is to be used to provide the supportive housing or supportive services.

This exclusion from the floodplain management decision making process at § 55.20 would apply only if the existing housing is located outside the floodway or coastal high hazard area, the community is participating and in good standing in the Regular Program of the National Flood Insurance Program (NFIP) and the financial assistance does not pay for repair or rehabilitation. Leasing of four units or less under these conditions should have minimal impacts (if any) for which the floodplain management decision making process at § 55.20 would be warranted.

Obsolete Provisions. This proposed rule would remove §§ 55.12(c)(9) and 55.12(c)(10). Paragraph (c)(9) currently provides that part 55 does not apply to HUD's acceptance of a housing subdivision approval action by the Department of Veterans Affairs (DVA) or Farmers Home Administration (now the Rural Housing and Community Development Service (RHCDS)). The Department is removing the paragraph because neither the DVA nor the RHCDS currently approves subdivisions.

Paragraph (c)(10) provides guidance on the effect of part 55 on actions pending on May 23, 1994, the effective date of the part 55 final rule published on April 21, 1994 at 59 FR 19100. The paragraph would be removed as unnecessary. Its removal would not substantively alter the requirements of the part.

Revisions to step 3 for multifamily insurance projects. HUD proposes to revise § 55.20(c), Step 3, to add a new paragraph (c)(2) to address the consideration of practicable alternatives to floodplains and wetlands projects proposed by third parties that involve multifamily mortgage insurance. In these cases, HUD's consideration of practicable alternatives is limited to a particular site identified in the application. HUD cannot require applicants to develop another site that is beyond the floodplain or wetland. In such cases, HUD's option in reviewing practicable alternatives is limited to proceeding to the next step in the decision making process. This includes either considering design modifications under Step 5 or rejecting the application.

Residential new construction in 100-year floodplain. This proposed rule would add a requirement that HUD financial assistance involving residential new construction in a 100-year floodplain may not be approved unless the applicant secures a final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR). These are letters issued by the Federal Emergency Management Agency (FEMA) indicating that the property is not, or is no longer, located within the special flood hazard area (100-year floodplain). The proposed rule would similarly amend § 55.20(g), step 7 of the decision making process, to require whenever a reevaluation of proposed residential new construction results in a determination that there is no practicable alternative to locating the proposal in the 100-year floodplain, a statement that a final Letter of Map Amendment (LOMA) or a final Letter of Map Revision (LOMR) will be secured by the applicant.

The reasons for this change are to encourage: (i) public safety, in that the potential threat to the loss of life from flooding would be diminished for prospective residents and visitors; (ii) site selection and planning, which avoids encroachment on the floodplain;[1] (iii) early coordination between the HUD applicant and FEMA for the purpose of obtaining a LOMA or LOMR in that FEMA has jurisdiction both by law for designation of special flood hazard areas (SFHA) and by Executive Order 11988 for advising Federal agencies on implementation of the Order; and (iv) cost savings that result once the LOMA or LOMR excludes the property from the SFHA and eliminates the applicant's legal obligation to obtain and maintain flood insurance coverage for the term of the loan or life of the building being proposed for HUD financial assistance. The savings may make the property more affordable for low- and moderate-income housing.

Other amendments. This proposed rule would make several other amendments to conform to earlier amendments to 24 CFR parts 50 and 58. The rule would replace ''grant recipient'' with ''responsible entity'' in several places where the term occurs in part 55. Section 55.3, Assignment of responsibilities, would be revised to specify the respective responsibilities of responsible entities and recipients. These amendments would conform part 55 to the change in terminology adopted in the final rule that revised 24 CFR part 58 (61 FR 19122, April 30, 1996).

Section 55.12(c) describes the categories of activities that are not subject to part 55. This proposed rule would revise paragraph (c) to conform

[1] Even if avoiding encroachment is impracticable, the change requires increasing the elevation to minimize potential financial loss due to flooding damage for uninsurable elements under the National Flood Insurance Program (NFIP), which include outdoor playgrounds and recreational amenities, vehicular parking and freight access areas, public plazas and walkways, landscaping, and the land itself.

to amendments to parts 50 and 55. Paragraph (c)(1) would be revised to reflect the fact that the activities that are not subject to review under environmental authorities such as Executive Orders 11988 and 11990 include activities listed in 24 CFR 58.35(b) as well as those listed in § 58.34. A new paragraph (c)(2) would be added to include the activities described in 24 CFR 50.19 (which was revised by a final rule published at 61 FR 50914 on September 27, 1996). Section 50.19 lists those activities that are categorically excluded from the environmental assessment required by NEPA and are not subject to the individual compliance requirements of the related laws and authorities referred to in § 50.4.

A new paragraph (c)(12) (which is similar to § 50.20(a)(1)) would be added to provide that special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities are not subject to part 55.

Finally, the proposed rule would add an exclusion from the requirements of the part for the approval of financial assistance for acquisition, leasing, construction, rehabilitation, repair, maintenance, or operation of ships and other water-borne vessels that will be used for transportation or cruises and will not be permanently moored.

II. Findings and Certifications

Paperwork Reduction Act Statement

The proposed information collection requirements contained at §§ 55.21, 55.22 and 55.27 of this rule have been submitted to the Office of Management and Budget (OMB) for review, under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

The public reporting burden for each of these collections of information is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided in the following table.

FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours	Regulatory reference
Notification of floodplain hazard	300	1	300	1	300	55.21
Owner notice to tenants concerning Critical Action flood hazard	1	50	50	1/20	2.5	55.22
Documentation of compliance	300	1	300	8	2,400	55.27
Total Annual Burden					2,702	

In accordance with 5 CFR 1320.8(d)(1), the Department is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to:

(1) 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;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within sixty (60) days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–3447) and must be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Regulatory Planning and Review

This rule has been reviewed in accordance with Executive Order 12866, issued by the President on September 30, 1993 (58 FR 51735, October 4, 1993). Any changes to the rule resulting from this review are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this proposed rule, and in so doing certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would codify HUD's policies and procedures implementing Executive Order 11990, Protection of Wetlands. The goal of the Executive Order is to prevent the adverse impacts associated with the destruction or modification of wetlands. Executive Order 11990 establishes a uniform set of requirements designed to meet this goal, and which are applicable to both large and small entities. However, in developing the proposed rule HUD has attempted to minimize the regulatory burden placed on responsible entities. For example, the proposed rule would broaden the use of the abbreviated decision making process used by HUD and responsible entities when considering the impact on floodplains in connection with the repair of existing structures. Specifically, the rule proposes to authorize the use of the abbreviated process for all of HUD's rehabilitation programs. The current regulations limit the use of the abbreviated decision making process to repairs financed under HUD's mortgage insurance programs.

Notwithstanding HUD's determination that this rule would not have a significant economic impact on a substantial number of small entities, HUD specifically invites comment regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Unfunded Mandates Reform Act

The Secretary has reviewed this rule before publication and by approving it certifies, in accordance with the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532), that this rule does not impose a Federal mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. HUD's regulations at 24 CFR part 58, implementing section 104(g) of the HCD Act of 1974 and other similar statutory provisions, have long provided for State and local governmental assumption of NEPA, Executive Order, and other environmental review responsibilities. State and local governments thus already have been assuming and carrying out these responsibilities for many years. These amendments to part 55 merely describe and codify more specifically the implementing policies and procedures under Executive Order 11990.

Catalog of Federal Domestic Assistance Number

The programs affected by this rule are listed in the Catalog of Federal Domestic Assistance under program numbers 14.108 through 14.900.

List of Subjects

24 CFR Part 50

Environmental assessments, Environmental impact statements, Environmental policies and review procedures.

24 CFR Part 55

Environmental impact statements, Flood plains, Wetlands.

24 CFR Part 58

Community development block grants, Environmental impact statements, Grant programs—housing and community development, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 50, 55, and 58 are proposed to be amended as follows:

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

1. The authority citation for part 50 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 4332; and Executive Order 11991, 3 CFR, 1997 Comp., p. 123.

2. In § 50.4, paragraph (b)(2) is revised and paragraph (b)(3) is removed and reserved, to read as follows:

§ 50.4 Related Federal laws and authorities.

* * * * *

(b) * * *

(2) HUD Procedure for the Implementation of Executive Order 11988 (Floodplain Management) (3 CFR, 1977 Comp., p. 117) and Executive Order 11990 (Protection of Wetlands) (3 CFR, 1977 Comp., p. 121)—24 CFR part 55, Floodplain Management and Protection of Wetlands.

* * * * *

PART 55—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

3. The heading for part 55 is revised to read as set forth above.

4. The authority citation for part 55 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 4001–4128 and 5154a; E.O. 11988, 42 FR 26951, 3 CFR, 1977 Comp., p. 117; E.O. 11990, 42 FR 26961, 3 CFR, 1977 Comp., p 121.

5. Section 55.1 is amended by revising paragraph (a), redesignating paragraph (b) as paragraph (b)(1), adding a new paragraph (b)(2), and adding a new paragraph (d), to read as follows:

§ 55.1 Purpose and basic responsibility.

(a) This part implements the requirements of Executive Order 11988, Floodplain Management (3 CFR, 1977 Comp., p. 117), and Executive Order 11990, Protection of Wetlands (3 CFR, 1977 Comp., p. 121), and employs the principles of the Unified National Program for Floodplain Management. It covers the proposed acquisition, construction, improvement, disposition, financing and use of properties located in a floodplain or a wetland for which approval is required either from HUD under any applicable HUD program or from a responsible entity subject to 24 CFR part 58. This part does not prohibit approval of such actions (except for certain actions in high hazard areas), but provides a consistent means for implementing the Department's interpretation of the executive orders in the project approval decision making processes of HUD and of responsible entities subject to 24 CFR part 58. The implementation of Executive Orders 11988 and 11990 under this part shall be conducted by HUD for Department-administered programs subject to environmental review under 24 CFR part 50 and by responsible entities for financial assistance subject to environmental review under 24 CFR part 58.

(b)(1) * * *

(2) Under section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration of damage to any personal, residential or commercial property if:

(i) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and

(ii) The person failed to obtain and maintain the flood insurance.

* * * * *

(d) No HUD financial assistance (including mortgage insurance) may be approved for residential new construction in a 100-year floodplain unless a final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR) will be secured by the applicant as a condition of HUD's or the responsible entity's approval of the assistance.

6. Section 55.2 is amended by revising paragraph (a); revising the introductory text of paragraph (b); removing, in paragraph (b)(1), the term ''(§ 55.2(b)(8))'' and adding in its place the term ''(§ 55.2(b)(7))'', and adding a new paragraph (b)(9), to read as follows:

§ 55.2 Terminology.

(a) With the exception of those terms defined in paragraph (b) of this section, the terms used in this part shall follow the definitions contained in section 6 of Executive Order 11988, in section 7 of Executive Order 11990, and in the Floodplain Management Guidelines for Implementing Executive Order 11988 issued by the Water Resources Council (copies of the Guidelines are available from the Environmental Review Division, Department of Housing and

Urban Development, 451 Seventh Street, SW, Washington, DC 20410); and the terms ''special flood hazard area,'' ''criteria'' and ''Regular Program'' shall follow the definitions contained in FEMA regulations at 44 CFR 59.1.

(b) The definitions of the following terms in Executive Order 11988, Executive Order 11990, and related documents affecting this part are modified for purposes of this part:

* * * * *

(9) *Wetlands* means only those designated wetland areas identified or delineated on maps issued by the Fish and Wildlife Service of the U.S. Department of the Interior as areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances do or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth or reproduction. They are the areas subject to coverage under this part.

7. Section 55.3 is amended by revising paragraphs (a)(1)(i), (a)(1)(ii), (b)(1), (b)(2), and (c) and adding a new paragraph (d), to read as follows:

§ 55.3 Assignment of responsibilities.

(a)(1) * * *

(i) The Department's implementation of the orders and this part in all HUD programs; and

(ii) The implementation activities of HUD program managers and, for HUD financial assistance subject to 24 CFR part 58, of grant recipients and responsible entities.

* * * * *

(b) * * *

(1) Ensure compliance with this part for all actions under their jurisdiction that are proposed to be conducted, supported, or permitted in a floodplain or wetland;

(2) Ensure that actions approved by HUD or responsible entities are monitored and that any prescribed mitigation is implemented;

* * * * *

(c) *Responsible entity Certifying Officer.* Certifying Officers of responsible entities administering or reviewing activities subject to 24 CFR part 58 shall comply with this part 55 in carrying out HUD-assisted programs.

(d) *Recipient.* Recipients subject to 24 CFR part 58 shall monitor approved actions and ensure that any prescribed mitigation is implemented.

8. The heading for subpart B is revised to read as follows:

Subpart B—Application of Executive Orders on Floodplain Management and Protection of Wetlands

9. Section 55.10 is revised to read as follows:

§ 55.10 Environmental review procedures under 24 CFR parts 50 and 58.

(a) Where an environmental review is required under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332, and 24 CFR part 50 or part 58, compliance with this part shall be completed before the completion of an environmental assessment (EA) including a finding of no significant environmental impact (FONSI), or an environmental impact statement (EIS), in accordance with the decision points listed in 24 CFR 50.17(a)–(h), or before the preparation of an EA under 24 CFR 58.40 or an EIS under 24 CFR 58.37. For types of proposed actions that are categorically excluded from National Environmental Policy Act (NEPA) requirements under 24 CFR part 50 or part 58, compliance with this part shall be completed before the Department's initial approval (or approval by a responsible entity subject to 24 CFR part 58) of proposed actions in a floodplain or wetland.

(b) The categorical exclusion of certain proposed actions from environmental review requirements under NEPA and 24 CFR parts 50 and 58 (see 24 CFR 50.20 and 58.35(a)) does not exclude those actions from compliance with this part.

10. Section 55.11 is revised to read as follows:

§ 55.11 Applicability of Subpart C decision making process.

(a) Before reaching the decision points described in § 55.10(a), HUD (for Department-administered programs) or the responsible entity (for HUD financial assistance subject to 24 CFR part 58) shall determine whether Executive Order 11988 or 11990 and this part apply to the proposed action.

(b) If Executive Order 11988 or 11990 applies, the approval of a proposed action or initial commitment shall be made in accordance with this part. The primary purpose of Executive Order 11988 is to ''avoid direct or indirect support of floodplain development.'' Consistent with section 2 of Executive Order 11990, the decision making process in § 55.20 only applies to Federal assistance for new construction in wetland locations.

(c) The following table indicates the applicability, by location and type of action, of the decision making process for implementing Executive Orders 11988 and 11990 under subpart C of this part:

TABLE 1

Type of proposed action (new reviewable action or an amendment) [1]	Type of proposed action			
	Floodways	Coastal high hazard areas	Wetland or 100-year floodplain outside high hazard area	Non-wetland area between 100-year and 500-year floodplain
Critical actions as defined in § 55.12(b)(2).	Critical actions not allowed	Critical actions not allowed	Allowed if the proposed critical action is processed under § 55.20.2.	Allowed if the proposed critical action is processed under § 55.20.[2]
Non-critical actions not excluded under § 55.12(b) or (c).	Allowed only if the proposed non-critical action is a functionally dependent use and processed under § 55.20.2.[2]	Allowed only if the proposed non-critical action: (1) Is either (a) designed for location in a high hazard area or (b) a functionally dependent use; and (2) is processed under § 55.20.[2]	Allowed if the proposed non-critical action is processed under § 55.20.[2]	Any non-critical action is allowed without processing under this part.

[1] Under Executive Order 11990, the decision making process in § 55.20 only applies to Federal assistance for new construction in wetland locations.

[2] Or those paragraphs of § 55.20 that are applicable to an action listed in § 55.12(a).

11. Section 55.12 is amended by:

a. Revising the introductory text to paragraph (a);

b. Revising paragraph (a)(3);

c. Removing ''and'' at the end of paragraph (b)(3);

d. Removing the period at the end of paragraph (b)(4) and adding ''; and'' in its place;

e. Adding a new paragraph (b)(5);

f. Revising paragraph (c)(1);

g. Removing paragraphs (c)(9) and (c)(10);

h. Redesignating paragraphs (c)(2), (c)(3), (c)(4), (c)(5), (c)(6), (c)(7), (c)(8), (c)(11), and (c)(12) as paragraphs (c)(3), (c)(4), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (c)(10), and (c)(11), respectively;

i. Adding a new paragraph (c)(2);

j. Revising newly redesignated paragraphs (c)(6) and (c)(7);

k. Revising the introductory text to newly redesignated paragraph (c)(9);

l. Removing ''and'' at the end of newly redesignated paragraph (c)(10);

m. Removing the period at the end of newly redesignated paragraph (c)(11) and adding a semicolon in its place; and

n. Adding new paragraphs (c)(12) and (c)(13), to read as follows:

§ 55.12 Inapplicability of this part 55 to certain categories of proposed actions.

(a) The decision making steps in § 55.20(b), (c), (f), and (g) (steps 2, 3, 6, and 7) do not apply to the following categories of proposed actions:

* * * * *

(3) HUD actions under any HUD program involving the repair, rehabilitation, modernization or improvement of existing multifamily housing projects (including nursing homes, board and care facilities and intermediate care facilities) and existing one-to four-family properties, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from nonresidential to residential land use, and the footprint of the structure and paved areas is not significantly increased.

(b) * * *

(5) The approval of financial assistance to lease not more than a total of four units of existing housing in a building located within the 100-year floodplain (or the 500-year floodplain for Critical Actions), but only if—

(i) The housing is located outside the floodway or coastal high hazard area, and is in a community that is in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24);

(ii) The leasing is in a structure insured under the NFIP; and

(iii) The financial assistance does not pay for repair or rehabilitation.

(c) * * *

(1) HUD-assisted activities described in 24 CFR 58.34 and 58.35(b);

(2) HUD-assisted activities described in 24 CFR 50.19, except as otherwise indicated in § 50.19;

* * * * *

(6) A minor amendment to a previously approved action with no additional adverse impact on or from a floodplain or wetland;

(7) HUD's approval of a project site, an incidental portion of which is situated in an adjacent floodplain or wetland, but only if:

(i) The proposed construction and landscaping activities (except for minor grubbing, clearing of debris, pruning, sodding, seeding, or other similar activities) do not occupy or modify the 100-year floodplain (or the 500-year floodplain for Critical Actions) or the wetland;

(ii) Appropriate provision is made for site drainage; and

(iii) A covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland;

* * * * *

(9) HUD's approval of financial assistance for a project on any non-wetland site in a floodplain for which FEMA has issued:

* * * * *

(12) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities; and

(13) The approval of financial assistance for acquisition, leasing, construction, rehabilitation, repair, maintenance, or operation of ships and other water-borne vessels that will be used for transportation or cruises and will not be permanently moored.

12. The heading for subpart C is revised to read as follows:

Subpart C—Procedures For Making Determinations on Floodplain Management and Protection of Wetlands

13. Section 55.20 is amended by revising the introductory text; revising paragraph (a); revising the introductory text of paragraph (b); revising paragraph (b)(3); revising paragraph (c); revising paragraph (d); revising the introductory text of paragraph (e); revising paragraph (f)(1); revising paragraph (g); and revising paragraph (h), to read as follows:

§ 55.20 Decision making process.

Except for actions covered by § 55.12(a), the decision making process for compliance with this part contains eight steps, including public notices and an examination of practicable alternatives. The steps to be followed in the decision making process are:

(a) *Step 1.* Determine whether the proposed action is located in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or a wetland. If the proposed action would not be conducted in one of those locations, then no further compliance with this part is required.

(b) *Step 2.* Notify the public at the earliest possible time of a proposal to consider an action in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or a wetland and involve the affected and interested public in the decision making process.

* * * * *

(3) A notice under this paragraph (b) shall state: the name, proposed location and description of the activity; the total number of acres of floodplain or wetland involved; and the HUD official and phone number to contact for information. The notice shall indicate the hours and the HUD office or responsible entity's office at which a full description of the proposed action may be reviewed.

(c) *Step 3.* Identify and evaluate practicable alternatives to locating the proposed action in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or wetland. The evaluation shall focus on the potential impacts inside and outside the floodplain or wetland area as such impacts relate to the protection of human life, real property, and the natural and beneficial values served by the floodplain or wetland.

(1) Except as provided in paragraph (c)(2) of this section, HUD's or the responsible entity's consideration of practicable alternatives to the sites which they select for a project should include:

(i) Locations outside the 100-year floodplain (or the 500-year floodplain for a Critical Action) or wetland;

(ii) Alternative methods to serve the identical project objective including feasible technological alternatives; and

(iii) A determination not to approve any action.

(2) For multifamily projects involving HUD mortgage insurance that are initiated by third parties, HUD's or the responsible entity's consideration of practicable alternatives should include a determination not to approve the request.

(d) *Step 4.* Identify and evaluate the potential direct and indirect impacts

associated with the occupancy or modification of the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland.

(e) *Step 5.* Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland and to restore and preserve its natural and beneficial values. Actions covered by § 55.12(a) must be rejected if the proposed minimization is financially or physically unworkable. All critical actions in the 500-year floodplain shall be designed and built at or above the 100-year floodplain (in the case of new construction) and modified to include:

* * * * *

(f) * * *

(1) Whether it is still practicable in light of its exposure to flood hazards in the floodplain or its possible adverse impact on the floodplain or wetland, the extent to which it will aggravate the current hazards to other floodplains or wetlands, and its potential to disrupt floodplain or wetland values; and

* * * * *

(g) *Step 7.* If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland, publish a final notice that includes:

(1) The reasons why the proposal must be located in the floodplain or wetland;

(2) A list of the alternatives considered;

(3) All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values; and

(4) For residential new construction in a 100-year floodplain, a statement that a final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR) will be secured by the applicant as a condition of HUD's or the responsible entity's approval of floodplain development.

(h) *Step 8.* Upon completion of the decision making process in Steps 1 through 7, implement the proposed action. There is a continuing responsibility on HUD and the recipient to ensure that the mitigating measures identified in Step 7 are implemented and, where applicable, that the LOMA or LOMR is secured.

14. In § 55.22, the introductory text to paragraph (a) and paragraph (a)(1) are revised to read as follows:

§ 55.22 Conveyance restrictions for the disposition of multifamily real property.

(a) In the disposition (including leasing) of multifamily properties acquired by HUD that are located in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or a wetland, the documents used for the conveyance must:

(1) Refer to those uses that are restricted under identified federal, state, or local floodplain or wetland regulations; and

* * * * *

15. Section 55.24 is revised to read as follows:

§ 55.24 Aggregation.

Where two or more actions have been proposed, require compliance with this subpart, affect the same floodplain or wetland, and are currently under review by the Department (or by a responsible entity subject to 24 CFR part 58), individual or aggregated approvals may be issued. A single compliance review and approval under this section is subject to compliance with the decision making process in § 55.20.

16. Section 55.25 is amended by removing the period at the end of paragraph (d)(3)(iii) and adding a semicolon in its place; by removing the period at the end of paragraph (d)(6) and adding ''; and'' in its place; and by revising paragraphs (a), (b), (d)(4) and (d)(5), to read as follows:

§ 55.25 Areawide compliance.

(a) A HUD-approved areawide compliance process may be substituted for individual compliance or aggregated compliance under § 55.24 where a series of individual actions is proposed or contemplated in a pertinent area for HUD's examination of floodplain hazards or the protection of wetlands. In areawide compliances, the area for examination may include a sector of, or the entire, floodplain or wetland—as relevant to the proposed or anticipated actions. The areawide compliance process shall be in accord with the decision making process under § 55.20.

(b) The areawide compliance process shall address the relevant executive orders and shall consider local land use planning and development controls (e.g., those enforced by the community for purposes of floodplain management under the National Flood Insurance Program (NFIP)) and applicable state programs for floodplain management and wetland protection. The process shall include the development and publication of a strategy that identifies the range of development and mitigation measures under which the proposed HUD assistance may be approved and that indicates the types of actions that will not be approved in the floodplain or wetland.

* * * * *

(d) * * *

(4) An open scoping process (in accordance with 40 CFR 1501.7) shall be used for determining the scope of issues to be addressed and for identifying significant issues related to housing and community development for the floodplain or wetland;

(5) Federal, state and local agencies with expertise in floodplain management, wetland protection, flood evacuation preparedness, land use planning and building regulation, or soil and natural resource conservation shall be invited to participate in the scoping process and to provide advice and comments;

* * * * *

17. Section 55.26 is amended by revising the introductory text and paragraph (a), to read as follows:

§ 55.26 Adoption of another agency's review under the executive orders.

If a proposed action covered under this part is already covered in a prior review performed under the executive orders by another agency, that review may be adopted by HUD or by a responsible entity authorized under 24 CFR part 58, provided that:

(a) There is no pending litigation relating to the other agency's review for floodplain management and wetland protection;

* * * * *

18. Section 55.27 is amended by revising the introductory text to paragraph (a) and paragraph (a)(1) to read as follows:

§ 55.27 Documentation.

(a) For purposes of compliance with § 50.20, the responsible HUD official who would approve the proposed action (or Certifying Officer for a responsible entity subject to 24 CFR part 58) shall require that the following actions be documented:

(1) When required by § 55.20(c), practicable alternative sites have been considered outside the floodplain or wetland, but within the local housing market area, the local public utility service area, or the jurisdictional boundaries of a recipient unit of general local government, whichever geographic area is more appropriate to the proposed HUD action. Actual sites under review must be identified and the reasons for the non-selection of those sites as practicable alternatives must be described; and

* * * * *

§§ 55.21, 55.25, and 55.27 [Amended]

19. In addition to the amendments set forth above, in 24 CFR part 55:

a. Remove the words ''grant recipient'' and add, in their place, the words ''responsible entity'' in the following places:

i. Section 55.21;

ii. Section 55.25(c); and

iii. Section 55.27(b); and

b. Remove the words ''grant recipients'' and add, in their place, the words ''responsible entities'' in the following places:

i. Section 55.25(d)(2); and

ii. Section 55.27(c).

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

20. The authority citation for part 58 continues to read as follows:

Authority: 12 U.S.C. 1707 note; 42 U.S.C. 1437o(i)(1) and (2), 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, and 12838; E.O. 11514, 3 CFR, 1966–1970, Comp., p. 902, as amended by E.O. 11991, 3 CFR, 1977 Comp., p.123.

21. In § 58.5, paragraph (b)(2) is revised to read as follows:

§ 58.5 Related Federal laws and authorities.

* * * * *

(b) * * *

(2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., p. 121, as interpreted in HUD regulations at 24 CFR part 55, particularly sections 2 and 5 of the order.

* * * * *

Dated: April 27, 1998.

Andrew Cuomo,

Secretary.

[FR Doc. 98–14245 Filed 6–1–98; 8:45 am]

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June 2, 1998

Part IV

Department of Education

Reauthorization of Elementary and Secondary Education Programs; Notice

DEPARTMENT OF EDUCATION

Reauthorization of Elementary and Secondary Education Programs

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of request for public comment on the reauthorization of elementary and secondary education programs.

SUMMARY: The Secretary of Education invites written comments regarding the reauthorization of programs under the Elementary and Secondary Education Act of 1965 (ESEA), the Goals 2000: Educate America Act, and Subtitle B of Title VII of the Stewart B. McKinney Homeless Assistance Act (Education for Homeless Children and Youth).

DATES: Comments must be received by the Department on or before July 17, 1998. Comments may also be submitted at regional meetings to be held on July 8–15, 1998 (See dates, times and locations of regional meetings under the **SUPPLEMENTARY INFORMATION** section of this notice.)

ADDRESSES: Written comments should be addressed to Judith Johnson, Deputy Assistant Secretary, Office of Elementary and Secondary Education, U. S. Department of Education, 600 Independence Avenue, SW. (Portals Building, Room 4000), Washington, DC 20202–6132. E-mail responses may be sent to: Frances__Shadburn@ed.gov.

FOR FURTHER INFORMATION CONTACT: Frances Shadburn, U.S. Department of Education, 600 Independence Avenue, SW. (Portals Building, Room 4000) Washington, DC 20202–6100. Telephone: (202) 401–0113. 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.

Individuals with disabilities may obtain this document in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Additionally, in the future, this document, as well as other documents concerning the reauthorization of the ESEA, will be available on the World Wide Web at the following site: http://www.ed.gov/offices/OESE/esea.html.

Note: The official version of this document is the document published in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The Secretary is seeking public comment on the reauthorization of the Elementary and Secondary Education Act, Titles III and IV of the Goals 2000: Educate America Act, and Subtitle B of Title VII of the Stewart B. McKinney Homeless Assistance Act. A complete list of the programs currently authorized under these statutes is provided at the end of this notice. Most of these programs were last reauthorized in 1994. At that time ESEA programs were fundamentally restructured to support, in partnership with Goals 2000, comprehensive State and local efforts to improve teaching and learning and raise academic standards. The authorization for most of these programs expires September 30, 1999.

Need for Reauthorization

The Elementary and Secondary Education Act of 1965, the cornerstone of Federal aid to elementary and secondary schools, embodies the Federal Government's commitment to providing funds for the education of children living in high- poverty communities. Collectively, its programs provide funds to States, districts, and schools to improve teaching and learning to help all children, especially at-risk children, meet challenging State standards. Funding for ESEA and related programs currently represents an annual $12 billion investment in our Nation's future. The support these programs provide for State and local school improvement efforts makes them key vehicles for carrying out the Department's mission: ''To Ensure Equal Access to Education and Promote Educational Excellence Throughout the Nation.''

Title I, the largest of the ESEA programs, is the primary vehicle for providing assistance to schools to raise the academic performance of poor and low-achieving students, especially in schools serving areas with high concentrated poverty.

The 1994 reauthorization responded to data from the Department's ''Prospects'' longitudinal study which concluded that the former Chapter I (now Title I) was not structured to close the achievement gap between students attending high- and low-poverty schools. To address this need, the 1994 reauthorization restructured the program to, among other things, encourage high-poverty schools to move away from ''pullout'' programs to ''schoolwide'' approaches for improving entire schools. To facilitate this change, the 1994 reauthorization linked Title I to other ESEA programs and State and local school reform efforts in partnership with Goals 2000 so that Federal and State programs could work together to provide all children, whatever their backgrounds and whatever schools they attend, with the opportunity to achieve the same high standards expected of all children. The 1994 reauthorization also revised the other ESEA programs so that they too support State and local school reform. For example, the Eisenhower Professional Development program was changed to support improved instructional practices in other core subjects in addition to math and science. A key component of the entire revised ESEA provides States and local schools with greatly increased flexibility in return for being held accountable for improving student achievement.

The President's fiscal year 1999 budget expands on Goals 2000 and the ESEA by requesting funds to help build the capacity of school districts and schools to: (1) deliver high-quality instruction by reducing class size in the early grades; (2) expand the pace and scope of reform in 35 high-poverty urban and rural school districts with significant barriers to high achievement that have already begun to show progress in implementing standards-based reform; (3) increase the number of school-based before- and after-school extended-day programs; (4) build and renovate public schools through the provision of tax credits to pay interest on nearly $22 billion in bonds; and (5) provide support for schools, communities, and families to work together in improving and expanding opportunities for children to develop strong literacy skills.

When Goals 2000 was established and the ESEA was last reauthorized, the

Congress recognized that States required time to implement thoughtfully high standards aligned with challenging assessments as part of their ongoing school reforms. As a result, Title I requires States to develop or adopt challenging content standards and student performance standards, at least in mathematics, and reading and language arts, by Fall, 1997, and assessments aligned with standards by the school year 2000–2001. States, districts, and schools are steadily making progress toward implementing standards-based reform. However, there are still provisions of the law that have not yet been fully implemented—for example, aligned assessments that are part of accountability systems do not have to be in place until school year 2000–2001. Similarly, many States have requested and received waivers as they continue to develop their student performance standards. Reauthorization provides the opportunity to consider what changes, if any, are necessary to strengthen the effectiveness of Federal elementary and secondary education programs to improve teaching and learning for all students, especially those students most at risk of failing to meet State standards.

The Secretary intends to submit the Department's reauthorization proposal for Goals 2000 and ESEA and related programs to the Congress early in 1999, in conjunction with the President's fiscal year 2000 budget request. Proposed performance indicators also will be developed to provide feedback on program progress in accordance with the Government Performance and Results Act (GPRA). GPRA requires all agencies to develop agency-wide strategic plans, and to identify and collect information on performance indicators for all programs. The Department's strategic plan organizes performance measurement around key policy objectives and the programs that advance these objectives: standards development (through Goals 2000); helping at-risk populations to achieve to challenging standards (Title I and other programs that serve at-risk populations); supporting local capacity-building (professional development and technology) to enhance instruction aligned with standards and improve the climate for learning (Safe and Drug-Free Schools and Communities); and stimulating flexibility, performance accountability, and innovation (charter schools, Ed-Flex). The U.S. Department of Education Strategic Plan, 1998–2002, including current performance indicators, is available on the Department's Web site at http://www.ed.gov/pubs/StratPln/ or can be requested by calling 1–800–USA–LEARN. The Secretary invites public comments on the issues identified in this notice and recommendations for performance indicators.

Issues for Public Comment

The Secretary seeks comments and suggestions regarding reauthorization of Goals 2000, ESEA, and related programs. The Secretary is interested both in comments regarding changes that may be needed, as well as comments on aspects of the programs that are working well and should be maintained. As noted above, the last ESEA reauthorization fundamentally restructured all ESEA programs so that they, together with Goals 2000, would support State and local efforts to improve our Nation's schools through comprehensive, standards-based reform of teaching and learning. The programs authorized by these statutes support State efforts to develop standards describing what students should know and be able to do at key points in their schooling, and district and school efforts to put in place educational programs that provide each student with the opportunity to meet those standards.

Since the 1995–96 school year, when the last reauthorization took effect, States have made progress in implementing standards-based reform. Currently, forty-seven States including Washington, D.C. and Puerto Rico, report that they have adopted challenging content standards in at least reading and mathematics as required by ESEA Title I. All the remaining States—except one—also have State content standards that they are either revising or are in the process of formally adopting.

Although the development of content standards is the first step, there is still a long way to go to incorporate State standards fully into daily classroom activities. States and districts generally are now moving to the next phases of standards-based reform—developing student performance standards and assessments that measure student progress toward meeting the standards, and increasing the capacity of teachers, schools, and districts to implement changes to help all students meet challenging State standards. Capacities needed for effective teaching and learning include many factors, such as teacher knowledge and skills, student motivation and readiness to learn, and quality curriculum materials for teachers and students.

One aspect of capacity building is how school reform efforts at the State, district, and school levels can best be informed by high-quality research and dissemination. In addition to technical assistance provided through the ESEA, the Department of Education funds regional educational laboratories to carry out applied research, development, dissemination, and other technical assistance activities by working with States, districts, and schools in their regions. The Department also is required to establish expert panels to review educational programs and to recommend to the Secretary those programs that should be designated as exemplary or promising for dissemination.

Clearly, more time will be needed for States and districts to implement fully a coherent set of reforms reflecting an aligned system of standards, assessment, instruction, professional development, and accountability, and for principals and teachers to fully implement reforms in the classroom. Nevertheless, there is already some evidence of the impact of State and local efforts, supported by Federal education programs, to help all elementary and secondary students attain high standards. States that have had assessments linked to standards for more than two years are showing progress in the achievement of all of their students, including those in high-poverty schools. For example, Texas reports that the percentage of Title I students passing all parts of the Texas Assessment of Student Achievement has increased from 37.6 percent in the 1994–95 school year to 62.1 percent in the 1996–97 school year. National Assessment of Educational Progress (NAEP) scores in math, the first subject area to implement standards-based, comprehensive reforms, are improving generally for the Nation and appreciably in some States. For example, data from the 1996 NAEP long-term trend assessment show math scores for 9 year-olds rising steadily since 1992, particularly in high-poverty schools (schools with at least 75 percent of the students on subsidized lunch). The percentage of 4th-grade students in high-poverty schools who are achieving at or above the basic level in math on NAEP has increased in almost every State since 1992. In some States, achievement in high-poverty schools meets or exceeds the national average of 64 percent of students scoring at or above the basic level.

The Secretary believes that the early evidence from States and districts that have made the most progress in implementing standards-based reform demonstrates that the focus in Goals 2000 and the ESEA on supporting State and local school reform efforts is sound and should be continued in the next reauthorization. The Secretary also

believes that the priorities governing the last reauthorization are also sound and should be continued. These priorities are: (1) high standards for all children with the elements of education aligned so that everything is working together to help all students reach those standards; (2) a focus on teaching and learning; (3) flexibility to stimulate local school-based and district initiatives, coupled with responsibility for student performance; (4) links among schools, parents, and communities; and (5) resources targeted to where needs are greatest and in amounts sufficient to make a difference.

The Secretary seeks comments on the effectiveness of current programs in supporting State and local efforts to improve teaching and learning to help all children, especially at-risk children, meet challenging State standards. The questions in this notice are organized under three cross-cutting categories. These categories are: (1) Federal support for State and local school reform including questions addressing implementing standards in the classroom through professional development, technology to support teaching and learning, and targeting resources; (2) strategies for addressing the needs of children most at risk of failing to meet State standards; and (3) school environments conducive for learning including questions addressing Safe and Drug-Free Schools and Communities, parental involvement, extended learning opportunities before and after school, and school facilities. In addition to consideration of the cross-cutting issues, individual programs will also be reviewed as part of the reauthorization. Comments on issues other than those raised in this notice are welcome.

Within each of the following cross-cutting categories, the Secretary is especially interested in: (1) suggestions on ways to strengthen the ability of Goals 2000 and ESEA programs to help all children, including students with limited English proficiency, migrant children, economically disadvantaged children including economically disadvantaged minority students, children with disabilities, and other educationally disadvantaged children meet challenging State student performance standards; and (2) comments directed at how the activity being discussed can be carried out in the most flexible manner possible while improving accountability for results.

I. Support for State and Local School Reform

The Goals 2000: Educate America Act provides the framework for Federal support of State and local efforts to reform public schools by supporting the development of challenging State standards and new assessments to measure whether children are achieving those standards. The 1994 ESEA reauthorization built on the Goals 2000 framework, fundamentally reshaping ESEA programs so they would better support comprehensive State and local efforts to improve teaching and learning, especially in schools serving economically disadvantaged communities. The changes made in 1994 included: (1) requiring the same challenging State content and student performance standards for all students; (2) linking Federal program accountability requirements to student's achievement of challenging State standards; (3) supporting professional development tied to those standards; (4) providing greater flexibility in exchange for greater accountability for student performance; (5) promoting school-level decision-making to bolster local initiative; (6) authorizing consolidated applications and plans to reduce paperwork burdens so that educators can focus more time, energy, and resources on better educating children; and (7) providing authority for the Secretary to waive Federal rules and regulations, as needed, to improve student achievement. The Comprehensive School Reform Demonstration program was added in 1997, primarily as part of Title I of ESEA, to encourage more extensive implementation of research-based approaches to comprehensive school reform.

Support for State and Local School Reform: General Questions

1. Are there changes in Federal statutes that would make Goals 2000, ESEA, and related programs more effective tools for supporting comprehensive State and school district school reform? For example, given the progress that States, districts, and schools have made in implementing standards-based reforms, are changes needed to Goals 2000 to make it better aligned with current implementation efforts? Are there changes that would enable Goals 2000, ESEA, and related programs to support more effectively State and school district efforts to improve the capacity of teachers, schools, and districts to integrate standards into the classroom? Are there changes that would make it easier for States, districts, schools, and teachers to get information on new research, on research-based programs, and on promising practices for improving the achievement of all students, especially educationally disadvantaged children?

2. In addition to funding technical assistance through a variety of ESEA and Goals 2000 authorities, the U.S. Department of Education also funds regional educational laboratories to assist in the implementation of education reform. Are there changes to the Federal statutes that would enable federally supported technical assistance efforts to support State and district, and school reform more effectively?

3. Are there changes to the Federal statutes that would encourage greater public school choice as part of State and local school reform? For example, the Department of Education encourages expansion of choice within the public school system with such alternatives as charter schools, magnet schools, and system-wide strategies that make every public school a school of choice. Are changes needed in the law to strengthen these alternatives? Are changes needed in the Federal law to incorporate the knowledge gained about school reform from the establishment and operation of charter and magnet schools?

4. The ESEA currently contains provisions addressing the participation of private school students and teachers that are applicable across many ESEA programs. Are there changes to Federal statutes that would improve the effectiveness of these provisions?

Support for State and Local School Reform: Implementing Standards in the Classroom

Improved teaching and learning is central to the effort to help each child achieve to high State standards. Because professional development helps all teachers, school leaders, and other personnel teach to and support high standards, professional development is an authorized activity in Goals 2000 and almost every ESEA program. The ESEA also authorizes a major program, the Dwight D. Eisenhower Professional Development program, specifically to support national and State professional development in the major content areas.

Research indicates that professional development must be sustained, intensive, and of high quality to have a lasting impact, and must address teacher preparation as well as ongoing training for teachers in the classroom. Research also indicates that professional development is most effective when it includes networks, study groups, teacher research, and other strategies that enable teachers to meet regularly to solve problems, consider new ideas, analyze student work, or reflect on specific subject matter issues. The U.S. Department of Education and the

National Science Foundation have launched a joint effort to develop a range of appropriate mechanisms to raise student achievement in mathematics and science. These mechanisms include support for networks among teachers, schools, parents, colleges, students, professional scientists, mathematicians, engineers, and others.

5. Are there changes to Federal statutes that would focus and coordinate professional development resources across Goals 2000 and ESEA programs to ensure that all teachers and educational personnel have sufficient knowledge and skills to teach all children, including children most at risk of failing, to challenging State standards?

6. A recent National Academy of Sciences study states that if all students are to become successful readers, children must be able to discover the nature of the alphabetic system, understand how sounds are represented alphabetically, gain meaning from print, and practice reading skills to achieve fluency. In order to gain these skills, exposure to language and literacy must begin in the pre-school years, primary grades must focus on reading instruction; teachers must participate in ongoing sustained professional development; elementary schools must have enriched reading programs; students who do not have proficiency in English should be exposed to reading in their native language while acquiring proficiency in spoken English; and early intervention is critical. How can the use of research-based knowledge and of research-based approaches to improving student achievement be encouraged through teacher preparation and ongoing training?

7. Are there changes to Federal statutes that would strengthen connections between institutions of higher education and schools for high-quality professional development to increase the capacity of teachers and principals to implement standards-based reform?

Support for State and Local School Reform: Using Technology To Support Teaching and Learning

Educators across the country have begun to use technology in their classrooms on a regular basis, and many are convinced that technology can be very effective in improving teaching and learning. There is strong evidence that, used properly, computers and related telecommunications technologies provide new opportunities to students that can improve their motivation and achievement. The best instructional practices using technology are generally recognized as providing strong support for the kinds of improvements sought by education reformers through new approaches to teaching and learning. While teacher's level of knowledge about technology is rapidly expanding, technology also is changing rapidly. Questions about new technology and how best to use it in teaching and learning will create an ongoing need for updated information in schools across the Nation, and the quality and quantity of assistance made available to schools will be an important factor in how quickly and well the benefits of technology are realized. Furthermore, as opportunities for using technology at school and home increase, it is imperative that all schools and students—not just those that can afford it—have access to these new resources so that technology reduces rather than increases disparities in the education of poor children and their better-off peers. In addition, the expertise of the teacher and the integration of technology into the curriculum are essential to improving student performance.

Under the current authorization, concentrated Federal support for technology is provided under five main programs that include a mix of State formula and discretionary grants. Authorization to use funds for technology also is embedded in other large programs, such as Title I and Goals 2000.

8. Are there changes to the Federal statutes that would better support the use of technology to advance State and local school reform efforts designed to help all children acquire the knowledge contained in State content standards? For example, are there changes that would improve access for students in high-poverty schools to high-quality academic content through technology? Are there changes that would increase the ability of teachers to use technology as an instructional resource? Should the focus be on development and demonstration of high-quality instructional applications of technology for all schools, or should it continue to be development of the infrastructure for students and schools in high-poverty areas?

Support for State and Local School Reform: Targeting Resources/ Equalization

Academic performance tends to be lower in schools serving the highest percentages of children who live in poverty, and the obstacles to raising academic performance are considerable. The current law contains multiple provisions to direct financial resources to areas of greatest need. For example, Title I funds must be used first in all schools with poverty rates above 75 percent, and low-poverty schools may not receive higher per-pupil allocations than high-poverty schools.

In addition to the issue of how Federal funds are targeted, since 1971 State courts have found school funding systems to be inequitable and unconstitutional in 17 States, and a 1997 General Accounting Office (GAO) report found that ''On average, wealthy districts had about 24 percent more total funding per weighted pupil than poor districts.'' Sizable disparities also exist across States, with average per-pupil funding ranging from a high of $9,700 to a low of $3,656 in 1994–95. Because Federal funding is more targeted to at-risk students, both in terms of services and total dollars, than State funding, it is an important source of funding for closing the gap between high- and low-poverty schools.

9. Are there changes to the Federal statutes that would improve the distribution of ESEA and related program funds to communities and schools where they are most needed?

10. Current distribution formulas for some ESEA programs may result in allocations so small that school districts may have difficulty mounting effective, comprehensive programs. Are changes in Federal statutes needed to address this situation?

11. Should the Federal Government play a role in promoting greater equity in the distribution of school funding across and within States. If so, what should that role be and are there changes to Federal statutes that would be necessary to carry out the role?

II. Strategies for Addressing the Needs of Children Most at Risk of Failing To Meet State Standards

Goals 2000 and the revised ESEA and related programs are designed to support State and local efforts to improve America's schools for all children, particularly schools serving disadvantaged children. The resources these statutes provide are supplemental to funds and services provided through State and local resources. While the Federal Government contributes only six percent of American elementary and secondary school dollars nationally, Federal funds are substantial in many States and school districts and represent a significant source of funding for services for at-risk children. According to a January 1998 GAO report, Federal funding is more targeted to at-risk students, both in terms of services and total dollars, than State funding. These additional funds are critical for high-

poverty schools. Generally, academic achievement tends to be low in schools serving many children who live in poverty, and the obstacles to raising performance in these schools are challenging.

Over the past 33 years the Congress has amended and expanded ESEA multiple times, creating programs to help children who speak little English, migrant children, neglected and delinquent children, Native American/Alaskan Native children, and other children most at-risk of failing to meet challenging State standards. The ESEA also supports programs that promote educational equity for women and girls.

Enabling all children, especially at-risk children, to meet challenging State standards requires that State and local school reform efforts take into account the needs of a diverse student population. As States, districts, and schools progress toward full implementation of educational reform, they need specific targeted strategies to provide all students with equal access to rigorous academic standards, instruction, and aligned assessments that measure higher-order thinking skills and understanding.

The Secretary seeks not only to maintain the connection begun in the 1994 ESEA reauthorization between Federal elementary and secondary programs with their focus on at-risk students, and State and local school reform efforts, but to strengthen it.

12. Are there changes to Federal statutes that would make Goals 2000, ESEA, and related programs more effective tools for use by States, districts, and schools in closing the achievement gap between students most at risk of failing to meet challenging State standards and other students? Are there changes to the Federal statute that would improve the role of accountability measures in both raising student achievement and providing more State and local flexibility? For example, should Title I improvement provisions be changed or strengthened?

13. Students most at risk of failing to meet State standards need the highest quality instruction provided by the most knowledgeable teachers, yet half of the instructional staff in Title I are paraprofessionals, most of whom have only high school diplomas. Are there changes to Federal statute that would strengthen qualifications for Title I and Title VII (Bilingual Education) staff who instruct students most at-risk of failing to meet challenging State standards?

14. A growing body of research on the development of the brain and its implications for learning during certain critical periods of child development supports the need for early intervention and the importance of pre-school and parent education. How can Federal programs encourage greater application of this knowledge?

III. School Environments Conducive to Learning

For students to learn and compete in the global economy, schools must be modern and well-equipped, and provide an environment conducive to learning. A school environment conducive to learning is safe and drug-free, encourages active parental and community involvement, and often includes extended learning opportunities during non-traditional school hours (before and after school, weekends and summer sessions).

Students cannot learn and teachers cannot teach if students are disruptive or are threatened with violence. At the same time, research indicates that students who report positive school experiences are significantly less likely to use drugs than their peers who have negative experiences in school.

Research also indicates that when schools make a concerted effort to enlist the help of mothers and fathers in fostering children's learning, student achievement rises. When families are involved in their children's education, children earn higher grades and receive higher scores on tests, attend school more regularly, complete more homework, demonstrate more positive attitudes and behaviors, graduate from high school at higher rates, and are more likely to enroll in higher education than are students with less family involvement in their schooling.

Recent survey data indicate that parents strongly support school-based after-school programs that include expanded learning opportunities and enrichment and recreational activities. After-school programs can also contribute to school safety by providing supervised programs for young people to attend after the regular school day.

Goals 2000 and the ESEA support a variety of approaches to helping families become active partners in their children's education, including Even Start family literacy programs, Goals 2000 parent centers, and school-parent compacts under Title I. The Safe and Drug-Free Schools and Communities Act (ESEA, Title IV), first enacted in 1986, has been the Federal Government's major effort in the area of drug education and prevention. It promotes comprehensive drug and violence prevention strategies for making schools and neighborhoods safe and drug free. The 21st Century Community Learning Centers program funds community learning centers that include after-school programs.

Equally important to the activities going on in a school is the physical condition of the school building itself. A 1995 study by the GAO found serious and widespread problems in school facilities across the country. These problems ranged from overcrowding and structural failures to inadequate electrical and plumbing systems. Further, the GAO found that many States and local school districts were unable or unprepared to meet the costs of improving these facilities.

15. Are there changes to the Safe and Drug-Free Schools and Communities Act that would encourage the implementation of more effective, research-based drug and violence prevention programs?

16. Are there changes to Federal statutes that would strengthen the ability of Federal education programs to assist families in their efforts to be active partners in their children's education? For example, could the current Title I requirement for school-parent compacts (which describes the shared responsibility of schools, parents, and students for improved student achievement) be improved?

17. In addition to helping local communities finance the construction and renovation of school facilities, what additional barriers to the modernization of schools need to be addressed?

Regional Meetings

Participants are welcome to address these and other issues relating to the reauthorization of the ESEA, either by attending the regional meetings or submitting written comments. Individuals desiring to present comments at the meetings are encouraged to do so. It is likely that each participant choosing to make a statement will be limited to four minutes. Speakers may also submit written comments. Individuals interested in making oral statements will be able to sign up to make a statement beginning at twelve noon on the day of the meeting at the Department's regional meeting on-site registration table on a first-come, first-served basis. If no time slots remain, then the Department will reserve a limited amount of additional time at the end of each regional meeting to accommodate these individuals. The amount of time available will depend upon the number of individuals who request reservations. In addition, written comments will be accepted and must be received on or before July 17, 1998.

The dates and location of the four regional meetings appear below. The Department of Education has reserved a limited number of rooms at each of the following hotels at a special government per diem room rate (Boston's Park Plaza Hotel does not have a special government per diem room rate). To reserve these rates, be certain to inform the hotel that you are attending the reauthorization hearings with the Department of Education.

The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Dates, Times, and Locations of Regional Meetings

1. July 8, 1998, 1:30–5:30 p.m., Hotel Inter-Continental Los Angeles, 251 South Olive Street, Los Angeles, California; 1–213–617–3300 and ask for reservations. Room reservations must be made by June 17.

2. July 10, 1998, 1:30–5:30 p.m., Radisson Hotel & Suites, 160 East Huron Street, Chicago, Illinois, 1–312–787–2900, and ask for reservations. Room reservations must be made by June 19.

3. July 13, 1998, 1:30–5:30 p.m., Park Plaza Hotel, 64 Arlington Street, Boston, Massachusetts, 1–617–426–2000, and ask for reservations. Room reservations must be made by June 22.

4. July 15, 1998, 1:30–5:30 p.m., Terrace Garden Hotel, 3405 Lenox Road, N.E., Atlanta, Georgia, 1–404–261–9250, and ask for reservations. Room reservations must be made by June 24.

FORMAT FOR COMMENT: This request for comments is designed to elicit the views of interested parties on how the Department's elementary and secondary education programs can be structured to meet the objectives of the reauthorization as stated in this notice.

The Secretary requests that each respondent identify his or her role in education and the perspective from which he or she views the educational system—either as a representative of an association, agency, or school (public or private), or as an individual teacher, student, parent, or private citizen.

The Secretary urges each commenter to identify the specific question being responded to by number, to be specific regarding his or her proposals, and to include, if possible, the data requirements, procedures, and actual legislative language that the commenter proposes for the improvement or redesign of programs.

Richard W. Riley,

Secretary of Education.

Existing Programs and Related Provisions Under the Scope of the ESEA/Goals 2000 Reauthorization

Goals 2000: Educate America Act

Title III—State and Local Education Systemic Improvement
Title IV—Parental Assistance
Title V—National Skill Standards Board
Title VI—International Education Program
Title VIII—Minority-Focused Civics Education
Title X—Miscellaneous
Section 1011—School Prayer
Section 1018—Contraceptive Devices
Section 1019—Assessment
Section 1020—Public Schools
Section 1022—Sense of the Congress

Elementary and Secondary Education Act of 1965

Title I—Helping Disadvantaged Children Meet High Standards
Part A—Improving Basic Programs Operated by LEAs
Part B—Even Start Family Literacy Programs
Part C—Education of Migratory Children
Part D—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out
Part E—Federal Evaluations, Demonstrations, and Transition Projects
Part F—General Provisions
Title II—Dwight D. Eisenhower Professional Development Program
Part A—Federal Activities
Part B—State and Local Activities
Part C—Professional Development Demonstration Project
Title III—Technology for Education
Part A—Technology for Education of All Students
Subpart 1—National Programs for Technology in Education
Subpart 2—State and Local Programs for School Technology Resources
Subpart 3—Regional Technical Support and Professional Development
Subpart 4—Product Development
Part B—Star Schools Program
Part C—Ready-to-Learn Television
Part D—Telecommunications Demonstration Project for Mathematics
Part E—Elementary Mathematics and Science Equipment Program
Title IV—Safe and Drug-Free Schools and Communities
Part A—State Grants for Drug and Violence Prevention Programs
Subpart 1—State Grants for Drug and Violence Prevention Programs
Subpart 2—National Programs
Title V—Promoting Equity
Part A—Magnet Schools Assistance
Part B—Women's Educational Equity
Part C—Assistance to Address School Dropout Problems
Title VI—Innovative Education Program Strategies
Title VII—Bilingual Education, Language Enhancement, and Language Acquisition Programs
Part A—Bilingual Education
Subpart 1—Bilingual Education Capacity and Demonstration Grants
Subpart 2—Research, Evaluation, and Dissemination
Subpart 3—Professional Development
Part B—Foreign Language Assistance Program
Part C—Emergency Immigrant Education Program
Part D—Administration
Title VIII—Impact Aid
Title IX—Indian, Native Hawaiian, and Alaska Native Education
Part A—Indian Education
Subpart 1—Formula Grants to LEAs
Subpart 2—Special Programs and Projects to Improve Educational Opportunities for Indian Children
Subpart 3—Special Programs Relating to Adult Education for Indians
Subpart 4—National Research Activities
Subpart 5—Federal Administration
Subpart 6—Definitions
Part B—Native Hawaiians
Part C—Alaska Native Education
Title X—Programs of National Significance
Part A—Fund for the Improvement of Education
Part B—Gifted and Talented Children
Part C—Public Charter Schools
Part D—Arts in Education
Subpart 1—Arts in Education
Subpart 2—Cultural Partnerships for At-Risk Children and Youth
Part E—Inexpensive Book Distribution Program
Part F—Civic Education
Part G—Allen J. Ellender Fellowship Program
Part H—DeLugo Territorial Education Improvement Program
Part I—21st Century Community Learning Centers
Part J—Urban and Rural Education Assistance
Part K—National Writing Project
Part L—The Extended Time for

Learning and Longer School Year
Part M—Territorial Assistance
Title XI—Coordinated Services
Title XII—School Facilities Infrastructure Improvement Act
Title XIII—Support and Assistance Programs to Improve Education
Part A—Comprehensive Regional Assistance Centers
Part B—National Diffusion Network
Part C—Eisenhower Regional Mathematics and Science Education Consortia
Part D—Technology-Based Technical Assistance
Title XIV—General Provisions
Part A—Definitions
Part B—Flexibility in the Use of Administrative and other Funds
Part C—Coordination of Programs; Consolidated State and Local Plans and Applications
Part D—Waivers
Part E—Uniform Provisions
Part F—Gun Possession
Part G—Evaluations
Title VII, Subtitle B, Stewart B. McKinney Homeless Assistance Act

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federal register

Tuesday
June 2, 1998

Part V

The President

Executive Order 13086—1998 Amendments to the Manual for Courts-Martial, United States

Executive Order 13087—Further Amendment to Executive Order 11478, Equal Employment Opportunity in the Federal Government

Federal Register
Vol. 63, No. 105
Tuesday, June 2, 1998

Presidential Documents

Title 3—

The President

Executive Order 13086 of May 27, 1998

1998 Amendments to the Manual for Courts-Martial, United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 47 of title 10, United States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946), in order to prescribe amendments to the Manual for Courts-Martial, United States, prescribed by Executive Order No. 12473, as amended by Executive Order No. 12484, Executive Order No. 12550, Executive Order No. 12586, Executive Order No. 12708, Executive Order No. 12767, Executive Order No. 12888, Executive Order No. 12936, and Executive Order No. 12960, it is hereby ordered as follows:

Section 1. Part II of the Manual for Courts-Martial, United States, is amended as follows:

a. R.C.M. 305(g) through 305(k) are amended to read as follows:

''(g) *Who may direct release from confinement.* Any commander of a prisoner, an officer appointed under regulations of the Secretary concerned to conduct the review under subsections (i) and/or (j) of this rule or, once charges have been referred, a military judge detailed to the court-martial to which the charges against the accused have been referred, may direct release from pretrial confinement. For the purposes of this subsection, ''any commander'' includes the immediate or higher commander of the prisoner and the commander of the installation on which the confinement facility is located.

(h) *Notification and action by commander.*

(1) *Report.* Unless the commander of the prisoner ordered the pretrial confinement, the commissioned, warrant, noncommissioned, or petty officer into whose charge the prisoner was committed shall, within 24 hours after that commitment, cause a report to be made to the commander that shall contain the name of the prisoner, the offenses charged against the prisoner, and the name of the person who ordered or authorized confinement.

(2) *Action by commander.*

(A) *Decision.* Not later than 72 hours after the commander's ordering of a prisoner into pretrial confinement or, after receipt of a report that a member of the commander's unit or organization has been confined, whichever situation is applicable, the commander shall decide whether pretrial confinement will continue. A commander's compliance with this subsection may also satisfy the 48-hour probable cause determination of subsection R.C.M. 305(i)(1) below, provided the commander is a neutral and detached officer and acts within 48 hours of the imposition of confinement under military control. Nothing in subsections R.C.M. 305(d), R.C.M. 305(i)(1), or this subsection prevents a neutral and detached commander from completing the 48-hour probable cause determination and the 72-hour commander's decision immediately after an accused is ordered into pretrial confinement.

(B) *Requirements for confinement.* The commander shall direct the prisoner's release from pretrial confinement unless the commander believes upon probable cause, that is, upon reasonable grounds, that:

(i) An offense triable by a court-martial has been committed;

(ii) The prisoner committed it; and

(iii) Confinement is necessary because it is foreseeable that:

(a) The prisoner will not appear at trial, pretrial hearing, or investigation, or

(b) The prisoner will engage in serious criminal misconduct; and

(iv) Less severe forms of restraint are inadequate.

Serious criminal misconduct includes intimidation of witnesses or other obstruction of justice, serious injury to others, or other offenses that pose a serious threat to the safety of the community or to the effectiveness, morale, discipline, readiness, or safety of the command, or to the national security of the United States. As used in this rule, ''national security'' means the national defense and foreign relations of the United States and specifically includes: military or defense advantage over any foreign nation or group of nations; a favorable foreign relations position; or a defense posture capable of successfully resisting hostile or destructive action from within or without, overt or covert.

(C) *72-hour memorandum.* If continued pretrial confinement is approved, the commander shall prepare a written memorandum that states the reasons for the conclusion that the requirements for confinement in subsection (h)(2)(B) of this rule have been met. This memorandum may include hearsay and may incorporate by reference other documents, such as witness statements, investigative reports, or official records. This memorandum shall be forwarded to the 7-day reviewing officer under subsection (i)(2) of this rule. If such a memorandum was prepared by the commander before ordering confinement, a second memorandum need not be prepared; however, additional information may be added to the memorandum at any time.

(i) *Procedures for review of pretrial confinement.*

(1) *48-hour probable cause determination.* Review of the adequacy of probable cause to continue pretrial confinement shall be made by a neutral and detached officer within 48 hours of imposition of confinement under military control. If the prisoner is apprehended by civilian authorities and remains in civilian custody at the request of military authorities, reasonable efforts will be made to bring the prisoner under military control in a timely fashion.

(2) *7-day review of pretrial confinement.* Within 7 days of the imposition of confinement, a neutral and detached officer appointed in accordance with regulations prescribed by the Secretary concerned shall review the probable cause determination and necessity for continued pretrial confinement. In calculating the number of days of confinement for purposes of this rule, the initial date of confinement under military control shall count as one day and the date of the review shall also count as one day.

(A) *Nature of the 7-day review.*

(i) *Matters considered.* The review under this subsection shall include a review of the memorandum submitted by the prisoner's commander under subsection (h)(2)(C) of this rule. Additional written matters may be considered, including any submitted by the accused. The prisoner and the prisoner's counsel, if any, shall be allowed to appear before the 7-day reviewing officer and make a statement, if practicable. A representative of the command may also appear before the reviewing officer to make a statement.

(ii) *Rules of evidence.* Except for Mil. R. Evid., Section V (Privileges) and Mil. R. Evid. 302 and 305, the Military Rules of Evidence shall not apply to the matters considered.

(iii) *Standard of proof.* The requirements for confinement under subsection (h)(2)(B) of this rule must be proved by a preponderance of the evidence.

(B) *Extension of time limit.* The 7-day reviewing officer may, for good cause, extend the time limit for completion of the review to 10 days after the imposition of pretrial confinement.

(C) *Action by 7-day reviewing officer.* Upon completion of review, the reviewing officer shall approve continued confinement or order immediate release.

(D) *Memorandum.* The 7-day reviewing officer's conclusions, including the factual findings on which they are based, shall be set forth in a written memorandum. A copy of the memorandum and of all documents considered by the 7-day reviewing officer shall be maintained in accordance with regulations prescribed by the Secretary concerned and provided to the accused or the Government on request.

(E) *Reconsideration of approval of continued confinement.* The 7-day reviewing officer shall upon request, and after notice to the parties, reconsider the decision to confine the prisoner based upon any significant information not previously considered.

(j) *Review by military judge.* Once the charges for which the accused has been confined are referred to trial, the military judge shall review the propriety of the pretrial confinement upon motion for appropriate relief.

(1) *Release.* The military judge shall order release from pretrial confinement only if:

(A) The 7-day reviewing officer's decision was an abuse of discretion, and there is not sufficient information presented to the military judge justifying continuation of pretrial confinement under subsection (h)(2)(B) of this rule;

(B) Information not presented to the 7-day reviewing officer establishes that the prisoner should be released under subsection (h)(2)(B) of this rule; or

(C) The provisions of subsection (i)(1) or (2) of this rule have not been complied with and information presented to the military judge does not establish sufficient grounds for continued confinement under subsection (h)(2)(B) of this rule.

(2) *Credit.* The military judge shall order administrative credit under subsection (k) of this rule for any pretrial confinement served as a result of an abuse of discretion or failure to comply with the provisions of subsections (f), (h), or (i) of this rule.

(k) *Remedy.* The remedy for noncompliance with subsections (f), (h), (i), or (j) of this rule shall be an administrative credit against the sentence adjudged for any confinement served as the result of such noncompliance. Such credit shall be computed at the rate of 1 day credit for each day of confinement served as a result of such noncompliance. The military judge may order additional credit for each day of pretrial confinement that involves an abuse of discretion or unusually harsh circumstances. This credit is to be applied in addition to any other credit to which the accused may be entitled as a result of pretrial confinement served. This credit shall be applied first against any confinement adjudged. If no confinement is adjudged, or if the confinement adjudged is insufficient to offset all the credit to which the accused is entitled, the credit shall be applied against adjudged hard labor without confinement, restriction, fine, and forfeiture of pay, in that order, using the conversion formula under R.C.M. 1003(b)(6) and (7). For purposes of this subsection, 1 day of confinement shall be equal to 1 day of total forfeitures or a like amount of fine. The credit shall not be applied against any other form of punishment.''

b. R.C.M. 405(e) is amended to read as follows:

''(e) *Scope of investigation.* The investigating officer shall inquire into the truth and form of the charges, and such other matters as may be necessary to make a recommendation as to the disposition of the charges. If evidence adduced during the investigation indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of such offense and make a recommendation as to its disposition, without the accused first having been charged with the offense. The accused's rights under subsection (f) are the same with regard to investigation of both charged and uncharged offenses.''

c. R.C.M. 706(c)(2)(D) is amended to read as follows:

''(D) Is the accused presently suffering from a mental disease or defect rendering the accused unable to understand the nature of the proceedings against the accused or to conduct or cooperate intelligently in the defense of the case?''

d. R.C.M. 707(b)(3) is amended by adding subsection (E) which reads as follows:

''(E) *Commitment of the incompetent accused.* If the accused is committed to the custody of the Attorney General for hospitalization as provided in R.C.M. 909(f), all periods of such commitment shall be excluded when determining whether the period in subsection (a) of this rule has run. If, at the end of the period of commitment, the accused is returned to the custody of the general court-martial convening authority, a new 120-day time period under this rule shall begin on the date of such return to custody.''

e. R.C.M. 707(c) is amended to read as follows:

''(c) *Excludable delay.* All periods of time during which appellate courts have issued stays in the proceedings, or the accused is hospitalized due to incompetence, or is otherwise in the custody of the Attorney General, shall be excluded when determining whether the period in subsection (a) of this rule has run. All other pretrial delays approved by a military judge or the convening authority shall be similarly excluded.''

f. R.C.M. 809(b)(1) is amended by deleting the last sentence, which reads:

''In such cases, the regular proceedings shall be suspended while the contempt is disposed of.''

g. R.C.M. 809(c) is amended to read as follows:

''(c) *Procedure.* The military judge shall in all cases determine whether to punish for contempt and, if so, what the punishment shall be. The military judge shall also determine when during the court-martial the contempt proceedings shall be conducted; however, if the court-martial is composed of members, the military judge shall conduct the contempt proceedings outside the members' presence. The military judge may punish summarily under subsection (b)(1) only if the military judge recites the facts for the record and states that they were directly witnessed by the military judge in the actual presence of the court-martial. Otherwise, the provisions of subsection (b)(2) shall apply.''

h. 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.''

i. 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 them 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, the convening authority before whom the charges are pending for disposition may disagree with the conclusion and take any action authorized under R.C.M. 401, including referral of the charges to trial. If that convening authority concurs with the conclusion, he or she shall forward the charges to the general court-martial convening authority. If, upon receipt of the charges, the general court-martial convening authority similarly concurs, then he or she shall commit the accused to the custody of the Attorney General. If the general court-martial convening authority does not concur, that authority may take any action that he or she deems appropriate in accordance with R.C.M. 407, including referral of 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, either *sua sponte* or upon request of either party. If an inquiry pursuant to R.C.M. 706 conducted before or after referral 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) *Incompetence 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 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, United States Code.

(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.''

j. R.C.M. 916(b) is amended to read as follows:

''(b) *Burden of proof.* Except for the defense of lack of mental responsibility and the defense of mistake of fact as to age as described in Part IV, para. 45c.(2) in a prosecution for carnal knowledge, the prosecution shall have the burden of proving beyond a reasonable doubt that the defense did not exist. The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence, and has the burden of proving mistake of fact as to age in a carnal knowledge prosecution by a preponderance of the evidence.''

k. R.C.M. 916(j) is amended to read as follows:

''(j) *Ignorance or mistake of fact.*

(1) *Generally.* Except as otherwise provided in this subsection, it is a defense to an offense that the accused held, as a result of ignorance or mistake, an incorrect belief of the true circumstances such that, if the circumstances were as the accused believed them, the accused would not be guilty of the offense. If the ignorance or mistake goes to an element requiring premeditation, specific intent, willfulness, or knowledge of a particular fact, the ignorance or mistake need only have existed in the mind of the accused. If the ignorance or mistake goes to any other element requiring only general intent or knowledge, the ignorance or mistake must have existed in the mind of the accused and must have been reasonable under all the circumstances. However, if the accused's knowledge or intent is immaterial as to an element, then ignorance or mistake is not a defense.

(2) *Carnal knowledge.* It is a defense to a prosecution for carnal knowledge that, at the time of the sexual intercourse, the person with whom the accused had sexual intercourse was at least 12 years of age, and the accused reasonably believed the person was at least 16 years of age. The accused must prove this defense by a preponderance of the evidence.''

l. R.C.M. 920(e)(5)(D) is amended to read as follows:

''(D) The burden of proof to establish the guilt of the accused is upon the Government. [When the issue of lack of mental responsibility is raised, add: The burden of proving the defense of lack of mental responsibility by clear and convincing evidence is upon the accused. When the issue of mistake of fact as to age in a carnal knowledge prosecution is raised, add: The burden of proving the defense of mistake of fact as to age in carnal knowledge by a preponderance of the evidence is upon the accused.]''

m. R.C.M. 1005(e) is amended to read as follows:

''(e) *Required Instructions.* Instructions on sentence shall include:

(1) A statement of the maximum authorized punishment that may be adjudged and of the mandatory minimum punishment, if any;

(2) A statement of the effect any sentence announced including a punitive discharge and confinement, or confinement in excess of six months, will have on the accused's entitlement to pay and allowances;

(3) A statement of the procedures for deliberation and voting on the sentence set out in R.C.M. 1006;

(4) A statement informing the members that they are solely responsible for selecting an appropriate sentence and may not rely on the possibility of any mitigating action by the convening or higher authority; and

(5) A statement that the members should consider all matters in extenuation, mitigation, and aggravation, whether introduced before or after findings, and matters introduced under R.C.M. 1001(b)(1), (2), (3), and (5).''

n. The heading for R.C.M. 1101 is amended as follows:

''Rule 1101. Report of result of trial; post-trial restraint; deferment of confinement, forfeitures and reduction in grade; waiver of Article 58b forfeitures''

o. R.C.M. 1101(c) is amended as follows:

''(c) *Deferment of confinement, forfeitures or reduction in grade.*

(1) *In general.* Deferment of a sentence to confinement, forfeitures, or reduction in grade is a postponement of the running of a sentence.

(2) *Who may defer.* The convening authority or, if the accused is no longer in the convening authority's jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is assigned, may, upon written application of the accused at any time after the adjournment of the court-martial, defer the accused's service of a sentence to confinement, forfeitures, or reduction in grade that has not been ordered executed.

(3) *Action on deferment request.* The authority acting on the deferment request may, in that authority's discretion, defer service of a sentence to confinement, forfeitures, or reduction in grade. The accused shall have the burden of showing that the interests of the accused and the community in deferral outweigh the community's interest in imposition of the punishment on its effective date. Factors that the authority acting on a deferment request may consider in determining whether to grant the deferment request include, where applicable: the probability of the accused's flight; the probability of the accused's commission of other offenses, intimidation of witnesses, or interference with the administration of justice; the nature of the offenses (including the effect on the victim) of which the accused was convicted; the sentence adjudged; the command's immediate need for the accused; the effect of deferment on good order and discipline in the command; the accused's character, mental condition, family situation, and service record. The decision of the authority acting on the deferment request shall be subject to judicial review only for abuse of discretion. The action of the authority acting on the deferment request shall be in writing and a copy shall be provided to the accused.

(4) *Orders.* The action granting deferment shall be reported in the convening authority's action under R.C.M. 1107(f)(4)(E) and shall include the date of the action on the request when it occurs prior to or concurrently with the action. Action granting deferment after the convening authority's action under R.C.M. 1107 shall be reported in orders under R.C.M. 1114 and included in the record of trial.

(5) *Restraint when deferment is granted.* When deferment of confinement is granted, no form of restraint or other limitation on the accused's liberty may be ordered as a substitute form of punishment. An accused may, however, be restricted to specified limits or conditions may be placed on the accused's liberty during the period of deferment for any other proper reason, including a ground for restraint under R.C.M. 304.

(6) *End of deferment.* Deferment of a sentence to confinement, forfeitures, or reduction in grade ends when:

(A) The convening authority takes action under R.C.M. 1107, unless the convening authority specifies in the action that service of confinement after the action is deferred;

(B) The confinement, forfeitures, or reduction in grade are suspended;

(C) The deferment expires by its own terms; or

(D) The deferment is otherwise rescinded in accordance with subsection (c)(7) of this rule. Deferment of confinement may not continue after the conviction is final under R.C.M. 1209.

(7) *Rescission of deferment.*

(A) *Who may rescind.* The authority who granted the deferment or, if the accused is no longer within that authority's jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is assigned, may rescind the deferment.

(B) *Action.* Deferment of confinement, forfeitures, or reduction in grade may be rescinded when additional information is presented to a proper

authority which, when considered with all other information in the case, that authority finds, in that authority's discretion, is grounds for denial of deferment under subsection (c)(3) of this rule. The accused shall promptly be informed of the basis for the rescission and of the right to submit written matters on the accused's behalf and to request that the rescission be reconsidered. However, the accused may be required to serve the sentence to confinement, forfeitures, or reduction in grade pending this action.

(C) *Execution.* When deferment of confinement is rescinded after the convening authority's action under R.C.M. 1107, the confinement may be ordered executed. However, no such order to rescind a deferment of confinement may be issued within 7 days of notice of the rescission of a deferment of confinement to the accused under subsection (c)(7)(B) of this rule, to afford the accused an opportunity to respond. The authority rescinding the deferment may extend this period for good cause shown. The accused shall be credited with any confinement actually served during this period.

(D) *Orders.* Rescission of a deferment before or concurrently with the initial action in the case shall be reported in the action under R.C.M. 1107(f)(4)(E), which action shall include the dates of the granting of the deferment and the rescission. Rescission of a deferment of confinement after the convening authority's action shall be reported in supplementary orders in accordance with R.C.M. 1114 and shall state whether the approved period of confinement is to be executed or whether all or part of it is to be suspended.''

p. R.C.M. 101 is amended by adding the following new subparagraph (d):

''(d) *Waiving forfeitures resulting from a sentence to confinement to provide for dependent support.*

(1) With respect to forfeiture of pay and allowances resulting only by operation of law and not adjudged by the court, the convening authority may waive, for a period not to exceed six months, all or part of the forfeitures for the purpose of providing support to the accused's dependent(s). The convening authority may waive and direct payment of any such forfeitures when they become effective by operation of Article 57(a).

(2) Factors that may be considered by the convening authority in determining the amount of forfeitures, if any, to be waived include, but are not limited to, the length of the accused's confinement, the number and age(s) of the accused's family members, whether the accused requested waiver, any debts owed by the accused, the ability of the accused's family members to find employment, and the availability of transitional compensation for abused dependents permitted under 10 U.S.C. 1059.

(3) For the purposes of this Rule, a ''dependent'' means any person qualifying as a ''dependent'' under 37 U.S.C. 401.''

q. The following new rule is added after R.C.M. 1102:

''Rule 1102A. Post-trial hearing for person found not guilty only by reason of lack of mental responsibility

(a) *In general.* The military judge shall conduct a hearing not later than forty days following the finding that an accused is not guilty only by reason of a lack of mental responsibility.

(b) *Psychiatric or psychological examination and report.* Prior to the hearing, the military judge or convening authority shall order a psychiatric or psychological examination of the accused, with the resulting psychiatric or psychological report transmitted to the military judge for use in the post-trial hearing.

(c) *Post-trial hearing.*

(1) The accused shall be represented by defense counsel and shall have the opportunity to testify, present evidence, call witnesses on his or her behalf, and to confront and cross-examine witnesses who appear at the hearing.

(2) The military judge is not bound by the rules of evidence except with respect to privileges.

(3) An accused found not guilty only by reason of a lack of mental responsibility of an offense involving bodily injury to another, or serious damage to the property of another, or involving a substantial risk of such injury or damage, has the burden of proving by clear and convincing evidence that his or her release would not create a substantial risk of bodily injury to another person or serious damage to property of another due to a present mental disease or defect. With respect to any other offense, the accused has the burden of such proof by a preponderance of the evidence.

(4) If, after the hearing, the military judge finds the accused has satisfied the standard specified in subsection (3) of this section, the military judge shall inform the general court-martial convening authority of this result and the accused shall be released. If, however, the military judge finds after the hearing that the accused has not satisfied the standard specified in subsection (3) of this section, then the military judge shall inform the general court-martial convening authority of this result and that authority may commit the accused to the custody of the Attorney General.''

r. R.C.M. 1105(b) is amended to read as follows:

''(b) *Matters that may be submitted.*

(1) The accused may submit to the convening authority any matters that may reasonably tend to affect the convening authority's decision whether to disapprove any findings of guilt or to approve the sentence. The convening authority is only required to consider written submissions.

(2) Submissions are not subject to the Military Rules of Evidence and may include:

(A) Allegations of errors affecting the legality of the findings or sentence;

(B) Portions or summaries of the record and copies of documentary evidence offered or introduced at trial;

(C) Matters in mitigation that were not available for consideration at the court-martial; and

(D) Clemency recommendations by any member, the military judge, or any other person. The defense may ask any person for such a recommendation.''

s. R.C.M. 1107(b)(4) is amended to read as follows:

''(4) *When proceedings resulted in a finding of not guilty or not guilty only by reason of lack of mental responsibility, or there was a ruling amounting to a finding of not guilty.* The convening authority shall not take action disapproving a finding of not guilty, a finding of not guilty only by reason of lack of mental responsibility, or a ruling amounting to a finding of not guilty. When an accused is found not guilty only by reason of lack of mental responsibility, the convening authority, however, shall commit the accused to a suitable facility pending a hearing and disposition in accordance with R.C.M. 1102A.''

t. The subheading for R.C.M. 1107(d)(3) is amended to read as follows:

''(3) *Deferring service of a sentence to confinement.*''

u. R.C.M. 1107(d)(3)(A) is amended to read as follows:

''(A) In a case in which a court-martial sentences an accused referred to in subsection (B), below, to confinement, the convening authority may defer service of a sentence to confinement by a court-martial, without the consent of the accused, until after the accused has been permanently released to the armed forces by a state or foreign country.''

v. R.C.M. 1109 is amended to read as follows:

''Rule 1109. Vacation of suspension of sentence

(a) *In general.* Suspension of execution of the sentence of a court-martial may be vacated for violation of the conditions of the suspension as provided in this rule.

(b) *Timeliness.*

(1) *Violation of conditions.* Vacation shall be based on a violation of the conditions of suspension that occurs within the period of suspension.

(2) *Vacation proceedings.* Vacation proceedings under this rule shall be completed within a reasonable time.

(3) *Order vacating the suspension.* The order vacating the suspension shall be issued before the expiration of the period of suspension.

(4) *Interruptions to the period of suspension.* Unauthorized absence of the probationer or the commencement of proceedings under this rule to vacate suspension interrupts the running of the period of suspension.

(c) *Confinement of probationer pending vacation proceedings.*

(1) *In general.* A probationer under a suspended sentence to confinement may be confined pending action under subsection (d)(2) of this rule, in accordance with the procedures in this subsection.

(2) *Who may order confinement.* Any person who may order pretrial restraint under R.C.M. 304(b) may order confinement of a probationer under a suspended sentence to confinement.

(3) *Basis for confinement.* A probationer under a suspended sentence to confinement may be ordered into confinement upon probable cause to believe the probationer violated any conditions of the suspension.

(4) *Review of confinement.* Unless proceedings under subsection (d)(1), (e), (f), or (g) of this rule are completed within 7 days of imposition of confinement of the probationer (not including any delays requested by probationer), a preliminary hearing shall be conducted by a neutral and detached officer appointed in accordance with regulations of the Secretary concerned.

(A) *Rights of accused.* Before the preliminary hearing, the accused shall be notified in writing of:

(i) The time, place, and purpose of the hearing, including the alleged violation(s) of the conditions of suspension;

(ii) The right to be present at the hearing;

(iii) The right to be represented at the hearing by civilian counsel provided by the probationer or, upon request, by military counsel detailed for this purpose; and

(iv) The opportunity to be heard, to present witnesses who are reasonably available and other evidence, and the right to confront and cross-examine adverse witnesses unless the hearing officer determines that this would subject these witnesses to risk or harm. For purposes of this subsection, a witness is not reasonably available if the witness requires reimbursement by the United States for cost incurred in appearing, cannot appear without unduly delaying the proceedings or, if a military witness, cannot be excused from other important duties.

(B) *Rules of evidence.* Except for Mil. R. Evid. Section V (Privileges) and Mil. R. Evid. 302 and 305, the Military Rules of Evidence shall not apply to matters considered at the preliminary hearing under this rule.

(C) *Decision.* The hearing officer shall determine whether there is probable cause to believe that the probationer violated the conditions of the probationer's suspension. If the hearing officer determines that probable cause is lacking, the hearing officer shall issue a written order directing that the probationer be released from confinement. If the hearing officer determines that there is probable cause to believe that the probationer violated the conditions of suspension, the hearing officer shall set forth that decision in a written memorandum, detailing therein the evidence relied

upon and reasons for making the decision. The hearing officer shall forward the original memorandum or release order to the probationer's commander and forward a copy to the probationer and the officer in charge of the confinement facility.

(d) *Vacation of suspended general court-martial sentence.*

(1) *Action by officer having special court-martial jurisdiction over probationer.*

(A) *In general.* Before vacation of the suspension of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall personally hold a hearing on the alleged violation of the conditions of suspension. If there is no officer having special court-martial jurisdiction over the probationer who is subordinate to the officer having general court-martial jurisdiction over the probationer, the officer exercising general court-martial jurisdiction over the probationer shall personally hold a hearing under subsection (d)(1) of this rule. In such cases, subsection (d)(1)(D) of this rule shall not apply.

(B) *Notice to probationer.* Before the hearing, the officer conducting the hearing shall cause the probationer to be notified in writing of:

(i) The time, place, and purpose of the hearing;

(ii) The right to be present at the hearing;

(iii) The alleged violation(s) of the conditions of suspension and the evidence expected to be relied on;

(iv) The right to be represented at the hearing by civilian counsel provided by the probationer or, upon request, by military counsel detailed for this purpose; and

(v) The opportunity to be heard, to present witnesses and other evidence, and the right to confront and cross-examine adverse witnesses, unless the hearing officer determines that there is good cause for not allowing confrontation and cross-examination.

(C) *Hearing.* The procedure for the vacation hearing shall follow that prescribed in R.C.M. 405(g), (h)(1), and (i).

(D) *Record and recommendation.* The officer who conducts the vacation proceeding shall make a summarized record of the proceeding and forward the record and that officer's written recommendation concerning vacation to the officer exercising general court-martial jurisdiction over the probationer.

(E) *Release from confinement.* If the special court-martial convening authority finds there is not probable cause to believe that the probationer violated the conditions of the suspension, the special court-martial convening authority shall order the release of the probationer from confinement ordered under subsection (c) of this rule. The special court-martial convening authority shall, in any event, forward the record and recommendation under subsection (d)(1)(D) of this rule.

(2) *Action by officer exercising general court-martial jurisdiction over probationer.*

(A) *In general.* The officer exercising general court-martial jurisdiction over the probationer shall review the record produced by and the recommendation of the officer exercising special court-martial jurisdiction over the probationer, decide whether the probationer violated a condition of suspension, and, if so, decide whether to vacate the suspended sentence. If the officer exercising general court-martial jurisdiction decides to vacate the suspended sentence, that officer shall prepare a written statement of the evidence relied on and the reasons for vacating the suspended sentence.

(B) *Execution.* Any unexecuted part of a suspended sentence ordered vacated under this subsection shall, subject to R.C.M. 1113(c), be ordered executed.

(e) *Vacation of a suspended special court-martial sentence wherein a bad-conduct discharge was not adjudged.*

(1) *In general.* Before vacating the suspension of a special court-martial punishment that does not include a bad-conduct discharge, the special court-martial convening authority for the command in which the probationer is serving or assigned shall cause a hearing to be held on the alleged violation(s) of the conditions of suspension.

(2) *Notice to probationer.* The person conducting the hearing shall notify the probationer, in writing, before the hearing of the rights specified in subsection (d)(1)(B) of this rule.

(3) *Hearing.* The procedure for the vacation hearing shall follow that prescribed in R.C.M. 405(g), (h)(1), and (i).

(4) *Authority to vacate suspension.* The special court-martial convening authority for the command in which the probationer is serving or assigned shall have the authority to vacate any punishment that the officer has the authority to order executed.

(5) *Record and recommendation.* If the hearing is not held by the commander with authority to vacate the suspension, the person who conducts the hearing shall make a summarized record of the hearing and forward the record and that officer's written recommendation concerning vacation to the commander with authority to vacate the suspension.

(6) *Decision.* The special court-martial convening authority shall review the record produced by and the recommendation of the person who conducted the vacation proceeding, decide whether the probationer violated a condition of suspension, and, if so, decide whether to vacate the suspended sentence. If the officer exercising jurisdiction decides to vacate the suspended sentence, that officer shall prepare a written statement of the evidence relied on and the reasons for vacating the suspended sentence.

(7) *Execution.* Any unexecuted part of a suspended sentence ordered vacated under this subsection shall be ordered executed.

(f) *Vacation of a suspended special court-martial sentence that includes a bad-conduct discharge.*

(1) The procedure for the vacation of a suspended approved bad-conduct discharge shall follow that set forth in subsection (d) of this rule.

(2) The procedure for the vacation of the suspension of any lesser special court-martial punishment shall follow that set forth in subsection (e) of this rule.

(g) *Vacation of a suspended summary court-martial sentence.*

(1) Before vacation of the suspension of a summary court-martial sentence, the summary court-martial convening authority for the command in which the probationer is serving or assigned shall cause a hearing to be held on the alleged violation(s) of the conditions of suspension.

(2) *Notice to probationer.* The person conducting the hearing shall notify the probationer before the hearing of the rights specified in subsections (d)(1)(B)(i), (ii), (iii), and (v) of this rule.

(3) *Hearing.* The procedure for the vacation hearing shall follow that prescribed in R.C.M. 405(g), (h)(1), and (i).

(4) *Authority to vacate suspension.* The summary court-martial convening authority for the command in which the probationer is serving or assigned shall have the authority to vacate any punishment that the officer had the authority to order executed.

(5) *Record and recommendation.* If the hearing is not held by the commander with authority to vacate the suspension, the person who conducts the vacation proceeding shall make a summarized record of the proceeding and forward the record and that officer's written recommendation concerning vacation to the commander with authority to vacate the suspension.

(6) *Decision.* A commander with authority to vacate the suspension shall review the record produced by and the recommendation of the person who conducted the vacation proceeding, decide whether the probationer violated a condition of suspension, and, if so, decide whether to vacate the suspended sentence. If the officer exercising jurisdiction decides to vacate the suspended sentence, that officer shall prepare a written statement of the evidence relied on and the reasons for vacating the suspended sentence.

(7) *Execution.* Any unexecuted part of a suspended sentence ordered vacated under this subsection shall be ordered executed.''

w. R.C.M. 1201(b)(3)(A) is amended to read as follows:

''(A) *In general.* Notwithstanding R.C.M. 1209, the Judge Advocate General may, *sua sponte* or upon application of the accused or a person with authority to act for the accused, vacate or modify, in whole or in part, the findings, sentence, or both of a court-martial that has been finally reviewed, but has not been reviewed either by a Court of Criminal Appeals or by the Judge Advocate General under subsection (b)(1) of this rule, on the ground of newly discovered evidence, fraud on the court-martial, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence.''

x. R.C.M. 1203(c)(1) is amended to read as follows:

''(1) *Forwarding by the Judge Advocate General to the Court of Appeals for the Armed Forces.* The Judge Advocate General may forward the decision of the Court of Criminal Appeals to the Court of Appeals for the Armed Forces for review with respect to any matter of law. In such a case, the Judge Advocate General shall cause a copy of the decision of the Court of Criminal Appeals and the order forwarding the case to be served on the accused and on appellate defense counsel. While a review of a forwarded case is pending, the Secretary concerned may defer further service of a sentence to confinement that has been ordered executed in such a case.''

y. R.C.M. 1210(a) is amended by adding at the end thereof the following sentence:

''A petition for a new trial of the facts may not be submitted on the basis of newly discovered evidence when the petitioner was found guilty of the relevant offense pursuant to a guilty plea.''

Sec. 2. Part III of the Manual for Courts-Martial, United States, is amended as follows:

a. M.R.E. 412 is amended to read as follows:

''Rule 412. Nonconsensual sexual offenses; relevance of victim's behavior or sexual predisposition

(a) *Evidence generally inadmissible.* The following evidence is not admissible in any proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c) of this rule:

(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior; and

(2) Evidence offered to prove any alleged victim's sexual predisposition.

(b) *Exceptions.*

(1) In a proceeding, the following evidence is admissible, if otherwise admissible under these rules:

(A) Evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury, or other physical evidence;

(B) Evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and

(C) Evidence the exclusion of which would violate the constitutional rights of the accused.

(c) *Procedure to determine admissibility.*

(1) A party intending to offer evidence under subdivision (b) of this rule must:

(A) file a written motion at least 5 days prior to entry of pleas specifically describing the evidence and stating the purpose for which it is offered unless the military judge, for good cause shown, requires a different time for filing or permits filing during trial; and

(B) serve the motion on the opposing party and the military judge and notify the alleged victim or, when appropriate, the alleged victim's guardian or representative.

(2) Before admitting evidence under this rule, the military judge must conduct a hearing, which shall be closed. At this hearing, the parties may call witnesses, including the alleged victim, and offer relevant evidence. The victim must be afforded a reasonable opportunity to attend and be heard. In a case before a court-martial composed of a military judge and members, the military judge shall conduct the hearing outside the presence of the members pursuant to Article 39(a). The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.

(3) If the military judge determines on the basis of the hearing described in paragraph (2) of this subdivision that the evidence that the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the military judge specifies evidence that may be offered and areas with respect to which the alleged victim may be examined or cross-examined.

(d) For purposes of this rule, the term ''sexual behavior'' includes any sexual behavior not encompassed by the alleged offense. The term ''sexual predisposition'' refers to an alleged victim's mode of dress, speech, or lifestyle that does not directly refer to sexual activities or thoughts but that may have a sexual connotation for the factfinder.

(e) A ''nonconsensual sexual offense'' is a sexual offense in which consent by the victim is an affirmative defense or in which the lack of consent is an element of the offense. This term includes rape, forcible sodomy, assault with intent to commit rape or forcible sodomy, indecent assault, and attempts to commit such offenses.''

b. M.R.E. 413 is added to read as follows:

''Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

(a) In a court-martial in which the accused is charged with an offense of sexual assault, evidence of the accused's commission of one or more offenses of sexual assault is admissible and may be considered for its bearing on any matter to which it is relevant.

(b) In a court-martial in which the Government intends to offer evidence under this rule, the Government shall disclose the evidence to the accused, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 5 days before the scheduled date of trial, or at such later time as the military judge may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

(d) For purposes of this rule, ''offense of sexual assault'' means an offense punishable under the Uniform Code of Military Justice, or a crime under Federal law or the law of a State that involved—

(1) any sexual act or sexual contact, without consent, proscribed by the Uniform Code of Military Justice, Federal law, or the law of a State;

(2) contact, without consent of the victim, between any part of the accused's body, or an object held or controlled by the accused, and the genitals or anus of another person;

(3) contact, without consent of the victim, between the genitals or anus of the accused and any part of another person's body;

(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

(5) an attempt or conspiracy to engage in conduct described in paragraphs (1) through (4).

(e) For purposes of this rule, the term ''sexual act'' means:

(1) contact between the penis and the vulva or the penis and the anus, and for purposes of this rule, contact occurs upon penetration, however slight, of the penis into the vulva or anus;

(2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(3) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(4) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(f) For purposes of this rule, the term ''sexual contact'' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(g) For purposes of this rule, the term ''State'' includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States.''

c. M.R.E. 414 is added to read as follows:

''Rule 414. Evidence of Similar Crimes in Child Molestation Cases

(a) In a court-martial in which the accused is charged with an offense of child molestation, evidence of the accused's commission of one or more offenses of child molestation is admissible and may be considered for its bearing on any matter to which it is relevant.

(b) In a court-martial in which the Government intends to offer evidence under this rule, the Government shall disclose the evidence to the accused, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 5 days before the scheduled date of trial or at such later time as the military judge may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

(d) For purposes of this rule, ''child'' means a person below the age of sixteen, and ''offense of child molestation'' means an offense punishable under the Uniform Code of Military Justice, or a crime under Federal law or the law of a State that involved—

(1) any sexual act or sexual contact with a child proscribed by the Uniform Code of Military Justice, Federal law, or the law of a State;

(2) any sexually explicit conduct with children proscribed by the Uniform Code of Military Justice, Federal law, or the law of a State;

(3) contact between any part of the accused's body, or an object controlled or held by the accused, and the genitals or anus of a child;

(4) contact between the genitals or anus of the accused and any part of the body of a child;

(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

(6) an attempt or conspiracy to engage in conduct described in paragraphs (1) through (5) of this subdivision.

(e) For purposes of this rule, the term ''sexual act'' means:

(1) contact between the penis and the vulva or the penis and the anus, and for purposes of this rule contact occurs upon penetration, however slight, of the penis into the vulva or anus;

(2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(3) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(4) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(f) For purposes of this rule, the term ''sexual contact'' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(g) For purpose of this rule, the term ''sexually explicit conduct'' means actual or simulated:

(1) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(2) bestiality;

(3) masturbation;

(4) sadistic or masochistic abuse; or

(5) lascivious exhibition of the genitals or pubic area of any person.

(h) For purposes of this rule, the term ''State'' includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States.''

d. M.R.E. 1102 is amended to read as follows:

''Amendments to the Federal Rules of Evidence shall apply to the Military Rules of Evidence 18 months after the effective date of such amendments, unless action to the contrary is taken by the President.''

Sec. 3. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

a. Paragraph 19 is amended to read as follows:

''19. Article 95—Resistance, flight, breach of arrest, and escape

a. *Text.*

''Any person subject to this chapter who—

(1) resists apprehension;

(2) flees from apprehension;

(3) breaks arrest; or

(4) escapes from custody or confinement shall be punished as a court-martial may direct.''

b. *Elements.*

(1) *Resisting apprehension.*

(a) That a certain person attempted to apprehend the accused;

(b) That said person was authorized to apprehend the accused; and

(c) That the accused actively resisted the apprehension.

(2) *Flight from apprehension.*

(a) That a certain person attempted to apprehend the accused;

(b) That said person was authorized to apprehend the accused; and

(c) That the accused fled from the apprehension.

(3) *Breaking arrest.*

(a) That a certain person ordered the accused into arrest;

(b) That said person was authorized to order the accused into arrest; and

(c) That the accused went beyond the limits of arrest before being released from that arrest by proper authority.

(4) *Escape from custody.*

(a) That a certain person apprehended the accused;

(b) That said person was authorized to apprehend the accused; and

(c) That the accused freed himself or herself from custody before being released by proper authority.

(5) *Escape from confinement.*

(a) That a certain person ordered the accused into confinement;

(b) That said person was authorized to order the accused into confinement; and

(c) That the accused freed himself or herself from confinement before being released by proper authority. [Note: If the escape was from post-trial confinement, add the following element]

(d) That the confinement was the result of a court-martial conviction.

c. *Explanation.*

(1) *Resisting apprehension.*

(a) *Apprehension.* Apprehension is the taking of a person into custody. *See* R.C.M. 302.

(b) *Authority to apprehend. See* R.C.M. 302(b) concerning who may apprehend. Whether the status of a person authorized that person to apprehend the accused is a question of law to be decided by the military judge. Whether the person who attempted to make an apprehension had such a status is a question of fact to be decided by the factfinder.

(c) *Nature of the resistance.* The resistance must be active, such as assaulting the person attempting to apprehend. Mere words of opposition, argument, or abuse, and attempts to escape from custody after the apprehension is complete, do not constitute the offense of resisting apprehension although they may constitute other offenses.

(d) Mistake. It is a defense that the accused held a reasonable belief that the person attempting to apprehend did not have authority to do so. However, the accused's belief at the time that no basis existed for the apprehension is not a defense.

(e) *Illegal apprehension.* A person may not be convicted of resisting apprehension if the attempted apprehension is illegal, but may be convicted of other offenses, such as assault, depending on all the circumstances. An attempted apprehension by a person authorized to apprehend is presumed

to be legal in the absence of evidence to the contrary. Ordinarily the legality of an apprehension is a question of law to be decided by the military judge.

(2) *Flight from apprehension.* The flight must be active, such as running or driving away.

(3) *Breaking arrest.*

(a) *Arrest.* There are two types of arrest: pretrial arrest under Article 9 (*see* R.C.M. 304), and arrest under Article 15 (*see* paragraph 5c.(3), Part V, MCM). This article prohibits breaking any arrest.

(b) *Authority to order arrest. See* R.C.M. 304(b) and paragraphs 2 and 5b, Part V, MCM, concerning authority to order arrest.

(c) *Nature of restraint imposed by arrest.* In arrest, the restraint is moral restraint imposed by orders fixing the limits of arrest.

(d) *Breaking.* Breaking arrest is committed when the person in arrest infringes the limits set by orders. The reason for the infringement is immaterial. For example, innocence of the offense with respect to which an arrest may have been imposed is not a defense.

(e) *Illegal arrest.* A person may not be convicted of breaking arrest if the arrest is illegal. An arrest ordered by one authorized to do so is presumed to be legal in the absence of some evidence to the contrary. Ordinarily, the legality of an arrest is a question of law to be decided by the military judge.

(4) *Escape from custody.*

(a) *Custody.* ''Custody'' is restraint of free locomotion imposed by lawful apprehension. The restraint may be physical or, once there has been a submission to apprehension or a forcible taking into custody, it may consist of control exercised in the presence of the prisoner by official acts or orders. Custody is temporary restraint intended to continue until other restraint (arrest, restriction, confinement) is imposed or the person is released.

(b) *Authority to apprehend. See* subparagraph (1)(b) above.

(c) *Escape.* For a discussion of escape, *see* subparagraph c(5)(c), below.

(d) *Illegal custody.* A person may not be convicted of this offense if the custody was illegal. An apprehension effected by one authorized to apprehend is presumed to be lawful in the absence of evidence to the contrary. Ordinarily, the legality of an apprehension is a question of law to be decided by the military judge.

(e) *Correctional custody. See* paragraph 70.

(5) *Escape from confinement.*

(a) *Confinement.* Confinement is physical restraint imposed under R.C.M. 305, 1101, or paragraph 5b, Part V, MCM. For purposes of the element of post-trial confinement (subparagraph b(5)(d), above) and increased punishment therefrom (subparagraph e(4), below), the confinement must have been imposed pursuant to an adjudged sentence of a court-martial, and not as a result of pretrial restraint or nonjudicial punishment.

(b) *Authority to order confinement. See* R.C.M. 304(b), 1101, and paragraphs 2 and 5b, Part V, MCM, concerning who may order confinement.

(c) *Escape.* An escape may be either with or without force or artifice, and either with or without the consent of the custodian. However, where a prisoner is released by one with apparent authority to do so, the prisoner may not be convicted of escape from confinement. *See also* paragraph 20c.(l)(b). Any completed casting off of the restraint of confinement, before release by proper authority, is an escape, and lack of effectiveness of the restraint imposed is immaterial. An escape is not complete until the prisoner is momentarily free from the restraint. If the movement toward escape is

opposed, or before it is completed, an immediate pursuit follows, there is no escape until opposition is overcome or pursuit is eluded.

(d) *Status when temporarily outside confinement facility.* A prisoner who is temporarily escorted outside a confinement facility for a work detail or other reason by a guard, who has both the duty and means to prevent that prisoner from escaping, remains in confinement.

(e) *Legality of confinement.* A person may not be convicted of escape from confinement if the confinement is illegal. Confinement ordered by one authorized to do so is presumed to be lawful in the absence of evidence to the contrary. Ordinarily, the legality of confinement is a question of law to be decided by the military judge.

d. *Lesser included offenses.*

(1) *Resisting apprehension.* Article 128—assault; assault consummated by a battery

(2) *Breaking arrest.*

(a) Article 134—breaking restriction

(b) Article 80—attempts

(3) *Escape from custody.* Article 80—attempts

(4) *Escape from confinement.* Article 80—attempts

e. *Maximum punishment.*

(1) *Resisting apprehension.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(2) *Flight from apprehension.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(3) *Breaking arrest.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 6 months.

(4) *Escape from custody, pretrial confinement, or confinement on bread and water or diminished rations imposed pursuant to Article 15.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(5) *Escape from post-trial confinement.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

f. *Sample specifications.*

(1) *Resisting apprehension.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____, 19____, resist being apprehended by _____, (an armed force policeman) (_____), a person authorized to apprehend the accused.

(2) *Flight from apprehension.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject matter jurisdiction data, if required), on or about _____ 19____, flee apprehension by _____ (an armed force policeman) (_____), a person authorized to apprehend the accused.

(3) *Breaking arrest.*

In that _____ (personal jurisdiction data), having been placed in arrest (in quarters) (in his/her company area) (_____) by a person authorized to order the accused into arrest, did, (at/on board—location) on or about _____ 19____, break said arrest.

(4) *Escape from custody.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about

_____ 19____, escape from the custody of _____, a person authorized to apprehend the accused.

(5) *Escape from confinement.*

In that _____ (personal jurisdiction data), having been placed in (post-trial) confinement in (place of confinement), by a person authorized to order said accused into confinement did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 19____, escape from confinement.''

b. The following new paragraph is added after paragraph 97:

''97a. Article 134—(Parole, Violation of)

a. *Text. See* paragraph 60.

b. *Elements.*

(1) That the accused was a prisoner as the result of a court-martial conviction or other criminal proceeding;

(2) That the accused was on parole;

(3) That there were certain conditions of parole that the parolee was bound to obey;

(4) That the accused violated the conditions of parole by doing an act or failing to do an act; and

(5) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) ''Prisoner'' refers only to those in confinement resulting from conviction at a court-martial or other criminal proceeding.

(2) ''Parole'' is defined as ''word of honor.'' A prisoner on parole, or parolee, has agreed to adhere to a parole plan and conditions of parole. A ''parole plan'' is a written or oral agreement made by the prisoner prior to parole to do or refrain from doing certain acts or activities. A parole plan may include a residence requirement stating where and with whom a parolee will live, and a requirement that the prisoner have an offer of guaranteed employment. ''Conditions of parole'' include the parole plan and other reasonable and appropriate conditions of parole, such as paying restitution, beginning or continuing treatment for alcohol or drug abuse, or paying a fine ordered executed as part of the prisoner's court-martial sentence. In return for giving his or her ''word of honor'' to abide by a parole plan and conditions of parole, the prisoner is granted parole.

d. *Lesser included offense.* Article 80—attempts.

e. *Maximum punishment.* Bad-conduct discharge, confinement for 6 months, and forfeiture of two-thirds pay per month for 6 months.

f. *Sample specification.*

In that _____ (personal jurisdiction data), a prisoner on parole, did, (at/on board—location), on or about _____, 19____, violate the conditions of his/her parole by _____.''

c. Paragraph 45.a and b are amended to read as follows:

''45. Article 120—Rape and carnal knowledge

a. *Text.*

''(a) Any person subject to this chapter who commits an act of sexual intercourse by force and without consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a person—

(1) who is not his or her spouse; and

(2) who has not attained the age of sixteen years; is guilty of carnal knowledge and shall be punished as a court-martial may direct.

(c) Penetration, however slight, is sufficient to complete either of these offenses.

(d)(1) In a prosecution under subsection (b), it is an affirmative defense that—

(A) the person with whom the accused committed the act of sexual intercourse had at the time of the alleged offense attained the age of twelve years; and

(B) the accused reasonably believed that the person had at the time of the alleged offense attained the age of 16 years.

(2) The accused has the burden of proving a defense under subparagraph (d)(1) by a preponderance of the evidence.''

b. *Elements.*

(1) *Rape.*

(a) That the accused committed an act of sexual intercourse; and

(b) That the act of sexual intercourse was done by force and without consent.

(2) Carnal knowledge.

(a) That the accused committed an act of sexual intercourse with a certain person;

(b) That the person was not the accused's spouse; and

(c) That at the time of the sexual intercourse the person was under 16 years of age.''

d. Paragraph 45c.(2) is amended to read as follows:

''(2) *Carnal knowledge.* ''Carnal knowledge'' is sexual intercourse under circumstances not amounting to rape, with a person who is not the accused's spouse and who has not attained the age of 16 years. Any penetration, however slight, is sufficient to complete the offense. It is a defense, however, which the accused must prove by a preponderance of the evidence, that at the time of the act of sexual intercourse, the person with whom the accused committed the act of sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this same person was at least 16 years of age.''

e. Paragraph 54e.(l) is amended to read as follows:

''(1) *Simple Assault.*

(A) *Generally.* Confinement for 3 months and forfeiture of two-thirds pay per month for 3 months.

(B) *When committed with an unloaded firearm.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 3 years.''

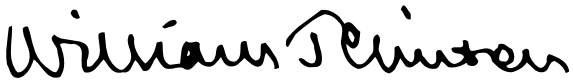
Sec. 4. These amendments shall take effect on May 27, 1998, subject to the following:

(a) The amendments made to Military Rules of Evidence 412, 413, and 414 shall apply only to courts-martial in which arraignment has been completed on or after June 26, 1998.

(b) Nothing contained in these amendments shall be construed to make punishable any act done or omitted prior to June 26, 1998, which was not punishable when done or omitted.

(c) The amendment made to Part IV, para. 45c.(2), authorizing a mistake of fact defense as to age in carnal knowledge prosecutions is effective in all cases in which the accused was arraigned on the offense of carnal knowledge, or for a greater offense that is later reduced to the lesser included offense of carnal knowledge, on or after February 10, 1996.

(d) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to May 27, 1998, and any such nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.



THE WHITE HOUSE,
May 27, 1998.

[FR Doc. 98–14688
Filed 6–1–98; 8:45 am]
Billing code 3195–01–P

Changes to the Discussion Accompanying the Manual for Courts-Martial, United States.

a. The Discussion following R.C.M. 103 is amended by adding the following two sections at the end of the Discussion:

''(14) ''Classified information'' (A) means any information or material that has been determined by an official of the United States pursuant to law, an Executive Order, or regulation to require protection against unauthorized disclosure for reasons of national security, and (B) any restricted data, as defined in section 2014(y) of title 42, United States Code.

(15) ''National security'' means the national defense and foreign relations of the United States.''

b. The Discussion following R.C.M. 405(e) is amended by adding the following paragraph at the end of the Discussion:

''In investigating uncharged misconduct identified during the pretrial investigation, the investigating officer will inform the accused of the general nature of each uncharged offense investigated, and otherwise afford the accused the same opportunity for representation, cross examination, and presentation afforded during the investigation of any charged offense.''

c. The Discussion following R.C.M. 703(e)(2)(G)(i) is amended by adding the following sentence at the end of the second paragraph:

''Failing to comply with such a subpoena is a felony offense, and may result in a fine or imprisonment, or both, at the discretion of the district court.''

d. The following Discussion is inserted after the first two sentences of R.C.M. 707(c):

''Periods during which the accused is hospitalized due to incompetence or otherwise in the custody of the Attorney General are excluded when determining speedy trial under this rule.''

e. The following Discussion is added after R.C.M. 909(f):

''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 4246 of title 18.''

f. The Discussion following R.C.M. 916(j) is amended by inserting the following paragraph after the third paragraph in the Discussion:

''Examples of offenses in which the accused's intent or knowledge is immaterial include: carnal knowledge (if the victim is under 12 years of age, knowledge or belief as to age is immaterial) and improper use of countersign (mistake as to authority of person to whom disclosed not a defense). However, such ignorance or mistake may be relevant in extenuation and mitigation.''

g. The Discussion following R.C.M. 1003(b)(2) is amended by inserting the following paragraph after the first paragraph in the Discussion:

''Forfeitures of pay and allowances adjudged as part of a court-martial sentence, or occurring by operation of Article 58b are effective 14 days after the sentence is adjudged or when the sentence is approved by the convening authority, whichever is earlier.''

h. The Discussion following R.C.M. 1003(b)(2) is amended by adding the following at the end of the Discussion:

''Forfeiture of pay and allowances under Article 58b is not a part of the sentence, but is an administrative result thereof.

At general courts-martial, if both a punitive discharge and confinement are adjudged, then the operation of Article 58b results in total forfeiture of pay and allowances during that period of confinement. If only confinement is adjudged, then if that confinement exceeds six months, the operation of Article 58b results in total forfeiture of pay and allowances during that period of confinement. If only a punitive discharge is adjudged, Article 58b has no effect on pay and allowances. A death sentence results in total forfeiture of pay and allowances.

At a special court-martial, if a bad-conduct discharge and confinement are adjudged, then the operation of Article 58b results in a forfeiture of two-thirds of pay only during that period of confinement. If only confinement is adjudged, however, then Article 58b has no effect on adjudged forfeitures.

If the sentence, as approved by the convening authority or other competent authority, does not result in forfeitures by the operation of Article 58b, then only adjudged forfeitures are effective.

Article 58b has no effect on summary courts-martial.''

i. The Discussion following R.C.M. 1101(c)(6) is amended to read as follows:

''When the sentence is ordered executed, forfeitures or reduction in grade may be suspended, but may not be deferred; deferral of confinement may continue after action in accordance with R.C.M. 1107. A form of punishment cannot be both deferred and suspended at the same time. When deferment of confinement, forfeitures, or reduction in grade ends, the sentence to confinement, forfeitures, or reduction in grade begins to run or resumes running, as appropriate. When the convening authority has specified in the action that confinement will be deferred after the action, the deferment may not be terminated, except under subsections (6)(B), (C), or (D), until the conviction is final under R.C.M. 1209.

See R.C.M. 1203 for deferment of a sentence to confinement pending review under Article 67(a)(2).''

j. The following Discussion is added after R.C.M. 1101(d):

''Forfeitures resulting by operation of law, rather than those adjudged as part of a sentence, may be waived for six months or for the duration of the period of confinement, whichever is less. The waived forfeitures are paid as support to dependent(s) designated by the convening authority. When directing waiver and payment, the convening authority should identify by name the dependent(s) to whom the payments will be made and state the number of months for which the waiver and payment shall apply.

In cases where the amount to be waived and paid is less than the jurisdictional limit of the court, the monthly dollar amount of the waiver and payment should be stated.''

k. The Discussion following R.C.M. 1105(b) is amended by adding the following at the end of the Discussion:

''Although only written submissions must be considered, the convening authority may consider any submission by the accused, including, but not limited to, videotapes, photographs, and oral presentations.''

l. The following Discussion is added after R.C.M. 1107(b)(4):

''Commitment of the accused to the custody of the Attorney General for hospitalization is discretionary.''

m. The Discussion following R.C.M. 1109(d)(1)(E) is amended to read as follows:

''See Appendix 18 for a sample of a Report of Proceedings to Vacate Suspension of a General Court-Martial Sentence under Article 72, UCMJ, and R.C.M. 1109 (DD Form 455).''

n. The following Discussion is added after R.C.M. 1109(f):

''An officer exercising special court-martial jurisdiction may vacate any suspended punishments other than an approved suspended bad-conduct discharge, regardless of whether they are contained in the same sentence as a bad-conduct discharge.

See Appendix 18 for a sample of a Report of Proceedings to Vacate Suspension of a Special Court-Martial Sentence including a bad-conduct discharge under Article 72, UCMJ, and R.C.M. 1109 (DD Form 455).''

Changes to the Analysis Accompanying the Manual for Courts-Martial, United States.

1. Changes to Appendix 21, the Analysis accompanying the Rules for Courts-Martial (Part II, MCM).

a. R.C.M. 103. The analysis accompanying R.C.M. 103 is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' The Discussion was amended to include new definitions of ''classified information'' in (14) and ''national security'' in (15). They are identical to those used in the Classified Information Procedures Act (18 U.S.C. App. III § 1, *et. seq.*). They were added in connection with the change to Article 62(a)(1) (Appeals Relating to Disclosure of Classified Information). *See* R.C.M. 908 (Appeal by the United States) and M.R.E. 505 (Classified Information).''

b. R.C.M. 405. The analysis accompanying R.C.M. 405(e) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' This change is based on the amendments to Article 32 enacted by Congress in section 1131, National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 464 (1996). It authorizes the Article 32 investigating officer to investigate uncharged offenses when, during the course of the Article 32 investigation, the evidence indicates that the accused may have committed such offenses. Permitting the investigating officer to investigate uncharged offenses and recommend an appropriate disposition benefits both the government and the accused. It promotes judicial economy while still affording the accused the same rights the accused would have in the investigation of preferred charges.''

c. R.C.M. 703. The analysis accompanying R.C.M. 703(e)(2)(G)(i) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' The Discussion was amended to reflect the amendment of Article 47, UCMJ, in section 1111 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 461 (1996). The amendment removes limitations on the punishment that a federal district court may impose for a civilian witness' refusal to honor a subpoena to appear or testify before a court-martial. Previously, the maximum sentence

for a recalcitrant witness was ''a fine of not more than $500.00, or imprisonment for not more than six months, or both.'' The law now leaves the amount of confinement or fine to the discretion of the federal district court.''

d. R.C.M. 706. The analysis accompanying R.C.M. 706 is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' Subsection (c)(2)(D) was amended to reflect the standard for incompetence set forth in Article 76b, UCMJ.''

e. R.C.M. 707(c). The analysis accompanying R.C.M. 707(c) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' In creating Article 76b, UCMJ, Congress mandated the commitment of an incompetent accused to the custody of the Attorney General. As an accused is not under military control during any such period of custody, the entire time period is excludable delay under the 120-day speedy trial rule.''

f. R.C.M. 809. The analysis accompanying R.C.M. 809 is amended by adding the following at the end thereof:

''*1998 Amendment*:'' R.C.M. 809 was amended to modernize military contempt procedures, as recommended in *United States v. Burnett*, 27 M.J. 99, 106 (C.M.A. 1988). Thus, the amendment simplifies the contempt procedure in trials by courts-martial by vesting contempt power in the military judge and eliminating the members' involvement in the process. The amendment also provides that the court-martial proceedings need not be suspended while the contempt proceedings are conducted. The proceedings will be conducted by the military judge in all cases, outside of the members' presence. The military judge also exercises discretion as to the timing of the proceedings and, therefore, may assure that the court-martial is not otherwise unnecessarily disrupted or the accused prejudiced by the contempt proceedings. *See Sacher v. United States*, 343 U.S. 1, 10, 72 S. Ct. 451, 455, 96 L. Ed. 717, 724 (1952). The amendment also brings court-martial contempt procedures into line with the procedure applicable in other courts.''

g. R.C.M. 908. The analysis accompanying R.C.M. 908 is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' The change to R.C.M. 908(a) resulted from the amendment to Article 62, UCMJ, in section 1141, National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 466–67 (1996). It permits interlocutory appeal of rulings disclosing classified information.''

h. R.C.M. 909. The analysis accompanying R.C.M. 909 is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' The rule was changed to provide for the hospitalization of an incompetent accused after the enactment of Article 76b, UCMJ, in section 1133 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 464–66 (1996).''

i. R.C.M. 916(b). The analysis accompanying R.C.M. 916(b) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' In enacting section 1113 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 462 (1996), Congress amended Article 120, UCMJ, to create a mistake of fact defense to a prosecution for carnal knowledge. The accused must prove by a preponderance of the evidence that the person with whom he or she had sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this person was at least 16 years of age. The changes to R.C.M. 916(b) and (j) implement this amendment.''

j. R.C.M. 916(j). The analysis accompanying R.C.M. 916(j) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' In enacting section 1113 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 462 (1996), Congress amended Article 120, UCMJ, to create a mistake of fact defense to a prosecution for carnal knowledge. The accused must prove by a preponderance of the evidence that the person with whom he or she had sexual intercourse was at least 12 years of age, and that

the accused reasonably believed that this person was at least 16 years of age. The changes to R.C.M. 916(b) and (j) implement this amendment.''

k. R.C.M. 920(e). The analysis accompanying R.C.M. 920(e) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' This change to R.C.M. 920(e) implemented Congress' creation of a mistake of fact defense for carnal knowledge. Article 120(d), UCMJ, provides that the accused must prove by a preponderance of the evidence that the person with whom he or she had sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this person was at least 16 years of age.''

l. R.C.M. 1005(e). The analysis accompanying R.C.M. 1005(e) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' The requirement to instruct members on the effect a sentence including a punitive discharge and confinement, or confinement exceeding six months, may have on adjudged forfeitures was made necessary by the creation of Article 58b, UCMJ, in section 1122, National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 463 (1996).''

m. R.C.M. 1101. The analysis accompanying R.C.M. 1101(c) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' In enacting section 1121 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 462, 464 (1996), Congress amended Article 57(a) to make forfeitures of pay and allowances and reductions in grade effective either 14 days after being adjudged by a court-martial, or when the convening authority takes action in the case, whichever was earlier in time. Until this change, any forfeiture or reduction in grade adjudged by the court did not take effect until convening authority action, which meant the accused often retained the privileges of his or her rank and pay for up to several months. The intent of the amendment to Article 57(a) was to change this situation so that the desired punitive and rehabilitative impact on the accused occurred more quickly.

Congress, however, desired that a deserving accused be permitted to request a deferment of any adjudged forfeitures or reduction in grade, so that a convening authority, in appropriate situations, might mitigate the effect of Article 57(a).

This change to R.C.M. 1101 is in addition to the change to R.C.M. 1203. The latter implements Congress' creation of Article 57a, giving the Service Secretary concerned the authority to defer a sentence to confinement pending review under Article 67(a)(2).''

n. R.C.M. 1101(d). The analysis accompanying R.C.M. 1101(d) is added as follows:

''*1998 Amendment*:'' This new subsection implements Article 58b, UCMJ, created by section 1122, National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 463 (1996). This article permits the convening authority (or other person acting under Article 60) to waive any or all of the forfeitures of pay and allowances forfeited by operation of Article 58b(a) for a period not to exceed six months. The purpose of such waiver is to provide support to some or all of the accused's dependent(s) when circumstances warrant. The convening authority directs the waiver and identifies those dependent(s) who shall receive the payment(s).''

o. R.C.M. 1102A. The analysis accompanying R.C.M. 1102A is added as follows:

''*1998 Amendment*:'' This new Rule implements Article 76b(b), UCMJ. Created in section 1133 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 464–66 (1996), it provides for a post-trial hearing within forty days of the finding that the accused is not guilty only by reason of a lack of mental responsibility. Depending on the offense concerned, the accused has the burden of proving either by a preponderance of the evidence, or by clear and convincing evidence,

that his or her release would not create a substantial risk of bodily injury to another person or serious damage to property of another due to a present mental disease or defect. The intent of the drafters is for R.C.M. 1102A to mirror the provisions of sections 4243 and 4247 of title 18, United States Code.''

p. R.C.M. 1107(b). The analysis accompanying R.C.M. 1107(b) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' Congress created Article 76b, UCMJ in section 1133 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 464–66 (1996). It gives the convening authority discretion to commit an accused found not guilty only by reason of a lack of mental responsibility to the custody of the Attorney General.''

q. R.C.M. 1107(d). The analysis accompanying R.C.M. 1107(d) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' All references to ''postponing'' service of a sentence to confinement were changed to use the more appropriate term, ''defer.''

r. R.C.M. 1109. The analysis accompanying R.C.M. 1109 is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' The Rule is amended to clarify that ''the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge,'' permits the officer exercising special court-martial jurisdiction to vacate any suspended punishments other than an approved suspended bad-conduct discharge.''

s. R.C.M. 1203(c). The analysis accompanying R.C.M. 1203(c) is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' The change to the rule implements the creation of Article 57a, UCMJ, contained in section 1123 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 463–64 (1996). A sentence to confinement may be deferred by the Secretary concerned when it has been set aside by a Court of Criminal Appeals and a Judge Advocate General certifies the case to the Court of Appeals for the Armed Forces for further review under Article 67(a)(2). Unless it can be shown that the accused is a flight risk or a potential threat to the community, the accused should be released from confinement pending the appeal. *See Moore v. Akins*, 30 M.J. 249 (C.M.A. 1990).''

t. R.C.M. 1210. The analysis accompanying R.C.M. 1210 is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' R.C.M. 1210(a) was amended to clarify its application consistent with interpretations of Fed. R. Crim. P. 33 that newly discovered evidence is never a basis for a new trial of the facts when the accused has pled guilty. *See United States v. Lambert*, 603 F.2d 808, 809 (10th Cir. 1979); *see also United States v. Gordon*, 4 F.3d 1567, 1572 n.3 (10th Cir. 1993), *cert. denied*, 510 U.S. 1184 (1994); *United States v. Collins*, 898 F. 2d 103 (9th Cir. 1990)(per curiam); *United States v. Prince*, 533 F.2d 205 (5th Cir. 1976); *Williams v. United States*, 290 F.2d 217 (5th Cir. 1961). *But see United States v. Brown*, 11 U.S.C.M.A. 207, 211, 29 C.M.R. 23, 27 (1960)(per Latimer, J.)(newly discovered evidence could be used to attack guilty plea on appeal in era prior to the guilty plea examination mandated by *United States v. Care*, 18 U.S.C.M.A. 535, 40 C.M.R. 247 (1969) and R.C.M. 910(e)). Article 73 authorizes a petition for a new trial of the facts when there has been a trial. When there is a guilty plea, there is no trial. See R.C.M. 910(j). The amendment is made in recognition of the fact that it is difficult, if not impossible, to determine whether newly discovered evidence would have an impact on the trier of fact when there has been no trier of fact and no previous trial of the facts at which other pertinent evidence has been adduced. Additionally, a new trial may not be granted on the basis of newly discovered evidence unless ''[t]he newly discovered evidence, if considered by a court-martial in the light of all other pertinent evidence, would probably produce a substantially more favorable result for the accused.'' R.C.M. 1210(f)(2)(C).''

2. Changes to Appendix 22, the Analysis accompanying the Military Rules of Evidence (Part III, MCM).

a. M.R.E. 412. The analysis accompanying M.R.E. 412 is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' The revisions to Rule 412 reflect changes made to Federal Rule of Evidence 412 by section 40141 of the Violent Crime Control and Law Enforcement Act of 1994, Pub L. No. 103–322, 108 Stat. 1796, 1918–19 (1994). The purpose of the amendments is to safeguard the alleged victim against the invasion of privacy and potential embarrassment that is associated with public disclosure of intimate sexual details and the infusion of sexual innuendo into the factfinding process.

The terminology ''alleged victim'' is used because there will frequently be a factual dispute as to whether the sexual misconduct occurred. Rule 412 does not, however, apply unless the person against whom the evidence is offered can reasonably be characterized as a ''victim of alleged sexual misconduct.''

The term ''sexual predisposition'' is added to Rule 412 to conform military practice to changes made to the Federal Rule. The purpose of this change is to exclude all other evidence relating to an alleged victim of sexual misconduct that is offered to prove a sexual predisposition. It is designed to exclude evidence that does not directly refer to sexual activities or thoughts but that the accused believes may have a sexual connotation for the factfinder. Admission of such evidence would contravene Rule 412's objectives of shielding the alleged victim from potential embarrassment and safeguarding the victim against stereotypical thinking. Consequently, unless an exception under (b)(1) is satisfied, evidence such as that relating to the alleged victim's mode of dress, speech, or lifestyle is inadmissible.

In drafting Rule 412, references to civil proceedings were deleted, as these are irrelevant to courts-martial practice. Otherwise, changes in procedure made to the Federal Rule were incorporated, but tailored to military practice. The Military Rule adopts a 5-day notice period, instead of the 14-day period specified in the Federal Rule. Additionally, the military judge, for good cause shown, may require a different time for such notice or permit notice during trial. The 5-day period preserves the intent of the Federal Rule that an alleged victim receive timely notice of any attempt to offer evidence protected by Rule 412, however, given the relatively short time period between referral and trial, the 5-day period is deemed more compatible with courts-martial practice.

Similarly, a closed hearing was substituted for the in camera hearing required by the Federal Rule. Given the nature of the in camera procedure used in Military Rule of Evidence 505(i)(4), and that an in camera hearing in the district courts more closely resembles a closed hearing conducted pursuant to Article 39(a), the latter was adopted as better suited to trial by courts-martial. Any alleged victim is afforded a reasonable opportunity to attend and be heard at the closed Article 39(a) hearing. The closed hearing, combined with the new requirement to seal the motion, related papers, and the record of the hearing, fully protects an alleged victim against invasion of privacy and potential embarrassment.''

b. M.R.E. 413. The analysis accompanying M.R.E. 413 is added as follows:

''*1998 Amendment*:'' This amendment is intended to provide for more liberal admissibility of character evidence in criminal cases of sexual assault where the accused has committed a prior act of sexual assault.

Rule 413 is nearly identical to its Federal Rule counterpart. A number of changes were made, however, to tailor the Rule to military practice. First, all references to Federal Rule 415 were deleted, as it applies only to civil proceedings. Second, military justice terminology was substituted where appropriate (e.g. accused for defendant, court-martial for case). Third, the 5-day notice requirement in Rule 413(b) replaced a 15-day notice requirement in the Federal Rule. A 5-day requirement is better suited to military

discovery practice. This 5-day notice requirement, however, is not intended to restrict a military judge's authority to grant a continuance under R.C.M. 906(b)(1). Fourth, Rule 413(d) has been modified to include violations of the Uniform Code of Military Justice. Also, the phrase ''without consent'' was added to Rule 413(d)(1) to specifically exclude the introduction of evidence concerning adultery or consensual sodomy. Last, all incorporation by way of reference was removed by adding subsections (e), (f), and (g). The definitions in those subsections were taken from title 18, United States Code § § 2246(2), 2246(3), and 513(c)(5), respectively.

Although the Rule states that the evidence ''is admissible,'' the drafters intend that the courts apply Rule 403 balancing to such evidence. Apparently, this also was the intent of Congress. The legislative history reveals that ''the general standards of the rules of evidence will continue to apply, including the restrictions on hearsay evidence and the court's authority under evidence rule 403 to exclude evidence whose probative value is substantially outweighed by its prejudicial effect.'' 140 Cong. Rec. S12,990 (daily ed. Sept. 20, 1994)(Floor Statement of the Principal Senate Sponsor, Senator Bob Dole, Concerning the Prior Crimes Evidence Rules for Sexual Assault and Child Molestation Cases).

When ''weighing the probative value of such evidence, the court may, as part of its rule 403 determination, consider proximity in time to the charged or predicate misconduct; similarity to the charged or predicate misconduct; frequency of the other acts; surrounding circumstances; relevant intervening events; and other relevant similarities or differences.'' (Report of the Judicial Conference of the United States on the Admission of Character Evidence in Certain Sexual Misconduct Cases).''

c. M.R.E. 414. The analysis accompanying M.R.E. 414 is added as follows:

''*1998 Amendment*:'' This amendment is intended to provide for more liberal admissibility of character evidence in criminal cases of child molestation where the accused has committed a prior act of sexual assault or child molestation.

Rule 414 is nearly identical to its Federal Rule counterpart. A number of changes were made, however, to tailor the Rule to military practice. First, all references to Federal Rule 415 were deleted, as it applies only to civil proceedings. Second, military justice terminology was substituted where appropriate (e.g. accused for defendant, court-martial for case). Third, the 5-day notice requirement in Rule 414(b) replaced a 15-day notice requirement in the Federal Rule. A 5-day requirement is better suited to military discovery practice. This 5-day notice requirement, however, is not intended to restrict a military judge's authority to grant a continuance under R.C.M. 906(b)(1). Fourth, Rule 414(d) has been modified to include violations of the Uniform Code of Military Justice. Last, all incorporation by way of reference was removed by adding subsections (e), (f), (g), and (h). The definitions in those subsections were taken from title 18, United States Code § § 2246(2), 2246(3), 2256(2), and 513(c)(5), respectively.

Although the Rule states that the evidence ''is admissible,'' the drafters intend that the courts apply Rule 403 balancing to such evidence. Apparently, this was also the intent of Congress. The legislative history reveals that ''the general standards of the rules of evidence will continue to apply, including the restrictions on hearsay evidence and the court's authority under evidence rule 403 to exclude evidence whose probative value is substantially outweighed by its prejudicial effect.'' 140 Cong. Rec. S12,990 (daily ed. Sept. 20, 1994)(Floor Statement of the Principal Senate Sponsor, Senator Bob Dole, Concerning the Prior Crimes Evidence Rules for Sexual Assault and Child Molestation Cases).

When ''weighing the probative value of such evidence, the court may, as part of its rule 403 determination, consider proximity in time to the charged or predicate misconduct; similarity to the charged or predicate misconduct; frequency of the other acts; surrounding circumstances; relevant intervening events; and other relevant similarities or differences.'' (Report

of the Judicial Conference of the United States on the Admission of Character Evidence in Certain Sexual Misconduct Cases).''

d. M.R.E. 1102. The analysis accompanying M.R.E. 1102 is amended by inserting the following at the end thereof:

''*1998 Amendment*:'' The Rule is amended to increase to 18 months the time period between changes to the Federal Rules of Evidence and automatic amendment of the Military Rules of Evidence. This extension allows for the timely submission of changes through the annual review process.''

3. Changes to Appendix 23, the Analysis accompanying the Punitive Articles (Part IV, MCM).

a. Article 95—Resistance, flight, breach of arrest and escape. The following analysis is inserted after the analysis to Article 95:

''*1998 Amendment*:'' Subparagraphs a, b, c and f were amended to implement the amendment to 10 U.S.C. § 895 (Article 95, UCMJ) contained in section 1112 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 461 (1996). The amendment proscribes fleeing from apprehension without regard to whether the accused otherwise resisted apprehension. The amendment responds to the U.S. Court of Appeals for the Armed Forces decisions in *United States v. Harris*, 29 M.J. 169 (C.M.A. 1989), and *United States v. Burgess*, 32 M.J. 446 (C.M.A. 1991). In both cases, the court held that resisting apprehension does not include fleeing from apprehension, contrary to the then-existing explanation in Part IV, paragraph 19c.(1)(c), MCM, of the nature of the resistance required for resisting apprehension. The 1951 and 1969 Manuals for Courts-Martial also explained that flight could constitute resisting apprehension under Article 95, an interpretation affirmed in the only early military case on point, *United States v. Mercer*, 11 C.M.R. 812 (A.F.B.R. 1953). Flight from apprehension should be expressly deterred and punished under military law. Military personnel are specially trained and routinely expected to submit to lawful authority. Rather than being a merely incidental or reflexive action, flight from apprehension in the context of the armed forces may have a distinct and cognizable impact on military discipline.''

b. Article 120—Rape and carnal knowledge. The following analysis is inserted after the analysis to Article 120:

''*1998 Amendment*:'' In enacting section 1113 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106, 110 Stat. 186, 462 (1996), Congress amended Article 120, UCMJ, to make the offense gender neutral and create a mistake of fact as to age defense to a prosecution for carnal knowledge. The accused must prove by a preponderance of the evidence that the person with whom he or she had sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this person was at least 16 years of age.''

c. Article 128—Assault. The following analysis is inserted after the analysis to Article 128, para. e:

''*1998 Amendment*:'' A separate maximum punishment for assault with an unloaded firearm was created due to the serious nature of the offense. Threatening a person with an unloaded firearm places the victim of that assault in fear of losing his or her life. Such a traumatic experience is a far greater injury to the victim than that sustained in the course of a typical simple assault. Therefore, it calls for an increased punishment.''

d. Article 134—(Parole, Violation of). The following new analysis paragraph is inserted after paragraph 97:

''97a. Article 134—(Parole, Violation of)

1998 Amendment: The addition of paragraph 97a to Part IV, Punitive Articles, makes clear that violation of parole is an offense under Article 134, UCMJ. Both the 1951 and 1969 Manuals for Courts-Martial listed the offense in their respective Table of Maximum Punishments. No explanatory guidance, however, was contained in the discussion of Article 134, UCMJ in the Manual for Courts-Martial. The drafters added paragraph 97a to ensure that an explanation of the offense, to include its elements and a sample

specification, is contained in the Manual for Courts-Martial, Part IV, Punitive Articles. *See generally United States v. Faist*, 41 C.M.R. 720 (A.C.M.R. 1970); *United States v. Ford*, 43 C.M.R. 551 (A.C.M.R. 1970).''

Billing code 5000–04–P

Presidential Documents

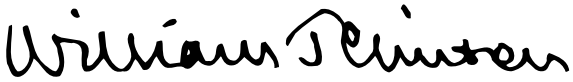
Executive Order 13087 of May 28, 1998

Further Amendment to Executive Order 11478, Equal Employment Opportunity in the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States, and in order to provide for a uniform policy for the Federal Government to prohibit discrimination based on sexual orientation, it is hereby ordered that Executive Order 11478, as amended, is further amended as follows:

Section 1. The first sentence of section 1 is amended by substituting ''age, or sexual orientation'' for ''or age''.

Sec. 2. The second sentence of section 1 is amended by striking the period and adding at the end of the sentence '', to the extent permitted by law.''.



THE WHITE HOUSE,
May 28, 1998.

[FR Doc. 98–14689
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H.R. 3301/P.L. 105–176

To amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program. (May 29, 1998; 112 Stat. 104)

Last List May 14, 1998

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