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# federal register

Tuesday
June 23, 1998

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# Rules and Regulations

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

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

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 575

**RIN 3206–AI31**

### Retention Allowances

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing interim regulations to provide agencies with discretionary authority to pay retention allowances of up to 10 percent of an employee's rate of basic pay (or up to 25 percent with OPM approval) to a group or category of employees in certain limited circumstances. This change is being made to address the desire of some agencies to waive the case-by-case determination requirement contained in current regulations in order to expedite the authorization of retention allowances for certain information technology employees. This change will have the effect of providing agencies with greater flexibility in responding to a possible increased need for retention incentives for computer programmers who must make the computer system changes needed to meet the year 2000 conversion requirements.

**DATES:** June 23, 1998. Comments must be received on or before August 24, 1998.

**ADDRESSES:** Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415; FAX: (202) 606–0824; or email to payleave@opm.gov.

**FOR FURTHER INFORMATION CONTACT:** Paul Shields, (202) 606–2858; FAX: (202) 606–0824; or email to payleave@opm.gov.

**SUPPLEMENTARY INFORMATION:** The regulatory change set forth below is necessary to provide agencies with discretionary authority to pay retention allowances of up to 10 percent of an employee's rate of basic pay (up to 25 percent with Office of Personnel Management approval) to a group or category of employees (excluding members of the Senior Executive Service (SES), employees in senior-level or scientific or professional (SL/ST) positions, Executive Schedule officials, and Presidential appointees).

The current retention allowance authority in 5 U.S.C. 5754 and 5 CFR part 575, subpart C, provides agencies with discretionary authority to pay a retention allowance of up to 25 percent of basic pay to an employee based on a determination that (1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee, and (2) the employee would be likely to leave Federal service without the allowance. It is the intent of the current retention allowance regulations that the determination that an employee is likely to leave the Federal service must be made on a case-by-case basis.

Recently, some agencies have expressed a desire to waive the case-by-case determination requirement in order to expedite the authorization of retention allowances for certain information technology employees. Specifically, agencies have indicated an increased need for recruitment and retention incentives for computer programmers and other employees who must make the required computer system changes to meet the year 2000 conversion requirements. Agencies believe it is essential to retain employees with programming and other information technology skills to meet the year 2000 conversion goals because some of the system changes are critical to agency missions. Some of these employees also have unique knowledge and skills in special programming languages or antiquated computer systems that are often necessary for making year 2000 modifications. Agencies believe employees with such programming skills are likely to leave Federal service for Government contractor or other private sector jobs with similar programming needs.

Currently, the compensation tool that is primarily used for resolving recruitment and retention problems for categories or groups of employees is the special salary rate authority under 5 U.S.C. 5305 and 5 CFR part 530, subpart B. However, special salary rates may not always be the most appropriate option for resolving temporary or immediate staffing needs such as the year 2000 conversion projects. For example, special rate schedules can be expensive and difficult to terminate when no longer needed because they are basic pay for all purposes. Higher rates of basic pay increase the cost of retirement, life insurance, premium pay, and certain other entitlements and have a continuing effect on the employee's future pay entitlements (for example, upon promotion).

Also, under current law, if a special rate schedule is terminated, each employee's special pay rate must be set at an equivalent rate in the basic General Schedule rate range for the employee's grade, or, if the rate exceeds the maximum rate for that grade, the employee becomes entitled to pay retention under 5 U.S.C. 5363. In both cases, the employee's pay rate would be increased by locality pay, providing an unnecessary windfall pay increase. Establishing special rate schedules with such long-term pay implications for temporary staffing needs can be very costly to agencies.

These interim regulations amend 5 CFR 575.305 by adding a new paragraph (d) to provide agencies with authority to authorize retention allowances of up to 10 percent of an employee's rate of basic pay for a group or category employees in certain limited circumstances. This authority does not apply to employees in senior-level and scientific or professional (SL/ST) positions, members of the Senior Executive Service, Executive Schedule officials, Presidential appointees, or those in similar positions with respect to which the authority to approve retention allowances has been delegated to agency heads by OPM under section 575.302(c). For employees in these categories, retention allowances must continue to be approved on a case-by-case basis.

Retention allowances authorized for a category of employees must be based on a written determination that the

employees have unusually high or unique qualifications or the agency has a special need for the employees' services that makes it essential to retain the employees in that category and that it is reasonable to presume that there is a high risk that a significant number of employees in the targeted category are likely to leave Federal service in the absence of the allowance. The determination that there is a high risk that a significant number of employees in the targeted category are likely to leave may be based on evidence of extreme labor market conditions, high demand in the private sector for the employees' knowledge and skills, significant disparities between Federal and private sector salaries, or other similar conditions. All other criteria and requirements for payment under 5 CFR part 575, subpart C, must be met before an agency may pay a retention allowance to an individual employee in the targeted category.

The new paragraph (d) also authorizes OPM to approve retention allowances in excess of 10 percent, but not to exceed 25 percent, of an employee's rate of basic pay for a category of employees upon the request of the head of an agency. (The regulations continue to provide agencies with authority to pay retention allowances of up to 25 percent of basic pay to employees on a case-by-case basis without OPM approval.) Such group retention allowance requests must include a description of the category and number of employees to be covered by the proposed retention allowance, a written determination that the group or category of employees meets the criteria for payment of an allowance to a group or category of employees, the proposed percentage retention allowance payment and a justification for that percentage, the expected duration of retention allowance payments, and any other information pertinent to the case at hand. OPM may require that requests be coordinated with other agencies having employees in the same category. This will ensure a level playing field among agencies with similar staffing needs and help avoid the escalation of payroll costs driven primarily by interagency competition for employees.

Agencies should be as specific as possible when identifying and defining the targeted category of employees for which a retention allowance is authorized. The employee category should be narrowly defined by a combination of factors such as occupational series, grade level, duties performed and unique qualifications required, organization or team designation, geographic location, the specific project the group is working on or service the group is providing, and the level of performance required. (Note that, while an employee's performance level may be one of the supporting factors that is considered in deciding whether to pay a retention allowance and in setting the allowance rate, it should not be the primary determining factor.)

The interim regulations will provide the retention allowance authority as an alternative to the special salary rate authority for resolving recruitment and retention problems related to the year 2000 conversion project and other agency staffing needs on a categorical basis. Retention allowances are more flexible and cost effective than special rates. For example, in the case of allowances approved for individual employees or groups of employees, agencies may vary the size of retention allowance payments based on such factors as the severity of the turnover problem and labor market conditions in a geographic area, the criticality of the particular project, the percentage of time the employee(s) must devote to a project, and special qualifications of the individual employee or group of employees.

Also, retention allowances are more suited for temporary staffing needs because agencies can reduce or terminate retention allowances at any time at no cost. Agencies may reduce or terminate an allowance if a lesser amount or none at all would be sufficient to retain an employee (or group of employees in the case of group-based allowances), if labor market conditions make it more likely to recruit candidates with needed qualifications, if the need for the services of the employee(s) has been reduced, or if budgetary considerations make it difficult to continue paying the allowance. Because retention allowances are not basic pay, reduction or termination of an allowance is not an adverse action under chapter 75 of title 5, United States Code.

Agencies should be aware that providing additional compensation is not the only, nor always the best, way to resolve recruitment and retention problems. Agencies should carefully analyze their staffing needs and employee work situations and explore non-pay human resources management alternatives, as well. For example, agencies should, as appropriate, investigate alternative recruitment strategies, use of temporary or term appointments, employment of experts and consultants, and appointments with varying work schedules, such as part-time, intermittent, and seasonal schedules. Agencies may redesign jobs so that a pool of candidates may more easily qualify for a position or to make a job more appealing to candidates by adding desirable duties or eliminating undesirable duties.

Other flexibilities include establishing alternative work schedules (i.e., flexible or compressed work schedules) and job sharing and telecommuting programs for employees. As appropriate, agencies may also pay or share the cost of employee training and higher education. Finally, agencies should ensure that the employee's work environment is safe and conducive to enhanced performance and retention. For example, modern equipment and a comfortable work space may be more of a retention incentive than additional compensation. Agencies should weigh the advantages and disadvantages of each of these and the many other human resources management flexibilities to ensure that the most responsive and cost effective staffing strategy is implemented.

**Waiver of Notice of Proposed Rule Making and Delay in Effective Date**

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this rule effective in less than 30 days. This regulation is needed to provide agencies with an alternative compensation tool to meet their staffing needs in time to successfully meet year 2000 computer system conversion requirements.

**E.O. 12866, Regulatory Review**

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

**Regulatory Flexibility Act**

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

**List of Subjects in 5 CFR Part 575**

Government employees, Wages.

Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

Accordingly, OPM is amending part 575 of title 5 of the Code of Federal Regulations as follows:

## PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS

1. The authority citation for part 575 continues to read as follows:

**Authority:** 5 U.S.C. 1104(a)(2), 5753, 5754, and 5755; secs. 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462 and 1466, respectively; E.O. 12748, 3 CFR, 1992 Comp., p. 316.

### Subpart C—Retention Allowances

2. Section 575.305 is amended by adding paragraph (d) to read as follows:

**§ 575.305 Agency retention allowance plans; higher level review and approval; and criteria for payment.**

* * * * *

(d) *Approval of retention allowances for groups or categories of employees.* (1) An agency may authorize a retention allowance of up to 10 percent of an employee's rate of basic pay for a group or category of employees (excluding individuals covered by § 575.302(a) (2), (3), (5), or (6) or those in similar positions with respect to which the authority to approve retention allowances has been delegated to agency heads by OPM under § 575.302(c)) based on a written determination that the category of employees has unusually high or unique qualifications, or the agency has a special need for the employees' services that makes it essential to retain the employees in that category, and that it is reasonable to presume that there is a high risk that a significant number of employees in the targeted category are likely to leave Federal service in the absence of the allowance. The determination that there is a high risk that a significant number of employees in the targeted category are likely to leave may be based on evidence of extreme labor market conditions, high demand in the private sector for the knowledge and skills possessed by the employees, significant disparities between Federal and private sector salaries, or other similar conditions.

(2) Upon the request of the head of an agency, OPM may approve a retention allowance in excess of 10 percent, but not in excess of 25 percent, of an employee's rate of basic pay for a group or category of employees that meets the criteria specified in paragraph (d)(1) of this section. OPM may require that such requests be coordinated with other agencies having similarly situated employees in the same category. Group retention allowance requests must include—

(i) A description of the group or category and number of employees to be covered by the proposed retention allowance;

(ii) A written determination that the group or category of employees meets the criteria specified in paragraph (d)(1) of this section;

(iii) The proposed percentage retention allowance payment and a justification for that percentage;

(iv) The expected duration of retention allowance payments; and

(v) Any other information pertinent to the case at hand.

(3) All other criteria and requirements for payment under this subpart must be met before a retention allowance may be paid to any individual employee under this paragraph (d).

[FR Doc. 98–16667 Filed 6–22–98; 8:45 am]

BILLING CODE 6325–01–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 25

**[Docket No. NM149, Special Conditions No. 25–138–SC]**

## Special Conditions: McDonnell Douglas DC–9–81,–82 Airplanes; High Intensity Radiated Fields (HIRF)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for McDonnell Douglas DC–9–81, –82 airplanes modified by Midwest Express Airlines. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is June 11, 1998. Comments must be received on or before August 7, 1998.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM149, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM149. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Connie Beeane, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2799; facsimile (425) 227–2796.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM149.'' The postcard will be date stamped and returned to the commenter.

### Background

On March 12, 1998, Midwest Express Airlines applied for a supplemental type certificate (STC) to modify McDonnell Douglas DC–9–81, –82 airplanes listed on Type Certificate A6WE. The modification incorporates the installation of electronic flight instrument system (EFIS) for display of critical flight parameters (altitude, airspeed, and attitude) to the crew. These displays can be susceptible to disruption to both command/response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

## Type Certification Basis

Under the provisions of 14 CFR § 21.101, Midwest Express Avionics must show that the McDonnell Douglas DC–9–81, –82 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A6WE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The certification basis for the modified McDonnell Douglas DC–9–81, –82 airplanes include 14 CFR part 25, dated February 1, 1965, with Amendments 1 through 40, as amended by TCDS A6WE.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the McDonnell Douglas DC–9–81, –82 airplanes because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with 14 CFR 11.49 after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Midwest Express Airlines apply at a later date for design change approval to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

## Novel or Unusual Design Features

The modified McDonnell Douglas DC–9–81, –82 will incorporate a new electronic flight instrument system (EFIS), which was not available at the time of certification of these airplanes, that performs critical functions. This system may be vulnerable to HIRF external to the airplane.

## Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the McDonnell Douglas DC–9–81, –82, which require that new electrical and electronic systems, such as the EFIS, that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

*High-Intensity Radiated Fields (HIRF)*

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1, OR 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

| Frequency | Field strength (volts per meter) | |
|---|---|---|
| | Peak | Average |
| 10 kHz—100 kHz .. | 50 | 50 |
| 100 kHz—500 kHz | 50 | 50 |
| 500 kHz—2 MHz ... | 50 | 50 |
| 2 MHz—30 MHz ... | 100 | 100 |
| 30 MHz—70 MHz | 50 | 50 |
| 70 MHz—100 MHz | 50 | 50 |
| 100 MHz—200 MHz ..... | 100 | 100 |
| 200 MHz—400 MHz ..... | 100 | 100 |
| 400 MHz—700 MHz ..... | 700 | 50 |
| 700 MHz—1 GHz .. | 700 | 100 |
| 1 GHz—2 GHz ..... | 2000 | 200 |
| 2 GHz—4 GHz ..... | 3000 | 200 |
| 4 GHz—6 GHz ..... | 3000 | 200 |
| 6 GHz—8 GHz ..... | 1000 | 200 |
| 8 GHz—12 GHz .... | 3000 | 300 |
| 12 GHz—18 GHz .. | 2000 | 200 |
| 18 GHz—40 GHz .. | 600 | 200 |

The field strengths are expressed in terms of peak root-mean-square (rms) values.

The threat levels identified above differ from those used in previous special conditions are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee. In general, these standards are less critical than the threat level that was previously used as the basis for earlier special conditions.

## Applicability

As discussed above, these special conditions are applicable to McDonnell Douglas DC–9–81, –82 airplanes modified by Midwest Express Airlines. Should Midwest Express Airlines apply at a later date for design change approval to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

## Conclusion

This action affects only certain design features on McDonnell Douglas DC–9–81, –82 airplanes modified by Midwest Express Avionics. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in

response to the prior opportunities for comment described above.

### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

### The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for McDonnell Douglas DC–9–81, –82 airplanes modified by Midwest Express Airlines.

1. *Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields. For the purpose of these special conditions, the following definition applies:

*Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on June 11, 1998.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–16632 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 117

**[CGD01–97–020]**

**RIN 2115–AE47**

## Drawbridge Operation Regulations; Passaic River, NJ

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard amends the operating rules for five bridges over the Passaic River in New Jersey. This final rule will allow the bridge owners to operate their bridges on an advance notice basis. The Jackson Street Bridge at mile 4.6, the Bridge Street Bridge at mile 5.6, and the Clay Street Bridge at mile 6.0, will open on signal after a four hour advance notice is given. The New Jersey Transit Rail Operations (NJTRO) Bridge at mile 11.7, and the Route 3 Bridge at mile 11.8, will open on signal after a 24 hour notice is given. This final rule is expected to relieve the bridge owners of the burden of constantly having personnel available to open the bridges and still provide for the needs of navigation.

**DATES:** This final rule is effective July 23, 1998.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Ma. 02110–3350, 7 a.m. through 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364.

**FOR FURTHER INFORMATION CONTACT:** John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

**SUPPLEMENTARY INFORMATION:**

### Regulatory History

On February 13, 1998, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations Passaic River, New Jersey, in the **Federal Register** (63 FR 7357). The Coast Guard did not receive any comments in response to the notice of proposed rulemaking. No public hearing was requested, and none was held.

### Background

The clearances at mean high water (MHW) and mean low water (MLW) for the five bridges affected by this rule change are as follows: Jackson Street 15′ MHW & 20′ MLW, Bridge Street 7′ MHW & 12′ MLW, Clay Street 8′ MHW & 13′ MLW, NJTRO 26′ MHW & 31′ MLW and Route 3 35′ MHW & 40′ MLW.

The Jackson Street, Bridge Street and Clay Street bridges presently open on signal, except that, notice must be given before 2:30 a.m. for openings between 4:30 p.m. and 7 p.m. This change to the operating regulations will require the bridges to open on signal after four hours notice is given.

The NJTRO Bridge presently opens on signal from 8 a.m. to 4 p.m., if at least six hours notice is given. From 4 p.m. to 8 a.m., the draw need not be open. The Route 3 Bridge presently opens on signal, if at least six hours notice is given. New Jersey Transit Rail Operations records indicate there has not been a request to open the NJTRO Bridge since December, 1991. The New Jersey Department of Transportation records indicate there have been only ten bridge openings during the last ten years for the Route 3 Bridge. All ten openings were test openings.

### Discussion of Comments and Changes

No comments were received in response to the Notice of Proposed Rulemaking. The six month advance notice requirement for the NJTRO and Route 3 Bridge published in the Notice of Proposed Rulemaking has been changed to a 24 hour advance notice for openings. Upon further review the Coast Guard believes a 24 hour notice is a more reasonable time period than the six months in the original proposal. The Coast Guard believes that six months is too restrictive for mariners that may need to transit through the bridges. The bridge owners have been contacted and advised that a six month notice is too restrictive to navigation and so long as the respective bridges are movable bridges that they must continue to keep the operating machinery in good working condition. A 24 hour advance notice should still provide relief to the bridge owners by not requiring the bridges to be crewed and still provide for the needs of navigation that may desire to pass through the bridge.

### Regulatory 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. This conclusion is based on the fact that bridges must operate in accordance with the needs of navigation while providing for the reasonable needs of land transportation. This final rule adopts the operating hours which the Coast Guard believes to be appropriate based on the results of past experience with the roving drawtender crew operation and public comments. The Coast Guard believes this final rule achieves the requirement of balancing the navigational rights of boaters and the needs of land based transportation.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on

a substantial number of small entities. ''Small entities'' include small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, 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 in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this final rule 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, paragraph 32(e), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to have a significant effect on the environment. A ''Categorical Exclusion Determination'' is not required for this final rule.

**List of Subjects in 33 CFR Part 117**

Bridges.

**Regulations**

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 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. In § 117.739, paragraphs (d), (f), (i), (m) and (n) are revised to read as follows:

**§ 117.739 Passaic River.**

* * * * *

(d) The draw of the Jackson Street Bridge, mile 4.6, shall open on signal if at least four hours notice is given by calling the number posted at the bridge.

* * * * *

(f) The draw of the Bridge Street Bridge, mile 5.6, shall open on signal if at least four hours notice is given by calling the number posted at the bridge.

* * * * *

(i) The draw of the Clay Street Bridge, mile 6.0, shall open on signal if at least four hours notice is given by calling the number posted at the bridge.

* * * * *

(m) The draw of the NJTRO Bridge, mile 11.7, shall open on signal after at least a 24 hour notice is given by calling the number posted at the bridge.

(n) The draw of the Route 3 Bridge, mile 11.8, shall open on signal after at least a 24 hour notice is given by calling the number posted at the bridge.

* * * * *

Dated: June 8, 1998.

**R. M. Larrabee,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 98–16666 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–15–M

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[CGD01–98–044]**

**RIN 2115–AA97**

## Safety Zone: City of Yonkers Fireworks, New York, Hudson River

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the City of Yonkers fireworks program located on the Hudson River, Yonkers, New York. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

**DATES:** This rule is effective from 8:30 p.m. until 10 p.m. on Saturday, July 4, 1998, with a rain date of Sunday, July 5, 1998, at the same time and place.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4195.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) A. Kenneally, Waterways Oversight Branch, Coast Guard Activities New York, at (718) 354–4195.

**SUPPLEMENTARY INFORMATION:**

**Regulatory History**

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the fact that plans for this event were recently finalized, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this fireworks display, which is intended for public entertainment.

**Background and Purpose**

Bay Fireworks has submitted an Application for Approval of Marine Event to hold a fireworks program on the waters of the Hudson River at Yonkers, New York. The fireworks program is being sponsored by the City of Yonkers. This regulation establishes a safety zone in all waters of the Hudson River within a 360 yard radius of the fireworks barge located at approximate position 40°56′14″ N 073°54′28″ W (NAD 1983), approximately 350 yards northwest of the Yonkers Municipal Pier. The safety zone is in effect from 8:30 p.m. until 10 p.m. on Saturday, July 4, 1998, with a rain date of Sunday, July 5, 1998, at the same time and place. The safety zone prevents vessels from transiting this portion of the Hudson River, and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area.

**Regulatory 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 Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on

the limited marine traffic in the area, the minimal time that vessels will be restricted from the zone, that vessels may safely transit to the west of the zone, and extensive advance notifications which will be made.

### Small Entities

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

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) 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 principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

### Environment

The Coast Guard has considered the environmental impact of this final rule and concluded that under Figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, 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 165

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

### Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

## PART 165—[AMENDED]

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

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

2. Add temporary § 165.T01–044 to read as follows:

**§ 165.T01–044 Safety Zone: city of Yonkers Fireworks, New York, Hudson River.**

(a) *Location.* The following area is a safety zone: all waters of the Hudson River within a 360 yard radius of the fireworks barge at approximately position 40°56′14″ N 073°54′28″ W (NAD 1983), located approximately 350 yards northwest of the Yonkers Municipal Pier.

(b) *Effective period.* This section is effective from 8:30 p.m. until 10 p.m. on Saturday, July 4, 1998, with a rain date of Sunday, July 5, 1998, at the same time and place.

(c) *Regulations.* (1) The general regulations in 33 CFR 165.23 apply.

(2) All persons and vessels should comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 2, 1998.

**Richard C. Vlaun,**

*Captain, U.S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 98–16664 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–15–M

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[COTP San Francisco Bay; 98–011]**

**RIN 2115–AA97**

## Safety Zone; San Francisco Bay, San Francisco, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone encompassing a portion of the navigable waters of San Francisco Bay, CA, surrounding two barges used as a platform to launch fireworks for the San Francisco Chronicle's 4th of July Waterfront Festival, from 8 p.m. to 11:30 p.m., PDT. The launch barges, which will be tethered together, will be located approximately 1,000 feet northwest of Pier 39. Fireworks will also be simultaneously launched from land at the Northern-most point of the Aquatic Park.

This temporary safety zone is necessary to provide for the safety of participating technicians, waterborne and shore-side spectators, vessels, and other property during the fireworks display. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or a designated representative thereof. Commercial vessels may request authorization to transit this safety zone by contacting Vessel Traffic Service on Channel 14 VHF–FM.

**DATES:** This safety zone will be in effect on July 4, 1998 from 8 p.m. to 11:30 p.m., PDT. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice To Mariners.

**ADDRESSES:** U.S. Coast Guard Marine Safety Office San Francisco Bay, Building 14, Coast Guard Island, Alameda, CA 94501–5100.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Lesley F. Dion-Bow, U.S. Coast Guard Marine Safety Office San Francisco Bay; (510) 437–3073.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

In accordance with 5 U.S.C. 553, a Notice of Proposed Rule (NPRM) was not published for this temporary regulation and good cause exists for making it effective prior to, or less than 30 days after, **Federal Register** publication. Publication of an NPRM and delay of its effective date would be contrary to the public interest since the precise location of the event necessitating the promulgation of this safety zone, and other logistical details surrounding the event, were not finalized until a date fewer than 30 days prior to the event date. Therefore, the event would be finished before the rulemaking process was complete if an NPRM was published, jeopardizing the safety of the lives and property of event participants and spectators.

### Discussion of Regulation

The San Francisco Chronicle is sponsoring the 4th of July Waterfront Festival on the evening of July 4, 1998.

These fireworks will be launched from two barges which will be tethered and located approximately 1,000 feet northwest of Pier 39 in the San Francisco Bay.

The safety zone will be bounded by the following positions: commencing at 37°48′32″W, 122°25′46″W, thence to 37°48′52″N, 122°25′48″W, thence to 37°49′10″N, 122°24′30″W, thence to 37°48′42″N, 122°24′30″, thence returning to the point of origin. This safety zone is necessary to protect the participating technicians, the spectators, and vessels and other property from the hazards associated with the fireworks display. Entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or a designated representative thereof. Commercial vessels may request authorization to transit the regulated area by contacting the Vessel Traffic Service on Channel 14 VHF–FM. For purposes of this temporary regulation, ''commercial vessels'' are defined as all vessels other than those used and registered/documented exclusively for recreational purposes.

## Regulatory Evaluation

This temporary regulation 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). Due to the short duration and limited scope of the implementation of the safety zone, and because commercial traffic will have an opportunity to request authorization to transit, the Coast Guard expects the economic impact of this rule to be so minimal that full regulatory evaluation under paragraph 10(e) 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 must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include small businesses and not-for-profit organizations that are not dominant in their respective fields, and governmental jurisdictions with populations less than 50,000. For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule is not expected to have a significant economic impact on any substantial number of entities, regardless of their size.

## Assistance For Small Entities

In accordance with § 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lieutenant Andrew B. Cheney, U.S. Coast Guard Marine Office San Francisco Bay at (510) 437–437–3037.

## Collection of Information

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

## Federalism

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

## Environmental Assessment

The Coast Guard has considered the environmental impact of this temporary regulation and concluded that under Chapter 2.B.2. of Commandant Instruction M16475.1C, Figure 2–1, paragraph (35), it will have no significant environmental impact and it is categorically excluded from further environmental documentation.

## Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected.

No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

## List of Subjects in 33 CFR Part 165

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

## Regulation

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04.6, and 160.5; 49 CFR 1.46.

2. A new § 165.T11–080 is added to read as follow:

### § 165.T11–080 Safety Zone: San Francisco Bay, San Francisco, CA.

(a) *Location.* The area bounded by the following positions, located within the navigable waters of San Francisco Bay, constitutes a safety zone surrounding the two barges used as a platform to launch fireworks for the San Francisco Chronicle's 4th of July Waterfront Festival: commencing at 37°48′32″ N, 122°25′46″ W, thence to 37°48′52″ N, 122°25′48″ W, thence to 37°49′10″ N, 122°24′30″ W, thence to 37°48′42″ N, 122°24′30″ W, thence returning to the point of origin. All coordinates referred use Datum: NAD 83.

(b) *Effective Dates.* This safety zone will be in effect on July 4, 1998 from 8 p.m. to 11:30 p.m., PDT. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice To Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or a designated representative thereof. Commercial vessels may request authorization to transit the safety zone by contracting Vessel Traffic Service on Channel 14 VHF–FM.

Dated: June 5, 1998.

**H. Henderson,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay.*

[FR Doc. 98–16663 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–15–M

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

**RIN 2900–AI76**

### Criteria for Approving Flight Courses for Educational Assistance Programs

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This document amends the educational assistance and education benefit regulations of the Department of Veterans Affairs (VA). It revises the criteria to be used in approving flight courses for the education benefits programs VA administers. In large part, these amendments bring the approval criteria into agreement with various provisions of the Veterans' Benefits Improvements Act of 1996 and with the current regulations of the Federal Aviation Administration. Without the changes made by this document, VA would not be able to provide educational assistance for veterans to attend affected flight courses. This document also makes other changes for the purpose of clarification.

**DATES:** Effective Date: This rule is effective June 23, 1998.

*Applicability Date:* August 1, 1996, for provisions affecting approval of courses or enrollments at flight training centers certificated under 14 CFR part 142.

*Comments:* Comments must be received on or before August 24, 1998.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900-AI76.'' All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** William G. Susling, Jr., Education Advisor, Education Service (225C), Veterans Benefits Administration, 202–273–7187.

**SUPPLEMENTARY INFORMATION:** VA administers education benefit programs, including benefit programs for flight training courses. This document amends subparts D and K of 38 CFR part 21, regarding criteria for flight training courses.

Flight training courses may be approved for individuals entitled to educational assistance under the Montgomery GI Bill—Active Duty (MGIB) (38 U.S.C. chapter 30) and the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) (38 U.S.C. chapter 32), as well as for certain individuals under the Montgomery GI Bill—Selected Reserve (MGIB-SR) (10 U.S.C. chapter 1606).

By statute, flight training courses are required to meet Federal Aviation Administration (FAA) standards and be FAA approved (10 U.S.C. 16136(c)(1)(c); 38 U.S.C. 3034(d)(3) and 3241(b)(3)). VA regulations are changed to reflect changes to FAA standards as follows:

- FAA is changing the requirements for approving flight courses at flight training centers using flight simulators or advanced flight training devices. These courses now may be approved at flight training centers certificated under the new FAA standards.
- FAA no longer will approve training for both an instrument rating and a commercial pilot's certificate as a single course.
- FAA established a maximum for the number of hours of training in a flight simulator that could be counted toward the required minimum number of hours of experience needed for each rating.
- FAA has reorganized various provisions and changed terminology.

Previously, by statute, VA could not approve the enrollment in a course offered by an educational institution when such course had been in operation for less than two years, subject to a number of exceptions. Public Law 104–275 repealed these statutory provisions (formerly at 38 U.S.C. 3689) and established new provisions at 38 U.S.C. 3680A which state:

> (e) The Secretary may not approve the enrollment of an eligible veteran in a course not leading to a standard college degree offered by a proprietary profit or proprietary nonprofit educational institution if—
>
> (1) The educational institution has been operating for less than two years;
>
> (2) The course is offered at a branch of the educational institution and the branch has been operating for less than two years; or
>
> (3) Following either a change in ownership or a complete move outside its original general locality, the educational institution does not retain substantially the same faculty, student body, and courses as before the change in ownership or the move outside the general locality (as determined in accordance with regulations the Secretary shall prescribe) unless the educational institution following such change or move has been in operation for at least two years.

The regulations regarding flight courses are amended to reflect changes in the ''two-year'' statutory provisions. Moreover, we are interpreting the term ''branch'' to include a flight school satellite base.

This document also amends the regulations regarding the ''85–15 percent'' requirement. Generally, VA is prohibited by statute (38 U.S.C. 3680A(d)) from approving an enrollment of a veteran in a course when more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by VA. Under the provisions of 38 U.S.C. 3680A(d)(1), the Secretary may waive the ''85–15'' requirement, in whole or in part, if the Secretary determines, pursuant to regulations, it to be in the interest of the eligible veteran and the Federal government. Pursuant to this authority, amended 38 CFR 21.4201(e)(3)(ii) provides for purposes of this enrollment computation that approved flight training under 14 CFR parts 141 and 142 at a flight school or flight training center will be considered as one course and all other approved training at a flight school or flight training center will be considered as one course. In many cases only one or two students will be enrolled in a particular flight course at a given flight school at any point in time. If all of the students were veterans, application of the ''85–15'' requirement for each course would produce in many instances the result of requiring disapproval of the enrollment of veterans in such courses. We believe that 38 CFR 21.4201, as amended, is a reasonable approach in keeping with the statutory purpose of requiring a training establishment to demonstrate that its training is of sufficient quality to attract a certain percentage of nonveterans before VA will approve education benefits for enrollment in that training. We also believe that the rule will protect the right of veterans to receive this type of training while assuring that these courses could stand the test of the marketplace.

Changes are also made regarding medical requirements. As amended, the regulations do not impose the medical requirements for a commercial pilot license on an individual enrolled in either a ground instructor certification course or a flight course which is pursued as a part of a standard college degree program. In our view, the VA statutory provisions were not intended to impose these stringent medical requirements for such individuals who would not be required to meet such medical requirements for FAA certification.

FAA certifies flight schools to offer courses that may be given at certified pilot schools or certified flight training

centers, which also meet the basic requirements needed for course approval for VA training; i.e., the training is offered at an educational institution and the courses are generally accepted as necessary to qualify for a vocational objective. However, FAA standards also authorize instruction for various courses from a flight instructor who is not affiliated with either a certificated pilot school or a certificated training center. That authorization would not meet the basic statutory requirements needed for approval for VA training, in that the training would not be offered by an ''educational institution.'' Therefore, under 38 CFR 21.4263(e), instruction by a non-affiliated flight instructor would not be approved for VA purposes.

FAA standards require that a student either enroll in an instrument rating course before enrolling in a commercial pilot certification course, or that a student enroll in both courses simultaneously and finish the instrument rating course first. VA regulations are amended, with certain exceptions, to provide that, in order to receive VA educational assistance, a student must enroll in both courses simultaneously. By statute (38 U.S.C. 3452), an individual receiving VA educational assistance must be pursuing a vocational, educational, or professional objective. If the instrument rating course were allowed to be taken first, there would be no assurance that it was taken for purposes of reaching a vocational, educational, or professional objective. Instead, it could be taken merely to add a rating to a private pilot certificate, which is not considered evidence of such an objective. By requiring that both courses be taken simultaneously, VA is helping to ensure that a student has made a commitment and is using his or her benefits to achieve a vocational objective.

There are three exceptions to the requirement for enrollment in an instrument rating course simultaneously with the commercial pilot certification course. These exceptions apply to an individual who is pursuing a standard college degree and who is taking flight training as part of the degree program; to an individual who already has a commercial pilot certificate; and to an individual who is enrolling in a ground instructor certification course. The respective reasons for the exceptions are: an individual who is pursuing a college degree is pursuing an educational objective; an individual who adds an instrument rating to a commercial pilot certificate is following recognized and accepted industry requirements for an advanced vocational objective in the field of aviation; and an individual becoming a qualified ground instructor, by definition, is pursuing a vocational objective.

Nonsubstantive changes are made for purposes of clarification and consistency with FAA terminology.

Consistent with the effective date of the FAA regulations adding 14 CFR part 142, the date of applicability for provisions affecting approval of courses or enrollments at flight training centers certificated under 14 CFR part 142 is August 1, 1996.

### Administrative Procedure Act

Many of the changes made by this interim final rule constitute nonsubstantive changes and interpretations of law. Those changes are not subject to the requirements of 5 U.S.C. 553 for notice and comment and 30-day delay of effective date. For the remainder of the changes, pursuant to 5 U.S.C. 553, we have found good cause to dispense with notice and comment on this interim final rule and to dispense with a 30-day delay of its effective date and have found that notice and comment and a 30-day delay of its effective date would be unnecessary, impracticable, and contrary to the public interest. Those changes are based on the critical need to conform VA rules to FAA rules and practice to enable VA to provide educational assistance for training needed for certain educational objectives. In the absence of the amendments to VA regulations, VA is unable, due to changes in FAA rules and practice, to provide educational assistance for certain flight course enrollments.

### Regulatory Flexibility Act

Because no notice of proposed rulemaking was required in connection with the adoption of this interim final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Even so, the Secretary of Veterans Affairs hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule would permit VA to continue to pay educational assistance for veterans enrolled in flight courses at pilot schools, flight training centers, and institutions of higher education that offer flight courses. While changes caused by this rule would affect how many veterans would be enrolled in flight courses, the change in the number of veterans would not significantly affect the total number of students enrolled in flight courses, nor would this rule otherwise have more than a minuscule economic impact on any entity. Pursuant to 5 U.S.C. 605(b), this rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

The Catalog of Federal Domestic Assistance numbers for programs affected by this rule are 64.120 and 64.124. This rule also affects the Montgomery GI Bill—Selected Reserve program, which has no Catalog of Federal Domestic Assistance number.

### List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Educational institutions, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 12, 1998.

**Togo D. West, Jr.,**

*Secretary.*

For the reasons set forth in the preamble, 38 CFR part 21 (subparts D and K) is amended as set forth below:

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

## Subpart D—Administration of Educational Assistance Programs

1. The authority for part 21, subpart D continues to read as follows:

**Authority:** 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. In § 21.4200, paragraphs (x) and (y) are added to read as follows:

**§ 21.4200 Definitions.**

* * * * *

(x) *State.* The term *State* has the same meaning as provided in § 3.1(i) of this chapter.

(Authority: 38 U.S.C. 101(20))

(y) *Pilot certificate.* A *pilot certificate* is a pilot certificate issued by the Federal Aviation Administration. The term means a pilot's license as that term is used in 10 U.S.C. chapter 1606 and 38 U.S.C. chapters 30 and 32.

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3034(d), 3241(b))

3. In § 21.4201, paragraph (e)(3)(ii) is revised to read as follows:

**§ 21.4201 Restrictions on enrollment; percentage of students receiving financial support.**

* * * * *

(e) * * *

(3) * * *

(ii) The 85–15 percent ratio for flight courses shall be computed by comparing the number of hours of training received by or tuition charged to nonsupported students in the preceding 30 days to the total number of hours of training received by or tuition charged to all students in the same period. All approved courses offered under 14 CFR parts 141 and 142 at a flight school will be considered to be one course for the purpose of making this computation. Similarly, all other approved courses offered at a flight school will be considered to be one course for the purpose of making this computation. In this computation hours of training or tuition charges for students enrolled—

(A) In the recreational pilot certification course and the private pilot certification course will be excluded;

(B) In a ground instructor certification course will be included;

(C) In courses approved under 14 CFR part 141, other than a ground instructor certification course, will be actual hours of logged instructional flight time or the charges for those hours; and

(D) In courses not approved under 14 CFR part 141, such as courses offered by flight simulator or courses for navigator or flight engineer, shall include ground training time or charges; actual logged instructional flight time or charges; and instructional time in a flight simulator or charges for that training.

* * * * *

4. In § 21.4233, paragraph (e) is revised; and an authority citation is added to paragraph (e) to read as follows:

**§ 21.4233 Combination.**

* * * * *

(e) *Contract.* All or part of the program of education of a school may be provided by another school or entity under contract. Such school or entity actually providing the training must obtain approval of the course from the State approving agency in the State having jurisdiction of that school or entity. If the course is a course of flight training, the school or entity actually providing the training must also obtain approval of the course from the Federal Aviation Administration. Measurement of the course and payment of an allowance will be appropriate for the course as offered by the school or entity actually providing the training.

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3002(8), 3034(d), 3202(4), 3241(b), 3452(c), 3501(a)(6), 3675, 3676)

5. Section 21.4235 is added to read as follows:

**§ 21.4235 Programs of education that include flight training.**

VA will use the provisions of this section to determine whether an individual may be paid educational assistance for pursuit of flight training. See § 21.4263 for approval of flight courses for VA training.

(a) *Eligibility.* A veteran or servicemember who is otherwise eligible to receive educational assistance under 38 U.S.C. chapter 30 or 32, or a reservist who is eligible for expanded benefits under 10 U.S.C. chapter 1606 as provided in § 21.7540(b), may receive educational assistance for flight training in an approved course provided that the individual meets the requirements of this paragraph. Except when enrolled in a ground instructor certification course or when pursuing flight training under paragraph (f) of this section, the individual must—

(1) Possess a valid private pilot certificate or higher pilot certificate such as a commercial pilot certificate;

(2) Hold a second-class medical certificate on the first day of training, and continuously during training unless the individual is enrolled in an Airline Transport Pilot (ATP) certification course; and

(3) If enrolled in an ATP certification course, hold a first-class medical certificate on the first day of training and continuously during training.

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3034(d), 3241(b))

(b) *Approval of program.* VA may approve the individual's program of education as described on the individual's application if:

(1) The flight courses that constitute the program of education meet Federal Aviation Administration standards for such courses and the Federal Aviation Administration and the State approving agency approve them; and

(2) The flight training included in the program—

(i) Is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation; or

(ii) Is given by an educational institution of higher learning for credit toward a standard college degree that the individual is pursuing.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3002(3)(A), 3034(a), 3202(2)(A), 3241(a), 3241(b), 3452(b), 3680A(a)(3))

(c) *Pursuit of a program of education.* (1) Except as provided in paragraph (c)(2) of this section, an individual who is pursuing a program of education described in paragraph (b)(2)(i) of this section must first enroll in a commercial pilot certification course. If the individual wants to obtain a commercial pilot certification course in an airplane or powered lift category and does not already have an instrument rating, he or she must also enroll in an instrument rating course simultaneously with the commercial pilot course.

(2) The provisions of paragraph (c)(1) of this section do not apply to an individual who—

(i) Already has a commercial pilot certificate; or

(ii) Wishes to become a ground instructor through an enrollment in a ground instructor certification course.

(3) Unless the provisions of paragraph (b)(1)(ii), (c)(2)(i), or (c)(2)(ii) of this section apply to an individual's enrollment, VA will not pay for any enrollment in a flight course that precedes enrollment in a commercial pilot certification course.

(4) Except for the enrollment described in paragraph (c)(1) of this section, the individual must enroll in only one flight course at a time.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3002(3)(A), 3034(a), 3202(2)(A), 3241(a), 3241(b), 3452(b), 3680A(a)(3))

(d) *Some individuals are already qualified for a flight course objective.* (1) The provisions of §§ 21.5230(a)(4), 21.7110(b)(4), and 21.7610(b)(4), prohibiting payment of educational assistance for enrollment in a course for whose objective the individual is already qualified, apply to enrollments in flight courses.

(2) A former military pilot with the equivalent of a commercial pilot certificate and an instrument rating may obtain a commercial pilot certificate and instrument rating from the Federal Aviation Administration without a flight exam within 12 months of release from active duty. Therefore, VA will consider such a veteran to be already qualified for the objectives of a commercial pilot certification course and an instrument rating course if begun within 12 months of the individual's release from active duty.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3241(b), 3471(4))

(e) *Some flight courses are refresher training.* The provisions of §§ 21.5230(c), 21.7020(b)(26),

21.7122(b), 21.7520(b)(20), and 21.7610(b)(4) that provide limitations on payment for refresher training that is needed to update an individual's knowledge and skill in order to cope with technological advances while he or she was on active duty service apply to flight training.

(1) An individual who held a Federal Aviation Administration certificate before or during active duty service may have surrendered that certificate or the Federal Aviation Administration may have canceled it. The individual may receive the equivalent of the number of months of educational assistance necessary to complete the course that will qualify him or her for the same grade certificate.

(2) A reservist is not eligible for refresher training unless he or she has had prior active duty.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3002(3)(A), 3034(a)(3), 3202(2)(A), 3241(a), 3241(b))

(f) *Flight training at an institution of higher learning.* (1) An individual who is eligible for educational assistance under 10 U.S.C. chapter 1606 or 38 U.S.C. chapter 30, 32, or 35 is exempt from the provisions of paragraphs (a)(2) through (d) of this section when his or her courses include flight training that is part of a program of education that leads to a standard college degree.

(2) An individual described in paragraph (f)(1) of this section may pursue courses that may result in the individual eventually receiving recreational pilot certification or private pilot certification, provided that the courses also lead to a standard college degree.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3002(3)(A), 3034(a)(3), 3202(2)(A), 3241(a), 3241(b))

6. In § 21.4263, paragraphs (h), (i), (j), and (k) are redesignated as paragraphs (i), (j), (k), and (l), respectively; newly redesignated paragraph (i) introductory text is amended by removing ''(g)(3)'' and adding, in its place, ''(e)'' and by removing ''(h)(1)'' and adding, in its place, ''(i)(1)'; newly redesignated paragraph (i)(1) introductory text is amended by removing ''(h)(4)'' and adding, in its place, ''(i)(4)'; newly redesignated paragraph (i)(2) is amended by removing ''H'' and adding, in its place ''J'; newly redesignated paragraph (i)(4)(i) is amended by removing ''(h)(1)(ii)'' and adding, in its place ''(i)(1)(ii)'; the authority citation for newly redesignated paragraph (i)(4)(ii) is removed; newly redesignated paragraph (i)(4)(iii) is amended by removing ''(h)(1)(i)'' and adding, in its place, ''(i)(1)(i)'; newly redesignated paragraph (j) introductory text is amended by removing ''(h)(1)(i)'' and adding, in its place, ''(i)(1)(i)'; the section heading, paragraphs (a), (b), (c), (d), (e), (f), and (g), newly redesignated paragraphs (i)(1)(iii), and (l), and the authority citations for newly redesignated paragraphs (i) introductory text, (i)(1), (i)(2), (i)(3), (i)(4), (j)(3), (j)(4), and (k) are revised; and new paragraphs (h) and(i)(1)(iv), and authority citations for newly redesignated paragraphs (j)(1) and (j)(2) are added, to read as follows:

**§ 21.4263 Approval of flight training courses.**

(a) *A flight school or institution of higher learning are the only entities that can offer flight courses.* A State approving agency may approve a flight course only if a flight school or an institution of higher learning offers the course. A State approving agency may not approve a flight course if an individual instructor offers it. The provisions of § 21.4150 shall determine the proper State approving agency for approving a flight course.

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3032(d), 3241(b), 3671, 3672, 3676)

(b) *Definition of flight school.* A *flight school* is a school, other than an institution of higher learning, or is an entity, such as an aero club; is located in a State; and meets one of the following sets of requirements:

(1) The Federal Aviation Administration has issued the school or entity either a pilot school certificate or a provisional pilot school certificate specifying each course the school is approved to offer under 14 CFR part 141;

(2) The entity is either a flight training center or an air carrier that does not have a pilot school certificate or provisional pilot school certificate issued by the Federal Aviation Administration under 14 CFR part 141, but pursuant to a grant of exemption letter issued by the Federal Aviation Administration under 14 CFR part 61 is permitted to offer pilot training by a flight simulator instead of an actual aircraft; or

(3) The Federal Aviation Administration has issued the school or entity a training center certificate under 14 CFR part 142.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3452(c))

(c) *Aero club courses.* An aero club, established, formed, and operated under authority of service department regulations as a nonappropriated sundry fund activity, is an instrumentality of the Federal government. Consequently, VA has exclusive jurisdiction over approval of flight courses offered by such aero clubs.

(Authority: 38 U.S.C. 3671, 3672)

(d) *Approval of flight training as part of a degree program.* A State approving agency may approve a flight training course that is part of a program of education leading to a standard college degree provided the course and program meet the requirements of § 21.4253 or § 21.4254, as appropriate. The institution of higher learning offering the course need not be a flight school.

(Authority: 38 U.S.C. 3675, 3676)

(e) *Approval of flight training courses that are not part of a degree program.* A flight course is subject to the same approval requirements as any other course. In addition, the State approving agency must apply the following provisions to the approval of flight courses:

(1) The Federal Aviation Administration must approve the course; and

(2)(i) The course must meet the requirements of 14 CFR part 63 or 141, and a flight school described in paragraph (b)(1) or (b)(3) of this section must offer it; or

(ii) The course must meet the requirements of 14 CFR part 61, and either be offered—

(A) By a flight school described in paragraph (b)(3) of this section; or

(B) In whole or in part by a flight simulator pursuant to a grant of exemption letter issued by the Federal Aviation Administration to the flight school offering the course.

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3034(d), 3241(b), 3676, 3680A)

(f) *Application of 38 U.S.C. 3680A(e)(2) to flight training.* Notwithstanding the fact that the Federal Aviation Administration will permit flight schools to conduct training at a base other than the main base of operations if the requirements of either 14 CFR 141.91 or 14 CFR 142.17 are met, the satellite base is considered under 38 U.S.C. 3680A(e)(2) to be a branch of the principal school, and must meet the requirements of 38 U.S.C. 3680A(e)(2).

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3241(b), 3680A))

(g) *Providing a flight course under contract between schools or entities.* When a school or entity offers all or part of a flight course under a contract with another school or entity, the State approving agency must apply § 21.4233 in the following manner:

(1) The requirements of § 21.4233(e) must be met for all contracted flight

instruction, instruction by flight training device, flight simulator instruction, and ground school training. Ground school training may be given through a ground school facility operated jointly by two or more flight schools in the same locality; and

(2) The responsibility for providing the instruction lies with the flight school. The degree of affiliation between the flight school and the entity or other school that actually does the instructing must be such that all charges for instruction are made by, and paid to, one entity having jurisdiction and control over both the flight and ground portions of the program.

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3032(d), 3241(b))

(h) *Nonaccredited courses.* (1) *Application of § 21.4254 to flight training.* The provisions of § 21.4254 are applicable to approval of flight training courses.

(2) *Additional instruction requirements.* The State approving agency will apply the following additional requirements to a flight course:

(i) All flight instruction, instruction by flight training device, flight simulator instruction, preflight briefings and postflight critiques, and ground school training in a course must be given by the flight school or under suitable arrangements between the school and another school or entity such as a local community college.

(ii) All ground school training connected with the course must be in residence under the direction and supervision of a qualified instructor providing an opportunity for interaction between the students and the instructor. Simply making provision for having an instructor available to answer questions does not satisfy this requirement.

(Authority: 38 U.S.C. 3676)

(i) * * *

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3002(3), 3202(2), 3452(b))

(1) * * *

(iii) The maximum number of hours of instruction by flight simulator or flight training device that a State approving agency may approve is the maximum number of hours of instruction by flight simulator or flight training device permitted by 14 CFR part 61 for that course when:

(A) A course is offered in whole or in part by flight simulator or flight training device conducted by a training center certificated under 14 CFR part 142; and

(B) 14 CFR part 61 contains a maximum number of hours of instruction by flight simulator or flight training device that may be credited toward the requirements of the rating or certificate that is the objective of the course.

(iv) If a course is offered in whole or in part by flight simulator or flight training device, and the course is not described in paragraph (i)(1)(iii) of this section, either because the course is offered by a flight training center with a grant of exemption letter, or because 14 CFR part 61 does not contain a maximum number of hours of instruction by flight simulator or flight training device, the maximum number of hours of instruction by flight simulator or flight training device that may be approved may not exceed the number of hours in the Federal Aviation Administration-approved outline.

(Authority: 10 U.S.C. 16131(g); 38 U.S.C. 3032(f), 3231(f))

(2) * * *

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3002(3), 3202(2), 3452(b))

(3) * * *

(Authority: 10 U.S.C. 16131(f)(4); 16136(c), 38 U.S.C. 3002(3), 3032(f)(4), 3202(2), 3231(f)(4), 3452(b))

(4) * * *

(Authority: 10 U.S.C. 16131(f)(4); 38 U.S.C. 3032(f)(4), 3231(f)(4))

(j) * * *

(1) * * *

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(d), 3241(c), 3690(a)(1))

(2) * * *

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(d), 3241(c), 3690(a)(1))

(3) * * *

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(d), 3241(c), 3690(a)(1))

(4) * * *

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(d), 3241(c), 3690(a)(1))

(k) * * *

(Authority: 10 U.S.C. 16136(b), 16136(c); 38 U.S.C. 3034(d), 3672(a))

(l) *Enrollment limitations.* A flight course must meet the 85–15 percent ratio requirement set forth in § 21.4201 before VA may approve new enrollments in the course. The contracted portion of a flight course must meet all the requirements of § 21.4201 for each subcontractor.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(d), 3241(c), 3680A(d))

## Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

7. The authority for part 21, subpart K continues to read as follows:

**Authority:** 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

8. In § 21.7220, paragraph (c) is amended by removing ''Flight training when administering'' and adding, in its place, ''when approving'.

[FR Doc. 98–16579 Filed 6–22–98; 8:45 am]

BILLING CODE 8320–01–P

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## DEPARTMENT OF VETERANS AFFAIRS

## 38 CFR PART 21

**RIN 2900–AI88**

## Veterans' Education: Effective Date for Awards of Educational Assistance to Veterans Who Were Voluntarily Discharged

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the educational-assistance and educational-benefit regulations of the Department of Veterans Affairs (VA). It establishes effective dates of awards of educational assistance to certain voluntarily discharged veterans who are eligible for the Montgomery GI Bill—Active Duty (MGIB). The effective dates correspond with a statutory mandate for the effective dates. The final rule also clarifies that these veterans may not receive educational assistance for training that occurs before they pay the Federal government $1,200.

**DATES:** *Effective Date:* July 23, 1998.

*Applicability Dates:* The effective dates are retroactive from the effective dates of the statutory provisions.

**FOR FURTHER INFORMATION CONTACT:** William G. Susling, Jr., Education Advisor, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, (202) 273–7187.

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on December 18, 1997 (62 FR 66320), VA proposed to amend the ''All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)'' regulations as set forth in the **SUMMARY** portion of this document.

Interested persons were given 60 days to submit comments. No comments were received. Based on the rationale set forth in the proposed rule, we are

adopting the provisions of the proposed rule as a final rule.

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.124.

**List of Subjects in 38 CFR Part 21**

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Educational institutions, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 8, 1998.

**Togo D. West, Jr.,**

*Secretary.*

For the reasons set out above, 38 CFR part 21, subpart K, is amended as set forth below.

## Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

1. The authority citation for part 21, subpart K continues to read as follows:

**Authority:** 38 U.S.C. 501(a), chs. 30 and 36, unless otherwise noted.

2. In § 21.7131, paragraphs (l) and (m) are reserved, and paragraph (n) is added to read as follows:

**§ 21.7131 Commencing dates.**

* * * * *

(n) *Eligibility established under § 21.7045(c).* The effective date of an award of educational assistance when the veteran has established eligibility under § 21.7045(c) is as follows:

(1) If the veteran is not entitled to receive educational assistance under 38 U.S.C. ch. 32 on the date he or she made a valid election to receive educational assistance under 38 U.S.C. ch. 30, the effective date of the award of educational assistance will be the latest of the following.

(i) The commencing date as determined by paragraphs (a) through (c) and (f) through (j) of this section; or

(ii) October 23, 1992, provided that VA received the $1,200 required to be collected pursuant to § 21.7045(c)(2) and any other evidence necessary to establish that the election is valid before the later of:

(A) October 23, 1993; or

(B) One year from the date VA requested the $1,200 or the evidence necessary to establish a valid election; or

(iii) The date VA received the $1,200 required to be collected pursuant to § 21.7045(c)(2) and all other evidence needed to establish that the election is valid, if the provisions of paragraph (n)(1)(ii) of this section are not met.

(2) If the veteran is entitled to receive educational assistance under 38 U.S.C. ch. 32 on the date he or she made a valid election to receive educational assistance under 38 U.S.C. ch. 30, the effective date of the award of educational assistance will be the latest of the following:

(i) The commencing date as determined by paragraphs (a) through (c) and (f) through (j) of this section; or

(ii) The date on which the veteran made a valid election to receive educational assistance under 38 U.S.C. chapter 30 provided that VA received the $1,200 required to be collected pursuant to § 21.7045(c)(2) and any other evidence necessary to establish that the election is valid before the later of:

(A) One year from the date VA received the valid election; or

(B) One year from the date VA requested the $1,200 or the evidence necessary to establish a valid election; or

(iii) The date VA received the $1,200 required to be collected pursuant to § 21.7045(c)(2) and all other evidence needed to establish that the election is valid, if the provisions of paragraph (n)(2)(ii) of this section are not met.

(Authority 38 U.S.C. 3018B)

[FR Doc. 98–16601 Filed 6–22–98; 8:45 am]

BILLING CODE 8320–01–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 300

**[FRL–6113–8]**

## National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of deletion of the Pine Bend Sanitary Landfill Superfund Site from the National Priorities List (NPL).

**SUMMARY:** The Environmental Protection Agency (EPA) announces the deletion of the Pine Bend Sanitary Landfill Site in Minnesota from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Minnesota, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Minnesota have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

**EFFECTIVE DATE:** June 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Timothy Prendiville at (312) 886–5122 (SR–6J), Remedial Project Manager or Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: Dakota County Library System, Wescott Branch, 1340 Wescott Road, Eagan, MN 55123. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

**SUPPLEMENTARY INFORMATION:** The site to be deleted from the NPL is: Pine Bend Sanitary Landfill Site located in Inver Grove Heights, Minnesota. A Notice of Intent to Delete for this site was published April 28, 1998 (63 FR 23256). The closing date for comments on the Notice of Intent to Delete was May 28, 1998. EPA received no comments and therefore no Responsiveness Summary was prepared.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site

warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 2, 1998.

**David Ullrich,**

*Acting Regional Administrator, Region V.*

40 CFR part 300 is amended as follows:

## PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

**Appendix B [Amended]**

2. Table 1 of Appendix B to part 300 is amended by removing the Site ''Pine Bend Sanitary Landfill, Dakota County, Minnesota.''

[FR Doc. 98–16406 Filed 6–22–98; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 63, No. 120
Tuesday, June 23, 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.

## Office of Personnel Management

## 5 CFR Part 532

**RIN 3206–AI30**

## Prevailing Rate Systems; Redefinition of Philadelphia, PA, and New York, NY, Appropriated Fund Wage Areas

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Office of Personnel Management is issuing a proposed rule that would redefine Ocean County, NJ, excluding the portion occupied by the Fort Dix Military Reservation, from the area of application of the Philadelphia, PA, appropriated fund Federal Wage System (FWS) wage area to the area of application of the New York, NY, wage area. This redefinition will more accurately reflect the transportation facilities and commuting patterns criteria of Ocean County, NJ (excluding Fort Dix Military Reservation).

**DATES:** Comments must be received by July 23, 1998.

**ADDRESSES:** Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–0824.

**FOR FURTHER INFORMATION CONTACT:** Mark A. Allen at (202) 606–2848, or e-mail: maallen@opm.gov.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management (OPM) is engaged in an ongoing project to review the geographic definitions of selected Federal Wage System (FWS) appropriated fund wage areas. The Federal Prevailing Rate Advisory Committee (FPRAC), the statutory national-level labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has recommended by majority vote that OPM redefine Ocean County, NJ, excluding the portion occupied by the Fort Dix Military Reservation, from the area of application of the Philadelphia, PA, appropriated fund FWS wage area to the area of application of the New York, NY, wage area.

Section 532.211 of title 5, Code of Federal Regulations, lists the following criteria that OPM considers when defining FWS wage area boundaries:

(i) Distance, transportation facilities, and geographic features;

(ii) Commuting patterns; and

(iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

Ocean County is located in central New Jersey and is bordered by Burlington County to the West and Monmouth County to the North. The members of FPRAC studied the appropriate wage area definition of Ocean County exhaustively. Based on their analysis of the regulatory criteria, the management members of FPRAC found no compelling reason to change the wage area designation of Ocean County. The labor members of the Committee argued that the transportation facilities and commuting patterns criteria favor placing Ocean County in the New York wage area. After failing to reach consensus, the Committee voted to accept the labor recommendation. The management members of FPRAC filed a minority report in opposition to the FPRAC majority recommendation.

After careful consideration, OPM finds that it is appropriate to accept the FPRAC recommendation in this case. The distance, geographic features, and overall population, employment, and the kinds and sizes of private industrial establishments criteria do not clearly favor defining Ocean County to one wage area more than another. However, we find that the transportation facilities and commuting patterns criteria clearly favor defining Ocean County to the New York wage area rather than to the Philadelphia wage area.

The largest employer of FWS workers in Ocean County is Lakehurst Naval Air Station, although several other smaller employment sites would be affected by the redefinition of Ocean County to the New York wage area. Employees with official duty stations in the Fort Dix Military Reservation portion of Ocean County would remain in the Philadelphia wage area. Employees with official duty stations at Lakehurst Naval Air Station and other facilities in Ocean County would be redefined from the Philadelphia wage area to the New York wage area on the first day of the first applicable pay period beginning on or after 30 days after the issuance of a final regulation implementing this proposed change.

### Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

### List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

Accordingly, OPM proposes to amend 5 CFR part 532 as follows:

## PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

**Authority:** 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix C to subpart B is amended by revising the wage area listings for the New York, New York, and Philadelphia, Pennsylvania, wage areas to read as follows:

### Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

**New York**

* * * * *

**New York**

*Survey Area*

New York:
- Bronx
- Kings
- Nassau
- New York
- Queens
- Suffolk
- Westchester

New Jersey:
- Bergen
- Essex

Hudson
Middlesex
Morris
Passaic
Somerset
Union

*Area of Application. Survey Area Plus*

New York:
Putnam
Richmond
Rockland
New Jersey:
Monmouth
Ocean (excluding the Fort Dix Military Reservation)
Sussex

* * * * *

**Pennsylvania**

* * * * *

**Philadelphia**

*Survey Area*

Pennsylvania:
Bucks
Chester
Delaware
Montgomery
Philadelphia
New Jersey:
Burlington
Camden
Gloucester

*Area of Application. Survey Area Plus*

Pennsylvania:
Lehigh
Northampton
New Jersey:
Atlantic
Cape May
Cumberland
Hunterdon
Mercer
Ocean (Fort Dix Military Reservation only)
Warren

* * * * *

[FR Doc. 98–16668 Filed 6–22–98; 8:45 am]
BILLING CODE 6325–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–SW–01–AD]**

## Airworthiness Directives; Eurocopter France Model AS 332C, L, L1 and L2 Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Eurocopter France Model AS 332C, L, L1, and L2 helicopters. This proposal would require replacing certain circuit breakers. This proposal is prompted by the manufacturer discovering, upon testing a circuit breaker installed in a helicopter, the loss of electrical continuity between the terminals of the installed circuit breaker. The actions specified by the proposed AD are intended to prevent loss of electrical power caused by improper installation of certain circuit breakers causing deterioration in the operation of the circuit breakers, loss of instrumentation, and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before July 23, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–01–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert McCallister, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5121, fax (817) 222–5961.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–01–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–01–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

### Discussion

The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model AS 332C, L, L1, and L2 helicopters. The DGAC advises of the loss of continuity on certain single-pole circuit breakers.

Eurocopter France has issued Service Bulletin No. 01.00–49, dated June 30, 1997, (SB) for Models AS 332C, L, L1, and L2 to inspect Crouzet single-pole circuit breakers, Part Number (P/N) 84 400 028 through 84 400 037, and to replace all circuit breakers that have any loss of electrical continuity. The DGAC classified this SB as mandatory and issued DGAC AD's 97–202–062(AB) and 97–201–007(AB), both dated August 27, 1997, to ensure the continued airworthiness of these helicopters in France.

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

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model AS 332C, L, L1, and L2 helicopters of the same type design

registered in the United States, the proposed AD would require inspection of any Crouzet single-pole circuit breakers, P/N 84 400 028 through 84 400 037, and replacement of all circuit breakers that have any loss of electrical continuity. The actions would be required to be accomplished in accordance with the SB described previously.

The FAA estimates that three helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately three work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $5,750 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $17,790.

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

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Eurocopter France:** Docket No. 98–SW–01–AD.

*Applicability:* Eurocopter France Model AS 332C, L, L1, and L2 Helicopters, with Crouzet circuit breaker, Part Number (P/N) 84 400 028 through 84 400 037, installed, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent loss of electrical power, loss of instrumentation, and subsequent loss of control of the helicopter, accomplish the following:

(a) On or before 100 hours time-in-service (TIS) or within the next 3 calendar months, whichever occurs first,

(1) For Model AS 332C, L, and L1, inspect the circuit breakers listed in paragraph 1.D.1) of the Planning Information in Eurocopter France Service Bulletin No. 01.00.49, dated June 30, 1997 (SB) according to the operational procedure in paragraph 2.B. of the Accomplishment Instructions of the SB;

(2) For Model AS 332L2, inspect the circuit breakers fitted to the DC power system, the 20 kVA and 30 kVA AC master box, the emergency flotation gear, and the second battery according to the operational procedure in paragraph 2.B. of the Accomplishment Instructions of the SB.

(b) On or before 500 hours TIS or 6 calendar months, whichever occurs first, inspect all remaining circuit breakers in accordance with paragraph 2.B. of the Accomplishment Instructions of the SB.

(c) Except for circuit breaker type 84–402(x), after compliance with paragraph (a) of this AD, any replacement circuit breaker installed, or any circuit breaker removed and reinstalled, must be inspected prior to further flight according to the operational procedure of paragraph 2.B. of the Accomplishment Instructions of the SB. Replacement of all circuit breakers with circuit breaker type 84–402(x) is terminating action for the requirements of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

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

**Note 3:** The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 97–202–062(AB) and 97–201–007(AB), both dated August 27, 1997.

Issued in Fort Worth, Texas, on June 16, 1998.

**Eric Bries,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 98–16613 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–AGL–41]**

## Proposed Modification of Class E Airspace; Bowman, ND

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to modify Class E airspace at Bowman, ND. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 29 has been developed for Bowman Municipal Airport. Controlled airspace extending upward from 700 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the existing controlled airspace to the northeast, east, and southeast, for Bowman Municipal Airport.

**DATES:** Comments must be received on or before August 10, 1998.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–41, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

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

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

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AGL–41.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

## Availability of NPRM's

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

## The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Bowman, ND, to accommodate aircraft executing the proposed GPS Rwy 29 SIAP at Bowman Municipal Airport by increasing the existing controlled airspace to the northeast, east, and southeast, for the airport. Controlled airspace extending upward from 700 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E 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. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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 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.*

* * * * *

**AGL ND E5 Bowman, ND [Revised]**

Bowman Municipal Airport, ND
(lat. 46°11′14″ N, long. 103°25′43″ W)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of Bowman Municipal Airport and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 46°26′00″ N, long. 103°38′00″ W, to lat. 46°48′00″ N, long. 102°53′00″ W, to lat. 46°20′00″ N, long. 102°53′00″ W, to lat 45°38′00″ N, long. 130°00′00″ W, to lat. 45°43′00″ N, long. 103°43′00″ W, to lat. 45°48′00″ N, long. 103°54′00″ W, to lat. 46°17′30″ N, long. 103°48′15″ W, to the point of beginning, excluding Federal Airways, the Hettinger, ND, Dickinson, ND, and Baker, MT Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on June 10, 1998.

**David B. Johnson,**

*Acting Manager, Air Traffic Division.*

[FR Doc. 98–16636 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–AGL–42]**

## Proposed establishment of Class E Airspace; Crosby, ND

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to establish Class E airspace at Crosby, ND. A Global Positioning System (GPS) Standard Instrument Approach

Procedure (SIAP) to Runway (Rwy) 30 has been developed for Crosby Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to create controlled airspace at Crosby Municipal Airport to accommodate the approach.

**DATES:** Comments must be received on or before August 10, 1998.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket NO. 98–AGL–42, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

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

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AGL–42.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

## Availability of NPRM's

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

## The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Crosby, ND, to accommodate aircraft executing the proposed GPS Rwy 30 SIAP at Crosby Municipal Airport by creating controlled airspace at the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E 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. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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 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.*

* * * * *

**AGL ND E5 Crosby, ND [New]**

Crosby Municipal Airport, ND
(Lat. 48°55′42″N., long. 103°17′51″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Crosby Municipal Airport, excluding that airspace north of lat. 49°00′00.0″N (Canada/United States Boundary).

* * * * *

Issued in Des Plaines, Illinois on June 10, 1998.

**David B. Johnson,**

*Acting Manager, Air Traffic Division.*

[FR Doc. 98–16635 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

## 29 CFR Part 1910

**[Docket No. H–117–C]**

## Notice of Public Meeting on Review of the Grain Handling Facilities Standard

**AGENCY:** Occupational Safety and Health Administration, U.S. Department of Labor.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is conducting a review of the Grain Handling Standard in order to determine, consistent with Executive Order 12866 on Regulatory Planning and Review and Section 610 of the Regulatory Flexibility Act, whether this standard should be maintained without change, rescinded, or modified in order to make it more effective or less burdensome in achieving its objectives, to bring it into better alignment with the objectives of Executive Order 12866, or to make it consistent with the objectives of the Regulatory Flexibility Act to achieve regulatory goals while imposing as few burdens as possible on small employers. Any revisions to the standard must be consistent with the Occupational Safety and Health Act, which requires employers to provide employees with a safe and healthy workplace.

Written public comments on all aspects of compliance with the Grain Handling Standard are welcomed. OSHA will also hold two stakeholder meetings to provide opportunities for interested parties to comment on whether the Grain Handling Standard should be eliminated, modified, or continued without exchange to achieve the objectives described above.

**DATES:** There will be two public meetings. The first public meeting will be held on July 28, 1998 in Chicago, Illinois. The second public meeting will be held on July 31, 1998 in Washington, D.C. Both meetings will begin at 9:00 a.m. and are scheduled to end at 5:30 p.m. Written comments should be submitted in quadruplicate to the OSHA Docket Office at the address given below. The deadline for submitting written comments is August 31, 1998.

**ADDRESSES:** The first public meeting will be held in the State of Illinois Building, 160 N. LaSalle, Chicago, Illinois, and the second will be held in the Frances Perkin Building, 200 Constitution Avenue, N.W., Washington, D.C.

*Requests to Appear:* OSHA requests that any person wishing to speak at the public meetings notify OSHA in writing. To assure that time is provided for oral comments, the request should be received by OSHA no later than July 21 for the meeting in Chicago, Illinois, and July 24, 1998 for the Washington, D.C. meeting and should identify the person and/or organization intending to appear, desired date of appearance, address and phone/fax number, the amount of time requested, audiovisual equipment required, and a brief summary of the comments to be presented. Please send written requests to appear to Tom Mockler at the following address: Office of Regulatory Analysis, Directorate of Policy, Occupational Safety and Health Administration, Room N3627, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 219–4916, extension 136, Fax (202) 219–4383. Persons making timely written requests to speak at a public meeting will be given priority for oral comments, as time permits. Other persons wishing to speak should register at the meetings from 8:30 to 9:00. OSHA will make every effort to accommodate individuals wishing to speak at the public meetings.

*Written Comments:* OSHA welcomes the submission of written public comments on all aspects of the Grain Handling Standard. OSHA will review written public comments as part of the process of conducting this regulatory review of the Grain Handling Standard. All comments received will be received in Docket H–117–C and will be available for public review in the Docket Office at the address given below.

Written comments on the Grain Handling Standard should be submitted in quadruplicate to Elaine Bynum, Docket Officer, Docket No. H–117–C, OSHA Docket Office, Room N2625, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 219–7894, Fax (202) 219–5046. Comments 10 pages or fewer may be faxed to (202) 219–5046 as long as paper copies are subsequently sent. The deadline for submitting written comments is August 31, 1998.

**FOR FURTHER INFORMATION CONTACT:** Tom Mockler, Office of Regulatory Analysis, Directorate of Policy, Occupational Safety and Health Administration, Room N3627, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 219–4916, extension 136, Fax (202) 219–4383.

**SUPPLEMENTARY INFORMATION:** In 1987, OSHA promulgated the Grain Handling Standard (29 CFR 1910.272) (52 FR 49592, December 1, 1987). The standard applies to grain handling facilities in general industry and at marine terminals under 29 CFR Parts 1910 and 1917. It does not cover construction, shipyards, or agriculture. The standard addresses practices, procedures and equipment that are necessary to protect workers from fires, grain dust explosions, and other safety hazards associated with grain handling facilities.

The Grain Handling Standard requires that employers with grain handling operations utilize a multi-faceted approach to minimize the hazards associated with such operations. This entails the development of an emergency action plan, training for employees, permit procedures where hot work is performed, special procedures for entry into grain storage structures and flat storage structures, coordination with contractors, housekeeping requirements to minimize the accumulation of dust, requirements for filter collectors on pneumatic dust collection systems, requirements on grate openings for receiving pits, requirements for preventive maintenance, requirements for grain stream processing equipment, provisions for emergency escape, requirements for continuous-flow bulk raw grain dryers, and requirements for inside bucket elevators. These provisions are intended to minimize the possibility of igniting existing grain dust, to reduce the amount of grain dust present, or to minimize other risks such as the threat of engulfment to individuals who enter grain storage structures.

OSHA estimated in the Final Regulatory Impact Analysis for the Grain Handling Standard that the rule would prevent 18 fatalities and 394 injuries annually. OSHA also estimated that the standard would have annual costs of between $41 and $69 million (52 FR 49622; Dec. 1, 1987).

In a supplemental rulemaking in 1996 (61 FR 9578, March 8, 1996), the Agency modified the language of the standard to clarify its intent that certain employee protections be provided in all grain storage structures, regardless of their dimensions. This amendment was expected to have little or no impact on any grain elevators, regardless of size (61 FR 9583; March 8, 1996).

At the present time, OSHA has selected the Grain Handling Standard for review in accordance with the regulatorry review provisions at Section 5 of Executive Order 12866 (58 FR 51735, 51739, Oct. 4, 1993) and Section 610 of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The purpose of the review is to determine whether the standard should be continued without

change, rescinded, or amended to make it more effective or less burdensome in achieving its objectives, to bring it into better alignment with the objectives of Executive Order 12866, or to make it more consistent with the objectives of the Regulatory Flexibility Act to achieve regulatory goals while imposing as little burden as possible on small employers. In the event the Agency determines, based on the results of this review, that the rule should be rescinded or modified, appropriate rulemaking will be initiated.

An important step in the review process involves the gathering and analysis of information from affected persons about their experience with the rule and any material changes in circumstances since issuance of the rule. This notice requests written comments and announces public meetings to provide opportunities for interested parties to comment on the continuing need for, adequacy or inadequacy of, and small business impacts of this rule. Comment concerning the following subjects would assist the Agency in determing whether to retain the standard unchanged or to initiate rulemaking for purposes of revision or rescission:

1. The benefits and utility of the rule in its current form and, if amended, in its amended form;

2. The continued need for the rule;

3. The complexity of the rule;

4. Whether and to what extent the rule overlaps, duplicates, or conflicts with other Federal, State, and local governmental rules;

5. Information of any new developments in technology, economic conditions, or other factors affecting the ability of affected firms to comply with the Grain Handling standard; and

6. Alternatives to the rule or portions of the rule that would minimize significant impacts on small businesses while achieving the objectives of the Occupational Safety and Health Act.

**Authority:** This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of June, 1998.

**Charles N. Jeffress,**

*Assistant Secretary.*

[FR Doc. 98–16643 Filed 6–22–98; 8:45 am]

BILLING CODE 4510–26–M

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

## 29 CFR Part 1910

**[Docket No. H–052–F]**

## Notice of Public Meeting on Review of the Cotton Dust Standard

**AGENCY:** Occupational Safety and Health Administration, U.S. Department of Labor.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is conducting a review of the Cotton Dust Standard in order to determine, consistent with Executive Order 12866 on Regulatory Planning and Review and Section 610 of the Regulatory Flexibility Act, whether this standard should be maintained without change, rescinded, or modified in order to make it more effective or less burdensome in achieving its objectives, to bring it into better alignment with the objectives of Executive Order 12866, or to make it more consistent with the objectives of the Regulatory Flexibility Act to achieve regulatory goals while imposing as few burdens as possible on small employers.

Written public comments on all aspects of the Cotton Dust Standard are welcomed. OSHA will also hold two stakeholder meetings that will be open to the public to provide opportunities for interested parties to comment on whether the Cotton Dust Standard should be eliminated, modified, or continued without change to achieve the objectives described above.

**DATES:** The first public meeting will be held on July 24, 1998, in Atlanta, Georgia. The second public meeting will be held on July 30, 1998 in Washington, DC. Both meetings will begin at 9:00 a.m. and will end at approximately 5:30 p.m. Requests from members of the public to speak at these meetings should be received by OSHA no later than July 17, 1998, for the meeting in Atlanta, Georgia, and July 23, 1998, for the meeting in Washington, DC. Written comments must be postmarked by August 31, 1998.

**ADDRESSES:** The Atlanta meeting will be held at the Sheraton Gateway Hotel, Atlanta Airport, 1900 Sullivan Road, College Park, Georgia 30337, Telephone (770) 997–1100, Fax (770) 997–1921.

The Washington, DC meeting will be held in the Auditorium of the Frances Perkins Building at 200 Constitution Avenue, NW., Washington, DC 20210.

Requests to speak at these public meetings should be sent to Kathryn Condit, Office of Regulatory Analysis, Directorate of Policy, Occupational Safety and Health Administration, Room N3627; 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 219–4916, extension 145, Fax (202) 219–4383.

Written comments on the Cotton Dust Standard should be submitted in quadruplicate to Elaine Bynum, Docket Officer, Docket No. H–052–F, OSHA Docket Office, Room N2625; 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 219–7894, Fax (202) 219–5046. Comments of 10 pages or fewer may be faxed to (202) 219–5046 as long as paper copies are subsequently sent.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Condit, Office of Regulatory Analysis, Directorate of Policy, Occupational Safety and Health Administration, Room N3627, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 219–4916, extension 145, Fax (202) 219–4383.

**SUPPLEMENTARY INFORMATION:**

### *Additional Information Concerning Public Participation*

*Requests to Speak at the Public Meetings.* Requests should identify the person and organization intending to appear, desired date of appearance, address and phone and fax number, the amount of time requested, audiovisual equipment required, and a brief summary of the comments to be presented. Persons making timely written requests to speak at the public meetings will be given priority for oral comments, as time permits. Other persons wishing to speak should register before the meetings from 8:30 to 9:00 a.m. OSHA will make every effort to accommodate individuals wishing to speak at the public meetings.

*Written Comments.* OSHA will review written public comments as part of the process of conducting this regulatory review of the Cotton Dust Standard. All comments received will be included in Docket H–052–F and will be available for public review in the Docket Office.

### *Additional Information on the Regulatory Review*

OSHA has selected the Cotton Dust Standard for review in accordance with the regulatory review provisions at Section 5 of Executive Order 12866 (58 FR 51735, 51739; Oct. 4, 1993) and Section 610 of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). In the event the Agency determines, based on the results of this review, that the rule should be rescinded or modified, appropriate rulemaking will be initiated.

An important step in the review process involves the gathering and analysis of information from affected persons about their experience with the rule and any material changes in circumstances since issuance of the rule. Comment concerning the following subjects would assist the Agency in determining whether to retain the standard unchanged or to initiate rulemaking for the purposes of revision or rescission:

1. The benefits and utility of the rule in its current form and, if amended, in its amended form;
2. The continued need for the rule;
3. The complexity of the rule;
4. Whether and to what extent the rule overlaps, duplicates, or conflicts with other Federal, State and local governmental rules;
5. Information on any new developments in technology, economic conditions, or other factors affecting the ability of affected firms to comply with the Cotton Dust rule; and
6. Alternatives to the rule or portions of the rule that would minimize any significant impacts on small businesses while achieving the objectives of the Occupational Safety and Health Act.

**Addtional Information on the Cotton Dust Standard**

In 1978, OSHA promulgated a health standard for cotton dust (29 CFR 1910.1043) that set new permissible exposure limits for occupational exposure to cotton dust for the textile industry as well as permissible exposure limits for several other industries. The basis for this rulemaking was OSHA's determination that exposure to cotton dust presents a significant health hazard to employees. Exposure to cotton dust, which may contain a mixture of many substances, including ground-up plant matter, bacteria, fungi, soil, pesticides, and other contaminants, can lead to the chronic respiratory disease known as byssinosis (''brown lung''), as well as to production or aggravation of respiratory symptoms characteristic of chronic lung disease, e.g., chronic bronchitis, asthma, emphysema and other non-specific diseases.

Since its promulgation in 1978, the Cotton Dust Standard has been modified on several occasions to conform to court decisions (*AFL–CIO* v. *Marshall*, 617 F.2d 636 (D.C. Cir. 1979); *American Textile Manufacturers Institute, Inc.* v. *Donovan*, 452 U.S. 490 (1981); (50 FR 51120; December 13, 1985). The Cotton Dust Standard § 1910.1043, currently applies to the control of employee exposure to cotton dust in all workplaces where employees engage in yarn manufacturing, engage in slashing and weaving operations, or work in waste houses for textile operations.

The standard establishes a permissible exposure limit (PEL) of 200 micrograms per cubic meter of air (μg/m$^3$) as an 8-hour time weighted average (TWA) for yarn manufacturing and cotton washing operations, a PEL of 500 μg/m$^3$ as an 8-hour TWA for textile mill waste house operations or exposure to dust from ''lower grade washed cotton'' during yarn manufacturing operations, and a PEL of 750 μg/m$^3$ as an 8-hour TWA for exposure during slashing and weaving operations (43 FR 27350; June 23, 1978). The action levels established by the standard are: 100 μg/m$^3$ as an 8-hour TWA for yarn manufacturing and cotton washing operations, 250 μg/m$^3$ as an 8-hour TWA for textile mill waste house operations, and 375 μg/m$^3$ as an 8-hour TWA for exposure during slashing and weaving operations. The Cotton Dust Standard also includes provisions covering exposure monitoring, engineering control use, written compliance and work practice programs, respirators, medical surveillance, training, and recordkeeping (43 FR 27350; June 23, 1978). In instances where an employer can demonstrate that employee exposures are below the appropriate action level, the employer is not obligated to comply with many of the requirements of the standard.

The Cotton Dust Standard also applies, in part, to cottonseed processing and cotton waste processing operations. Cottonseed processing operations are not subject to an OSHA 8-hour time-weighted average PEL. However, cottonseed processing operations are covered by certain medical surveillance provisions, recordkeeping provisions, and other requirements of § 1910.1043 as specified in § 1910.1043 as specified in § 1910.1043(a)(3). These requirements are included in the scope of this regulatory review. The cotton waste processing operations of waste recycling (sorting, blending, cleaning, willowing, etc.) and garnetting must comply with a PEL of 1 mg/m$^3$ as an 8-hour time weighted average. This PEL is contained in § 1910.1000, rather than in § 1910.1043, and it is therefore not included in the scope of the current regulatory review effort. However, cotton waste processing operations are covered by certain medical surveillance, recordkeeping, and other requirements of § 1910.1043 as specified in § 1910.1043(a)(3). These requirements are included in the scope of this regulatory review.

The Cotton Dust Standard does not apply to the handling or processing of woven or knitted materials, or to maritime operations covered by 29 CFR Parts 1915 and 1918, or to harvesting or ginning of cotton, or to the construction industry. In addition, facilities processing washed cotton (as defined in paragraph (n) of § 1910.1043) may be exempt from all or part of the standard (see § 1910.1043 (n) for details).

In 1978, OSHA estimated that the Cotton Dust Standard would generate compliance costs of $656.5 million in capital costs and $206.1 million in annual costs. The bulk of these costs were attributed to the textile industry: $550.0 million in capital costs and $171.0 million in annual costs (43 FR 27380; June 23, 1978). the remaining estimated compliance costs were attributed to the waste processing, cottonseed processing, and warehousing industries. In 1978, OSHA also provided a benefits estimate for the yarn preparation industry alone of 4,904 cases of byssinosis avoided per year based on the new permissible exposure limit of 200 μg/m$^3$ as an 8-hour TWA (43 FR 27379; June 23, 1978). Several years later, compliance cost estimates made by the American Textile Manufactures Institute, as well as compliance cost estimates made by Centaur Associates, an OSHA contractor, indicated that the actual cost to affected industries of complying with the standard was substantially lower than OSHA's original estimates (50 FR 51166–51167; December 13, 1985). Modifications to the scope and requirements of the Cotton Dust Standard occurring after 1978 also led OSHA to lower its estimates of the compliance costs associated with the standard (48 FR 26978; June 10, 1983).

**Authority:** This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of June, 1998.

**Charles N. Jeffress,**

*Assistant Secretary.*

[FR Doc. 98–16624 Filed 6–22–98; 8:45 am]

BILLING CODE 4510–26–M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 141 and 142

**[WH–FRL–6112–9]**

### National Primary Drinking Water Regulations: Long Term 1 Enhanced Surface Water Treatment Rule and Filter Backwash Recycling Rule Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; announcement of public meeting.

**SUMMARY:** EPA is in the nascent stages of development for both the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) and the Filter Backwash Recycling Rule (FBRR). The Agency is holding these public meetings to share information with interested parties and to solicit feedback from them. The LT1ESWTR rule will primarily address microbial risks at systems serving under 10,000 people. Development of the rule's requirements will begin by considering the appropriateness of the Interim Enhanced Surface Water Treatment Rule (IESWTR) regulatory template. The rule is to be promulgated by November 2000.

The FBRR rule will provide, for the first time, federal regulatory requirements governing the recycle of filter backwash within the treatment process of public utilities. The rule will apply to utilities of all sizes that backwash filters. The Safe Drinking Water Act (SDWA) requires that the final regulation be promulgated by August of 2000.

In keeping with its open door policy for meetings with the public, EPA is inviting all interested members of the public to attend these meetings, with seating on a first-come, first-served basis.

**DATES:** The LT1ESWTR public meeting will be held on July 22, 1998, and will begin at 8:30 a.m. local time. The FBRR public meeting will begin at the same time on July 23, 1998. Both public meetings will conclude at approximately 4:30 p.m. local time.

**ADDRESSES:** The meeting will be held at U.S. EPA, Region 8 Office, 999 18th Street, Suite 500, Denver, CO 80202–2466.

**FOR FURTHER INFORMATION CONTACT:** For general information on the LT1ESWTR public meeting, please contact Steve Potts at (202) 260–5015. For the FBRR public meeting, please contact Bill Hamele at (202) 260–2584.

Dated: June 17, 1998

**Cynthia C. Dougherty,**

*Director, Office of Ground Water and Drinking Water, Office of Water.*

[FR Doc. 98–16671 Filed 6–22–98; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**RIN 1018–AC13**

### Endangered and Threatened Wildlife and Plants

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; availability of draft San Xavier talussnail conservation agreement.

**SUMMARY:** The Fish and Wildlife Service (Service) provides notice that a draft conservation agreement for the San Xavier talussnail (*Snorella eremita*) is available for review and comment. Comments will be accepted during the current public comment period on the proposal to list species as endangered under the Endangered Species Act of 1973, as amended, which closes July 21, 1998. This Conservation Agreement will provide guidance for the conservation and management of the species and its habitat.

**DATES:** All comments on the draft Conservation Agreement and information on the proposal to list the San Xavier talussnail will be accepted through July 21, 1998.

**ADDRESSES:** Written comments and materials should be sent to the Field Supervisor, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Debra Bills, Fish and Wildlife Biologist, or Jerry Brabander, Acting Field Supervisor, Arizona Ecological Services Field Office, at the above address (602) 640–2720.

**SUPPLEMENTARY INFORMATION:**

#### Background

The San Xavier talussnail was first proposed as endangered on March 23, 1994 (59 FR 13691). At that time, a 60-day public comment period was opened until May 23, 1994, and all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Public hearing requests were invited through May 9, 1994.

Considering the length of time that has elapsed since that initial proposal and a recent re-examination of property boundaries to clarify ownership of the talussnail habitat, the Service reopened the public comment period on May 22, 1998 (63 FR 28343). With the availability of the draft Conservation Agreement, the Service is seeking comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the proposed rule and the draft Conservation Agreement.

The draft Conservation Agreement calls for restricting activities that would alter sediment runoff, vegetation, or moisture conditions. The draft Conservation Agreement was prepared by representatives from Federal and State agencies and is intended to be used as the basis for guiding the long-term protection of the species and its habitat.

*Author*

The primary author of this document is Debra Bills, Arizona Ecological Services Field Office (see **ADDRESSES** section).

*Authority*

The authority for this action is the Endangered Species Act (16 U.S.C. 1532 *et seq.*).

Dated: June 17, 1998.

**Geoffrey L. Haskett,**

*Regional Director, Fish and Wildlife Service, Region 2.*

[FR Doc. 98–16678 Filed 6–22–98; 8:45 am]

BILLING CODE 4310–55–P

# Notices

Federal Register
Vol. 63, No. 120
Tuesday, June 23, 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

### Nicholson Land Exchange, Boise National Forest, Boise and Elmore Counties, ID

**AGENCY:** Forest Service, USDA.

**ACTION:** Cancellation of notice of intent to prepare environmental impact statement.

**SUMMARY:** The Boise National Forest has cancelled the preparation of an Environmental Impact Statement (EIS) on the proposed land exchange with Thomas T. and Diana R. Nicholson. The previously published Notice of Intent appeared in the October 10, 1997, **Federal Register**, Volume 62, Number 197, pages 52964–52965.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning the cancellation of the EIS should be directed to Sharon Paris at (208) 373–4157. Written requests should be sent to the Boise National Forest, Attn: Sharon Paris, 1249 S. Vinnell Way, Boise, ID 83709.

Dated: June 4, 1998.

**Jack G. Troyer,**

*Deputy Regional Forester, Intermountain Region Forest Service, USDA.*

[FR Doc. 98–16654 Filed 6–22–98; 8:45 am]

BILLING CODE 3410–11–M

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Arizona 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 Arizona Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 12:00 p.m. on July 11, 1998, at the Wyndham Garden Hotel, Phoenix Airport, 429 North 44th Street, Phoenix, Arizona 85008. The purpose of the meeting is to discuss followup to the Arizona Department of Transportation forum and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). 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, June 11, 1998.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 98–16581 Filed 6–22–98; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Minnesota 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 Minnesota Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on July 9, 1998, at the Crowne Plaza Northstar Hotel, 618 Second Avenue South, Minneapolis, Minnesota. The purpose of the meeting is to hold a press conference to release the Committee's report *Focus on Affirmative Action*, discuss civil rights issues, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Alan W. Weinblatt, 612–292–8770, 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, June 11, 1998.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 98–16584 Filed 6–22–98; 8:45 am]

BILLING CODE 6335–01–P

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration (EDA), Commerce.

**ACTION:** To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/10/98–05/15/98

| Firm name | Address | Date petition accepted | Product |
|---|---|---|---|
| Robertson Equipment Company, Inc. | 1502 South Madison, Webb City, MO 64870. | 05/27/98 | Remanufactured Printing Press Equipment and Brakes and Brush Dampers. |
| Midwest Game Supply Company. | 1119 North Jefferson Street, Kearney, MO 64060. | 05/27/98 | Dice, Casino Table Layouts. |

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/10/98–05/15/98—Continued

| Firm name | Address | Date petition accepted | Product |
|---|---|---|---|
| Prolon, Inc | 305 Industrial Avenue, Port Gibson, MS 39150. | 06/01/98 | Compression Molded Dishes of Plastic. |
| Tri-Source, Inc | 204 North Lynn Riggs Road, Claremore, OK 74027. | 06/01/98 | Optical Unmounted Lenses. |
| American Standard Company, Inc. | 157 Water Street, Southington, CT 06479. | 06/02/98 | Pruning Shears, Pole Pruners, Loppers and Forestry Hoes. |
| Frost Controls, Inc | 7 Industrial Drive South, Smithfield, RI 02917. | 06/02/98 | Photoelectric Control Systems and Light Curtains for Use as Machine and Workplace Safety Guards. |
| Hampden Automotive Sales Corporation. | 117 Heath Street, Boston, MA 02130. | 06/02/98 | Brake Shoes, Disk Brake Calipers, Clutches, Water Pumps. |
| Solectek Corporation | 6370 Nancy Ridge Drive, San Diego, CA 92121. | 06/03/98 | Wireless Communication Devices and Systems for Local Area Networks. |
| Action North America, Inc | 6063 Janes Lane, Naples, FL 33942. | 06/09/98 | Motorcycles Fitted With an Auxiliary Motor with Internal Combustion Piston Engines & ATVs. |
| Varsity Sports, Inc | 4361 NW 50th, Suite 100, Oklahoma, OK 73122. | 06/15/98 | Athletic Baseball Shirts. |

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: June 17, 1998.

**Anthony J. Meyer,**

*Coordinator, Trade Adjustment and Technical Assistance.*

[FR Doc. 98–16619 Filed 6–22–98; 8:45 am]

BILLING CODE 3510–24–M

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Order No. 984]**

## Grant of Authority for Subzone Status Cirrus Logic, Inc. (Integrated Circuit), Fremont, California

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

*Whereas*, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

*Whereas*, an application from the City of San Jose, California, grantee of FTZ 18, for authority to establish special-purpose subzone status at the integrated circuit distribution facility of Cirrus Logic, Inc., in Fremont, California, was filed by the Board on July 10, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 59–97, 62 FR 38972, 7/21/97); and,

*Whereas*, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

*Now, therefore*, the Board hereby grants authority for subzone status at the integrated circuit distribution facility of Cirrus Logic, Inc., located in Fremont, California (Subzone 18C), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 11th day of June 1998.

**Robert S. LaRussa,**

*Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 98–16684 Filed 6–22–98; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Docket 31–98]**

## Foreign-Trade Zone 40, Cleveland, Ohio, Area; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Cleveland-Cuyahoga County Port Authority, grantee of FTZ 40, requesting authority to expand its zone in the Cleveland, Ohio, area, within the Cleveland Customs port of entry. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 15, 1998.

FTZ 40 was approved on September 29, 1978 (Board Order 135, 43 F.R. 46886, 10/11/78) and expanded in June 1982 (Board Order 194, 47 F.R. 27579, 6/25/82); April 1992 (Board Order 574, 57 F.R. 13694, 4/17/92); and, February 1997 (Board Order 870, 62 F.R. 7750, 2/20/97). The zone project currently consists of 5 sites in the Cleveland, Ohio, area: *Site 1* (94 acres)—port of Cleveland complex on Lake Erie at the mouth of the Cuyahoga River, Cleveland; *Site 2* (175 acres)—the IX Center (formerly the ''Cleveland Tank Plant''), in Brook Park, Ohio, adjacent to Cleveland Hopkins International Airport; *Site 3* (1,900 acres)—Cleveland Hopkins International Airport complex, Cleveland; *Site 4* (450 acres)—Burke Lakefront Airport, 1501 North Marginal Road, Cleveland, and *Site 5* (97 acres)—within the Emerald Valley Business Park at the southeast corner of Cochran Road and Beaver Meadow Parkway, Glenwillow.

The applicant is now requesting authority to expand existing *Site 5* to include the entire Emerald Valley Business Park (298 acres, includes existing areas) in Glenwillow and to include 3 new sites (160 acres) in Cuyahoga County (Proposed Sites 6–8): *Proposed Site 6* (30 acres)—Collinwood site, South Waterloo (South Marginal) Road and East 152nd Street, Cleveland; *Proposed Site 7* (47 acres)—Water Tower Industrial Park, Coit Road and East 140th Street, Cleveland; and, *Proposed Site 8* (83 acres)—Strongsville Industrial Park, Royalton Road (State Route 82), Strongsville. Proposed Sites 5, 6 and 8 are privately owned, while Proposed Site 7 is owned by the State of Ohio. No specific manufacturing requests are bing made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 24, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 8, 1998).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 600 Superior Avenue, East, #700 Cleveland, Ohio 44114

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: June 16, 1998.

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 98–16683 Filed 6–22–98; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Docket 30–98]**

## Foreign-Trade Zone 183—Austin, Texas, Application for Expansion and Request for Manufacturing Authority (Servers and Work Stations)

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Foreign-Trade Zone of Central Texas, Inc., grantee of FTZ 183, requesting authority to expand its zone in the Austin, Texas area, and requesting on behalf of Dell Computer Corporation, authority to manufacture servers and workstations under zone procedures within FTZ 183 (Austin Customs port of entry). The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended, (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 11, 1998.

FTZ 183 was approved on December 23, 1991 (Board Order 550, 57 FR 42, 1/2/92). The zone currently consists of seven sites in the Austin, Texas area:

*Site 1*—Austin Enterprise site (317 acres), consisting of seven parcels within the Austin Enterprise Zone Area along Highway 290 and the Ben White Boulevard-Montopolis Drive area, Austin;

*Site 2*—Balcones Research site (50 acres), located in north central Austin at the intersection of Burnett Road and Longhorn Boulevard;

*Site 3*—High Tech Corridor site (762 acres), consisting of ten parcels located along I–35, 14 miles north of downtown Austin (site straddles Austin-Round Rock city line);

*Site 4*—Cedar Park site (122 acres), some eight miles northwest of the Austin city limits, in Williamson County;

*Site 5*—Round Rock ''SSC'' site (246 acres), consisting of two parcels located along I–35 between Chandler Road and Westinghouse Road on the northern edge of the City of Round Rock;

*Site 6*—Georgetown site (246 acres), located along I–35 and U.S. 81, south of downtown Georgetown;

*Site 7*—San Marcos site (40 acres), located within the San Marcos Municipal Airport facility in eastern San Marcos, adjacent to State Highway 21, on the Hays County/Caldwell County line.

(An expansion request (Doc. 63–97) is currently pending with the FTZ Board to expand FTZ 183 to include the MET Center industrial park (200 acres) located between U.S. Highway 183 South and State Highway 71 East in southeast Austin.)

The applicant is now requesting authority to expand Site 3 to include 574 acres approximately two miles south of the High-Tech Corridor site, just east of I–35 on Parmer Lane in the City of Austin (Travis County) near the Williamson County border. This proposed expansion will expand the site to 1,336 acres.

The application also requests authority on behalf of Dell Computer Corporation to manufacture servers and workstations within FTZ 183 (within the proposed expansion area). Dell is already authorized to manufacture computers and related products, including servers and workstations, under zone procedures within Subzone 183A. Dell is building a 300,000 square foot facility (the ''Enterprise Systems Facility'') within the proposed Site 3 expansion area, and plans to transfer a portion of its manufacturing operations to the new facilities to meet requirements for additional capacity required by its growing server and workstation businesses. This proposal does not request any new manufacturing authority under FTZ procedures in terms of products or components, but it does involve a proposed increase in Dell's level of production under FTZ procedures within the FTZ 183 project overall corresponding to the proposed increase in facilities.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 24, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 8, 1998).

A copy of the application and accompanying exhibits will be available

for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center 1700 Congress, 2nd Floor, Austin, TX 78711

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: June 12, 1998.

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 98–16682 Filed 6–22–98; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–489–602]**

### Acetylsalicylic Acid From Turkey; Final Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On April 30, 1998, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on acetylsalicylic acid from Turkey. This review covers one manufacturer/exporter of the subject merchandise during the period of review August 1, 1996, through July 31, 1997.

We gave interested parties an opportunity to comment on our preliminary results; however, we received no comments. Therefore, these final results of review are the same as those presented in the preliminary results of review. The review indicates the existence of no dumping margin for the manufacturer/exporter during this period.

**EFFECTIVE DATE:** June 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Lisa Tomlinson, David Dirstine, or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

**SUPPLEMENTARY INFORMATION:**

### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations published on May 19, 1997 (62 FR 27296).

### Background

On April 30, 1997, the Department published in the **Federal Register** (63 FR 23720) the preliminary results of the administrative review of the antidumping duty order on acetylsalicylic acid from Turkey (52 FR 32030, August 25, 1987). The review covers one company, Atabay Kimya Sanayi ve Ticaret A.S. (AKS), a Turkish manufacturer/exporter of the subject merchandise. The Department has now completed the administrative review in accordance with section 751 of the Act.

### Scope of Review

The product covered by this review is acetylsalicylic acid (aspirin) containing no additives, other than inactive substances (such as starch, lactose, cellulose, or coloring material), and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the *Handbook of Non-Prescription Drugs*, eighth edition, American Pharmaceutical Association, and is not in tablet, capsule or similar forms for direct human consumption. This product is currently classified under the Harmonized Tariff Schedule (HTS) subheading 2918.22.10. The HTS item number is provided for convenience and customs purposes. The written descriptions of the scope of this proceeding remains dispositive.

### Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results of review, but we received no comments. Therefore, the final results of review are the same as those presented in our preliminary results. As a result of the review, we determine that the weighted-average dumping margin is as follows:

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Atabay Kimya Sanayi ve Ticaret A.S | 0.00 |

The Department will issue appraisement instructions directly to the Customs Service. We will instruct the Customs Service not to assess antidumping duties on the merchandise subject to review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for AKS will be zero percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, any prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 32.98 percent. This is the ''All Others'' rate from the LTFV investigation. (*See Antidumping Duty Order; Acetylsalicylic Acid from Turkey*, 52 FR 32030 (August 25, 1987).) These deposit rates shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 11, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98–16681 Filed 6–22–98; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–815]**

### Certain Welded Stainless Steel Pipe From Taiwan; Final Results of Changed Circumstances Antidumping Duty Administrative Review

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

**ACTION:** Notice of final results of changed circumstances antidumping duty administrative review.

**SUMMARY:** On April 7, 1997, the Department of Commerce (the Department) published the preliminary results of its changed circumstances antidumpting duty administrative review of certain welded stainless steel pipe (WSSP) from Taiwan (63 FR 16982). The Department preliminarily determined that Chang Mein Industries Co., Ltd. (Chang Mein) is the successor-in-interest to Chang Tieh Industry Co., Ltd. (Chang Tieh) and is therefore, entitled to Chang Tieh's exclusion from the antidumping duty order or WSSP from Taiwan. We invited interested parties to comment on our preliminary results. We received no comments. We have now completed this review and determine that, for purposes of the antidumping duty law, Chang Mein is the successor firm to Chang Tieh and, as such, is subject to exclusion from the order.

**FOR FURTHER INFORMATION CONTACT:** Maureen McPhillips or Linda Ludwig, Office of AD/CVD Enforcement Group III, Office 8, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–0193 or (202) 482–3833.

### Applicable Statute and Regulations Scope of the Review

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Tariff Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

**SUPPLEMENTARY INFORMATION:**

### Background

On September 11, 1996, Chang Mien requested that the Department conduct a changed circumstances administrative review pursuant to section 751(b) of the Tariff Act to determine whether Chang Mein should properly be considered the successor firm to Chang Tieh. In the less-than-fair-value (LTFV) investigation, the Department excluded Change Tieh from the antidumping duty order on WSSP from Taiwan after calculating a margin of zero for Chang Tieh. *See Notice of Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Pipes from Taiwan,* 59 FR 6619 (February 11, 1994). Chang Mien maintained that, as Chang Mein and Chang Tieh were related at the time of the LTFV investigation, Chang Mein is entitled to Chang Tieh's exclusion from the order *ab initio.* Chang Mien further stated that, since publication of the order, Change Mien has absorbed Chang Tieh and, therefore, as the successor firm to Chang Tieh, is entitled to Chang Tieh's exclusion from

We preliminarily determined that Chang Mien is the successor-in-interest to Chang Tieh, since it essentially operates as the same entity as the former company; maintaining the same management, production facilities, and supplier relationships as did Chang Tieh prior to its merger with Chang Mien (63 FR 16982, April 7, 1998). We gave interested parties an opportunity to comment on the preliminary results of this changed circumstances review. We received no comments.

### Scope of the Review

The merchandise subject to this antidumping duty order is welded austenitic stainless steel pipe that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium nickel pipe designated ASTM A–312. The merchandise covered by the scope of this order also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A–312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications include, but are not limited to, digester brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines. Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTS) subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5065 and 7306.40.5086. Although these subheadings include both pipes and tubes, the scope of this antidumping duty order is limited to welded austenitic stainless steel pipes. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

### Final Results of Changed Circumstances Antidumping Duty Administrative Review

Based on the information that Chang Mien provided in its responses to the Department's questionnaires and on the data obtained at verification, we determine that Chang Mien is the successor to Chang Tieh and, accordingly, is excluded from the antidumping duty order on WSSP from Taiwan. For a complete discussion of the basis for this decision, see *Certain Welded Stainless Steel Pipe from Taiwan; Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review,* April 7, 1998, (63 FR 16982).

The Department, in accordance with 19 CFR 351.222, will instruct the U.S. Customs Service (Customs) to proceed with liquidation, without regard to antidumping duties, of all unliquidated entries of WSSP manufactured by Chang Mien, exported to the United States and entered, or withdrawn from warehouse, for consumption, on or after November 1, 1993, the effective date of the absorption of Chang Tieh by Chang Mien.

The Department will further instruct Customs to refund with interest any estimated duties collected with respect to unliquidated entries of such WSSP entered, or withdrawn from warehouse, for consumption on or after November 1, 1993, in accordance with section 778 of the Act.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

This changed circumstances administrative review and notice are in accordance with sections 751(b) and (d) and 782(h) of the Tariff Act and sections

351.216(d) and 351.222(g) of the Department's regulations.

Dated: June 11, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98–16680 Filed 6–22–98; 8:45 am]

BILLING CODE 3510–DS–M

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Computer System Security and Privacy Advisory Board; Request for Nominations

**AGENCY:** National Institute of Standards and Technology, Commerce.

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

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

**DATES:** Please submit nominations on or before July 31, 1998.

**ADDRESSES:** Please submit nominations to Edward Roback, CSSPAB Secretary, NIST, Building 820, Room 426, Gaithersburg, MD 20899. Nominations may also be submitted via fax to 301–948–1233, Attn: CSSPAB Nominations.

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

**FOR FURTHER INFORMATION CONTACT:** Edward Roback, CSSPAB Secretary and Designated Federal Official, NIST, Building 820, Room 426, Gaithersburg, MD 20899; telephone 301–975–3696; telefax: 301–948–1233; or via e-mail at ''edward.roback@nist.gov''.

**SUPPLEMENTARY INFORMATION:**

### I. CSSPAB Information

*Objectives and Duties*

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

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

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

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

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

*Membership*

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

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

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

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

*Miscellaneous*

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

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

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

### II. Nomination Information

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

Nominees should have specific experience related to computer security or electronic privacy issues, particularly as they pertain to federal information technology. The category of membership for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledge the responsibilities of serving on the CSSPAB, and will actively participate in good faith in the tasks of the CSSPAB. Besides participation at meetings, it is desired that members be able to devote the equivalent of two days between meetings to developing draft issue papers, researching topics of potential interest, and so forth in furtherance of their Board duties.

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

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

Dated: June 17, 1998.

**Robert E. Hebner,**

*Acting Deputy Director.*

[FR Doc. 98–16620 Filed 6–22–98; 8:45 am]

BILLING CODE 3510–CN–M

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Learn and Serve America Training and Technical Assistance Exchange

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of availability of funds.

**SUMMARY:** The Corporation for National and Community Service (hereinafter ''the Corporation'') announces the availability of up to $950,000 for a period of 12 months to provide service-learning training and technical assistance to Learn and Serve America (hereinafter ''LSA'') grantees, AmeriCorps and Senior Corps programs,

and other service-learning and youth service programs through a Learn and Serve America Training and Technical Assistance Exchange (hereinafter ''the Exchange''). Further funding may be available for a second and third year depending on performance, need, and availability of funds. The Corporation seeks proposals describing plans for activities to meet the service-learning technical assistance needs of LSA grantees, other Corporation programs, and, to the extent that resources allow, others in the field of service-learning and youth service.

**DATES:** Application guidelines will be available Tuesday, June 23, 1998. Applications must be submitted to the Corporation no later than 3:00 p.m. (EDT) on Wednesday, August 5, 1998. The target date for implementation is October 1, 1998.

**ADDRESSES:** Requests for applications must be submitted in writing to the Corporation for National and Community Service, Office of Training and Technical Assistance, Attn: Robert Seidel—Application Request, 1201 New York Avenue, N.W., Washington, DC 20525. Applications must be submitted to the Corporation for National and Community Service, Box XCH, 1201 New York Avenue, N.W., Washington, DC 20525. Applicants are requested to submit one unbound original and two copies of applications to facilitate the review process. The Corporation will not accept applications that are submitted by facsimile or e-mail transmission.

**FOR FURTHER INFORMATION CONTACT:** Submit all questions about the application in writing no later than 3:00 p.m. (EDT), Thursday, July 9, 1998, to the Corporation for National and Community Service, Office of Training and Technical Assistance, Attn: Robert Seidel, 1201 New York Avenue, N.W., Washington, DC 20525. Faxed questions are acceptable (fax number: 202–565–2781). A copy of all questions submitted as well as the answers will be forwarded to all parties requesting applications. This Notice may also be requested in an alternative format by calling 202–606–5000, extension 391.

**SUPPLEMENTARY INFORMATION:**

## A. Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service. This service addresses the nation's educational, public safety, environmental, and other human needs to achieve direct and demonstrable results. In supporting service programs, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. Administered by the Corporation, LSA is a federal grants program that promotes schools and students as resources in their communities through service-learning. Funds support service-learning programs for kindergarten through twelfth grade youth as well as for students in higher education and community-based programs.

## B. Specific Functions of the LSA Exchange

The Corporation is soliciting applications from eligible applicants to administer the Exchange. It is anticipated that the successful applicant will have the requisite expertise and professional experience to:

1. Develop and implement a cost-effective plan for offering service-learning training and technical assistance (hereinafter ''T/TA'') to LSA grantees, other Corporation programs and, to the extent that resources allow, other programs across the country. The Exchange must develop a system for receiving and tracking requests for T/TA, matching the requests with likely providers, and ensuring that the T/TA is provided in a timely manner. Client and provider feedback should be solicited systematically to facilitate evaluation of specific T/TA activities as well as of the Exchange as a whole. We expect that the lead organization of the Exchange will recruit at least one partner organization in each of five regions covering the country to organize these activities. To be cost-effective, when a request for such support comes in, the Exchange will work with State Education Agencies, State Commissions on National and Community Service, Corporation State Offices, and LSA to assess whether other service programs in a given region should be invited to participate in the T/TA to be provided.

The Exchange must identify various areas of expertise likely to be important to support service-learning programs (for example, intergenerational service-learning, evaluation, discipline-specific curricula, literacy, teacher education, health, diversity, institutionalization, service-learning and school reform, etc.) and recruit expert trainers to be available to respond to requests for assistance on a regional or national basis without duplicating services offered by other Corporation national T/TA providers. The Corporation expects that the provider will need to recruit a roster of at least ten trainers per region plus ten national trainers, but that the actual number will reflect the provider's needs assessment. This team of experts together must be capable of addressing needs of kindergarten through twelfth grade (hereinafter ''K–12'') school-based and community-based programs as well as higher education programs. It should be used whenever the assistance required is too extensive to be provided on a voluntary basis through a peer network or when special expertise is required that is not available through a local or regional peer network.

In a recent six-month period (April-September 1997), the current provider reported conducting an average of about 60 events per month, including workshops, state and regional conferences, peer consulting sessions, state network meetings, and other activities for its K–12 program clients. In addition, the current provider reported providing T/TA through an average of about 400 telephone calls and 50 e-mail exchanges per month during the same period.

In addition to providing T/TA to LSA: K–12 school-based and community-based programs, the Exchange will need to be able to respond to requests for assistance from LSA: Higher Education and other Corporation programs. Consequently, the Corporation's minimum expectations for a 12-month period include:

- At least 25 regional or state-based workshops (each at least one-half day in length) organized by the Exchange;
- At least 100 technical assistance site visits to programs, State Education Agencies, or State Commissions;
- At least 500 peer or regional/national expert consulting sessions, which may be in person or by telephone; and
- Responsive on-line and telephone technical assistance.

While these are minimum expectations, the appropriate level of effort will likely be greater and will depend in part on actual needs assessments conducted by the Exchange.

2. Develop and implement a cost-effective plan for organizing T/TA on a regional basis, using practitioner peer assistance based on peer networks being developed by LSA school-based, community-based, and higher education grantees and drawing on former grantees, affinity groups, the National Service Leader Schools, and the Fund for the Advancement of Service-Learning (FASL) grantees. The Exchange must develop a system for recruiting and appraising the qualifications of candidates to be T/TA providers, identifying their particular areas of

expertise, and recommending them to clients. We do not assume that a program that has operated successfully will necessarily be able to provide effective trainers. The providers' services should be voluntary (non-compensated), but the Exchange should allocate resources for necessary travel and per diem. Voluntary non-compensated services and cost-share contributions (in-kind and/or cash) may not include funds or expenses and time and effort paid for by Corporation funds under LSA or any other Corporation grant. We encourage peer assistance from one region to another when the required support is not available within a region.

3. Develop and implement a management system for defining and monitoring the roles and responsibilities of the lead organization and all regional and other partners within the Exchange. This must include clear definition of the principles and mechanisms for allocating funds to all partners as well as for submitting activity and financial status reports to the Corporation.

4. Convene a meeting of all Exchange partners immediately upon execution of the cooperative agreement to facilitate implementation of T/TA by developing shared understanding of all participants' responsibilities, resources, and identities and roles of contact personnel.

5. In collaboration with the LSA National Service-Learning Clearinghouse, develop and implement a plan for conducting periodic technical assistance resource and needs assessments of all categories of LSA grantees and the service-learning field, including assessing the availability of current resources to meet those needs. The Corporation strongly encourages the Exchange to undertake an initial needs and resources assessment immediately upon signing the cooperative agreement.

6. Work with the LSA National Service-Learning Clearinghouse to identify selected materials and resources, developed and used successfully by the Exchange in the course of providing T/TA, for the Clearinghouse to catalog and make available to the field (using on-line access whenever practical).

7. Develop T/TA resources to make service-learning programs accessible to individuals with disabilities.

8. Coordinate the activities of the Exchange with appropriate entities to avoid duplication of effort, including but not limited to other National Service T/TA providers funded by the Corporation.

9. Collaborate with the Corporation Office of Public Affairs to develop, implement, and continuously improve an outreach and marketing plan to promote the services and resources of the Exchange.

10. Support related Federal initiatives, including the America Reads Challenge and Improving America's Schools Act, by developing relevant T/TA resources or making referrals to existing providers, whichever is more cost-effective.

11. Monitor and support the activities of LSA grantees' affinity groups.

12. Develop and implement the LSA kindergarten through higher education (hereinafter ''K-H'') publications plan in coordination with the LSA National Service-Learning Clearinghouse.

13. Facilitate the planning and implementation of two annual LSA program directors' meetings, one for school-based and community-based K–12 programs and the other for higher education programs, or possibly joint K-H grantees' meetings.

14. Carry out such other activities as the Corporation, normally represented by its Service-Learning Specialist in consultation with the Office of Learn and Serve America, determines to be appropriate.

### C. Amount and Duration of Funding

The first year's award will total up to $950,000. The cooperative agreement may be funded each year for up to three years total based on performance, need, and the availability of funds. Applications proposing notable cost-sharing (in kind and/or in cash) will receive more favorable consideration.

### D. Eligibility

Public or private nonprofit organizations that have extensive experience with service-learning (school-based, campus-based, and/or community-based, including use of adult volunteers to foster service-learning) are eligible to apply.

### E. Applications

The Corporation will enter into only one cooperative agreement in this area. Based on related previous competitions and the Corporation's estimate of the number of eligible applicants, the Corporation expects nine or less applications to be submitted.

Dated: June 18, 1998.

**Kenneth L. Klothen,**

*General Counsel.*

[FR Doc. 98–16685 Filed 6–22–98; 8:45 am]

BILLING CODE 6050–28–P

## DEPARTMENT OF DEFENSE

## Office of the Secretary

## Senior Executive Service Performance Review Board

**AGENCY:** Office of the Inspector General, Department of Defense (OIG, DoD).

**ACTION:** Notice.

**SUMMARY:** This notice announces the appointment of the members of the Senior Executive Services (SES) Performance Review Board (PRB) for the OIG, DoD, as required by 5 U.S.C. 4314(c)(4). The PRB provides fair and impartial review of SES performance appraisals and makes recommendations regarding performance ratings, performance awards and recertification to the Inspector General.

**EFFECTIVE DATE:** July 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dona Seracino, Deputy Director for Operations, Personnel and Security Directorate, Office of the Assistant Inspector General for Administration and Management, OIG, DoD, 400 Army Navy Drive, Arlington, VA 22202, (703) 604–9716.

Charles W. Beardall—Deputy Assistant Inspector, General for Criminal Investigative Policy and Oversight, OAIG-for Investigations

C. Frank Broome—Director, Office of Departmental Inquiries

David M. Crane—Director, Office for Intelligence Review

Donald E. Davis—Deputy Assistant Inspector General for Audit Policy and Oversight, OAIG-Auditing

Thomas F. Gimble—Director, Acquisition Management, OAIG-Auditing

Paul J. Granetto—Director, Contract Management, OAIG-Auditing

Michael G. Huston—Director, Audit Planning and Technical Support, OAIG-Auditing

John F. Keenan—Deputy Assistant Inspector General for Investigations

Frederick J. Lane—Director, Finance and Accounting, OAIG-Auditing

Joel L. Leson—Deputy Assistant Inspector General for Administration and Information Management

Robert J. Lieberman—Assistant Inspector General for Auditing

Nicholas T. Lutsch—Assistant Inspector General for Administration and Information Management

Carol L. Levy—Director, Investigative Operation, OAIG for Investigations

Donald Mancuso—Deputy Inspector General

David K. Steensma—Deputy Assistant Inspector General for Auditing

Shelton R. Young—Director, Logistics Support, OAIG-Auditing

Stephen A. Whitlock—Special Assistant for Ethics and Internal Programs, OAIG–A&IM
Robert L. Ashbaugh—Deputy Inspector General, Department of Justice
John J. Connors—Deputy Inspector General, Department of Housing and Urban Development
Joyce Fleischman—Deputy Inspector General, Department of Agriculture
Joel S. Gallay—Deputy Inspector General, General Services Administration
Nikki L. Tinsley—Deputy Inspector General, Environmental Protection Agency.

Dated: June 17, 1998.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer Department of Defense.*

[FR Doc. 98–16625 Filed 6–22–98; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Proposed Collection; Comment Request

**AGENCY:** Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), Department of the Army, DOD.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by August 24, 1998.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to U.S. Army Corps of Engineers Directorate of Civil Works, ATTN: CEWRC–IWR–R (Stuart A. Davis). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

*Title:* Corps of Engineers Civil Works Questionnaires.

*Needs and Uses:* Information is needed to formulate and evaluate alternative water resources development plans in accordance with the Principles and Guidelines for Water Resources Implementation Studies, promulgated by the U.S. Water Resources Council; to determine the effectiveness and evaluate the impacts of Corps projects; and in the case of flood damage mitigation, to obtain information on flood damages incurred, with or without a flood damage reduction project. Surveys of the public are also essential to the Corps recreation research and management program.

*Affected Public:* Individual or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

*Annual Burden Hours:* 10,817.

*Number of Respondents:* 112,400.

*Responses Per Respondent:* 112,400.

*Average Burden Per Response:* 3 minutes.

*Frequency:* On occasion.

**SUPPLEMENTARY INFORMATION:** The Corps of Engineers uses public surveys for collecting primary data for planning, program evaluation, and basic research to improve formulation and design of resource projects and the management of their operations.

**Gregory D. Showalter,**

*Army Federal Register Liaison Officer.*

[FR Doc. 98–16641 Filed 6–22–98; 8:45 am]

BILLING CODE 3710–08–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary of Defense

### Membership of the Defense Contract Audit Agency (DCAA) Performance Review Boards

**AGENCY:** Defense Contract Audit Agency, DoD.

**ACTION:** Notice of Membership of the Defense Contract Audit Agency Performance Review Boards.

**SUMMARY:** This notice announces the appointment of the members of the Performance Review Boards (PRBs) of the Defense Contract Audit Agency (DCAA). The publication of PRB membership is required by 5 U.S.C. 4314(c)(4). The Performance Review Boards provide fair and impartial review of Senior Executive Service (SES) performance appraisals and make recommendations to the Director, DCAA, regarding final performance ratings and performance awards for DCAA SES members.

**EFFECTIVE DATE:** June 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Dale R. Collins, Chief, Human Resources Management, Defense Contract Audit Agency, Department of Defense, Ft. Belvoir, Virginia 22060–6219, 703–767–1236.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of the executives who have been appointed to serve as members of the DCAA Performance Review Boards. They will serve one-year terms, effective upon publication of this notice.

**Headquarters Performance Review Board**

Mr. Earl Newman, Assistant Director, Operations, Defense Contract Audit Agency, Chairperson.
Mr. Larry Uhlfelder, Assistant Director, Policy and Plans, Defense Contract Audit Agency member.
Mr. Kirk Moberley, General Counsel, Defense Contract Audit Agency, member.

**Regional Performance Review Board**

Mr. James Lovelace, Director, Field Detachment, Defense Contract Audit Agency Chairperson
Mr. Richard Buhre, Regional Director, Eastern, Defense Contract Audit Agency, member.
Mr. David Dzivak, Deputy Regional Director, Northeastern, Defense Contract Audit Agency, member.

Dated: June 17, 1998.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 98–16626 Filed 6–22–98; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF DEFENSE

### Department of Army

### Corps of Engineers

### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the West Shore—Lake Pontchartrain, Louisiana, Hurricane Protection Feasibility Study

**AGENCY:** U.S. Army Corps of Engineers, New Orleans District, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** The U.S. Army Corps of Engineers, New Orleans District proposes to determine the feasibility of providing protection against hurricane-induced flooding for residents located in portions of St. Charles, St. John the Baptist, and St. James Parishes, Louisiana. The study area, with a population in excess of 25,000 residents, is bounded by the Bonnet Carré Spillway to the east, the Mississippi River to the south, Lakes Pontchartrain and Maurepas to the north, and the St. James/Ascension Parish line to the west. There are no Federal hurricane protection projects protecting the study area from a tidal surge coming from Lake Pontchartrain and Maurepas. The vulnerability of the study area to a hurricane tidal surge is demonstrated by the fact that there are an estimated 1,000 residential structures subject to flooding from the 25-year storm, 3,990 residential structures subject to flooding from the 100-year storm, and 4,020 residential structures subject to flooding from the 500-year storm. The equivalent annual flood damages for the without-project conditions are estimated at $9.4 million. A reconnaissance study completed in June 1997, evaluated two alternative alignments for providing hurricane protection to the study area at the 100-year and the standard project hurricane (SPH) levels of protection. Both alternative alignments were determined to be economically justified at both levels of protection. Hence, the reconnaissance report recommended that the study proceed to the feasibility phase, contingent upon the execution of a Feasibility Cost Sharing Agreement (FCSA) with a non-Federal Sponsor. An FCSA was executed with the Pontchartrain Levee District on March 16, 1998.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding the proposed action should be directed to the study manager, Mr. Brett H. Herr, CEMVN–PD–FG, P.O. Box 60267, New Orleans, Louisiana 70160–0267, telephone (504) 862–2495. Questions regarding the DEIS may be directed to Dr. William P. Klein, Jr., CEMVN–PD–RS, P.O. Box 60267, New Orleans, Louisiana 70160–0267, telephone (504) 862–2450.

**SUPPLEMENTARY INFORMATION:**

## 1. Authority

The study was authorized by a resolution adopted on July 29, 1971, by the Committee on Public Works of the U.S. House of Representatives; and by a resolution adopted on September 20, 1974, by the Committee on Public Works of the U.S. Senate.

## 2. Proposed Action

The U.S. Army Corps of Engineers, New Orleans District proposes to investigate the feasibility of providing hurricane protection to residents living west of the Bonnet Carré Spillway between the Mississippi River and Lakes Pontchartrain and Maurepas. The study area is located on the ''east bank'' of the Mississippi River and includes portions of St. Charles, St. John the Baptist, and St. James Parishes.

## 3. Study Alternatives

Two alternative alignments for providing hurricanes protection to the study area were evaluated during the reconnaissance study phase. The two alignments are identical except for a portion located west of Belle Terre Boulevard. Both alignments (Plan 1 and Plan 2) begin at the west guide levee of the Bonnet Carré Spillway, approximately 2 miles south of Lake Pontchartrain. Both alignments end at U.S. Highway 61 in the vicinity of the Reserve Relief Canal. The alignment for Plan 1 more closely follows the existing limits of development and encloses less wooded swamps and bottomland hardwoods than Plan 2. The alignment for Plan 2 parallels Interstate 10 for an additional 1.2 miles west of the Belle Terre Boulevard interchange before turning to the southwest and heading back towards U.S. Highway 61. The alignments for Plan 1 and Plan 2 do not follow the wetland/nonwetland interface. Plan 1 and Plan 2 would enclose approximately 3,269 acres and 4,614 acres of wooded swamps and bottomland hardwoods, respectively.

An alternative alignment (Plan 3), provided by the U.S. Fish and Wildlife Service (USFWS) will be evaluated during this study. This USFWS alignment more closely follows the existing wetlands/non-wetlands interface. These three alternative plans, along with other alternative plans developed during the feasibility phase, will be evaluated in more detail such that the level of protection provided by the proposed action will be optimized based on an economic analysis of the benefits and costs. Design features will be fully evaluated to ensure compliance with current Federal and state laws and regulations. Any adverse effects of the alternative plans will be identified and appropriate mitigation measures will be included in the plans. An Environmental Impact Statement (EIS) will be prepared during the feasibility phase because of the potential for significant direct and indirect impacts on the human environment in general, and on large tracts of forested wetlands, in particular.

## 4. Scoping Process

An intensive public involvement program will be initiated and maintained throughout the study to solicit input from affected Federal, state, and local agencies, Indian tribes, and interested private organizations and individuals. Scoping is a critical component of the overall public involvement program. The scoping process is designed to provide an early and open means of determining the scope of issues (problems, needs, and opportunities) to be identified and addressed in the DEIS.

## 5. Public Scoping Meeting

In the summer of 1998, the New Orleans District of the U.S. Army Corps of Engineers will hold at least one public meeting in the study area to receive oral and written comments on the proposed action. Notices will be mailed to the affected and interested public once the date of the public scoping meeting has been established. Comments received as a result of the scoping meeting will be compiled and analyzed; and a Scoping Document, summarizing the results, will be made available to all participants.

## 6. Interagency Coordination

The Department of Interior will provide a Fish and Wildlife Coordination Act Report. Coordination will be maintained with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on threatened and endangered species. Coordination will be maintained with the Natural Resources Conservation Service regarding prime and unique farmlands. The U.S. Department of Agriculture will be consulted regarding the ''Swampbuster'' provisions of the Food Security Act. We will prepare a Section 404(b)(1) evaluation. Coordination will be maintained with the Advisory Counsel on Historic Preservation and the State Historic Preservation Officer. The Louisiana Department of Natural Resources will be consulted regarding consistency with the Coastal Zone Management Act. The Louisiana Department of Wildlife and Fisheries will be contacted concerning potential impacts to Natural and Scenic Streams. Application will be made to the Louisiana Department of Environmental Quality for a Water Quality Certificate.

## 7. Availability of DEIS

It is anticipated that the DEIS will be available for public review during the

summer of 2000. A 45-day review period will be allowed so that all interested agencies, groups and individuals will have an opportunity to comment on the draft report and EIS. In addition, a public meeting will be held during the review period to receive comments and address questions concerning the draft EIS.

Dated: June 9, 1998.

**William L. Conner,**

*Colonel, U.S. Army, District Engineer.*

[FR Doc. 98–16642 Filed 6–22–98; 8:45 am]

BILLING CODE 3710–84–M

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

### Inland Waterways Users Board

**AGENCY:** Corps of Engineers, Department of the Army, DOD.

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with 10(a)(2) of the Federal Advisory Committee Act, Public Law (92–463) announcement is made of the next meeting of the Inland Waterways Users Board. The meeting will be held on July 16, 1998, in Paducah, Kentucky, at the Executive Inn, 1 Executive Boulevard, Paducah, Kentucky, (Tel. 502–443–8000). Registration will begin at 9:30 AM and the meeting is scheduled to adjourn at 3:30 PM. The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

**FOR FURTHER INFORMATION CONTACT:** Mr. Norman T. Edwards, Headquarters, U.S. Army Corps of Engineers, CECW–PD, Washington, D.C. 20314–1000.

**SUPPLEMENTARY INFORMATION:** None.

**Gregory D. Showalter,**

*Army Federal Register Liaison Officer.*

[FR Doc. 98–16640 Filed 6–22–98; 8:45 am]

BILLING CODE 3710–92–M

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Notice of Availability of Inventions for Licensing; Government-Owned Inventions

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy.

Patent Application entitled ''Ultra-High Resolution Liquid Crystal Display on Silicon-on-Sapphire,'' filed March 25, 1998, Navy Case No. 79043.

**ADDRESSES:** Requests for copies of the patent applications cited should be directed to the Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660 and must include the Navy Case numbers.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: June 11, 1998.

**Matthew G. Shirley,**

*LCDR, JAGC, USN, Federal Register Liaison Officer.*

[FR Doc. 98–16582 Filed 6–22–98; 8:45 am]

BILLING CODE 3810–FF–P

## DEPARTMENT OF ENERGY

### Office of Fossil Energy

**[FE Docket No. 98–30–NG]**

### Rock-Tenn Co., Mill Division, Inc; Order Granting Long-Term Authorization to Import Natural Gas From Canada

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of Order.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order granting Rock-Tenn Company, Mill Division, Inc. (Rock-Tenn) long-term authorization to import up to 0.8 Bcf annually of natural gas from Canada. The authorization is for a 10-year term commencing November 1, 1998, through October 31, 2008. This gas may be imported from Canada at the international border point near Highgate Springs, Vermont (Phillipsburg, Quèbec).

This Order may be found on the FE web site at http://www.fe.doe.gov., or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 11, 1998.

**John W. Glynn,**

*Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.*

[FR Doc. 98–16657 Filed 6–22–98; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Office of Fossil Energy

**[FE Docket No. 92–123–NG]**

### San Diego Gas & Electric; Order Amending Long-Term Authorization To Import Natural Gas From Canada

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of order.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it issued DOE/FE Order No. 717–A on June 2, 1998, amending San Diego Gas & Electric's long-term authorization to import natural gas from Canada granted in DOE/FE Opinion and Order 717 (Order 717)(1 FE ¶ 70,674, November 13, 1992). Order 717 was amended to decrease the maximum import volume from 53,150 Mcf of natural gas per day to 31,500 Mcf per day.

This order may be found on the FE web site at http://www.fe.doe.gov., or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0334, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 11, 1998.

**John W. Glynn,**

*Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.*

[FR Doc. 98–16656 Filed 6–22–98; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Grand Junction Office; Notice of Floodplain/Wetlands Involvement for Site Characterization Activities at Shiprock, New Mexico, Uranium Mill Tailings Remedial Action (UMTRA) Site

**AGENCY:** Grand Junction Office, Department of Energy.

**ACTION:** Notice of Floodplain/Wetlands Involvement.

**SUMMARY:** The Department of Energy (DOE) hereby provides notice as required by 10 CFR Part 1022, to conduct site characterization activities within the 100-year floodplain of the San Juan River at the Shiprock, New Mexico UMTRA site, with possible impacts to wetlands. The site is located within the boundaries of the Navajo Indian Reservation. Activities are scheduled to occur in the late summer and fall of 1998. Characterization activities are required to determine ground water chemistry and flow patterns that will assist the DOE in selecting a ground water remedial action strategy for the site in accordance with 40 CFR 192, ''Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings.''

**DATES:** Written comments are due to the address below no later than July 8, 1998.

**ADDRESSES:** Written comments should be addressed to Audrey Berry, U.S. Department of Energy—Grand Junction Office, 2597 B3/4 Road, Grand Junction, Colorado; or transmitted electronically by E-mail via Internet to ''Audrey.Berry@gjpomail.doegjpo.com;'' or by facsimile at (970) 248–6040.

**FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT:** Don Metzler, Project Manager, U.S. Department of Energy, Grand Junction Office, 2597 B3/4 Road, Grand Junction, Colorado 81503, Telephone 1–970–248–7612 or 1–800–399–5618, E-mail Don.Meztler@gjpomail.doegjpo.com.

**FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT:** Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

**SUPPLEMENTARY INFORMATION:** Under E.O. 11988, Floodplain Management, and 10 CFR 1022, Compliance with Floodplain/Wetlands Environmental Review Requirements, notice is given that DOE is planning characterization activities in the San Juan River 100-year floodplain north and east of the Shiprock UMTRA site.

Site characterization activities will include the installation of additional monitoring wells and a surface water distribution system. A typical monitoring well can be installed in one to three days with an average disturbed area measuring 30′ × 30′. Access to the floodplain will be predominantly using already established roads and trails. Disturbances are expected to be less than two acres. The surface water distribution system will involve diverting some water that is feeding wetland areas. Because the activities are located within the Navajo reservation, all proposed activities will be coordinated through the Navajo Nation and other federal and state agencies including the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the New Mexico State Historic Preservation Officer.

The area proposed for activities under this assessment was disturbed in the mid 1980s during excavation activities associated with the removal of mill tailings in the floodplain. Unimproved roads, grazing, and monitoring wells are activities that have historically occurred, or are ongoing, in the area of the proposed action. A floodplain/wetlands assessment was included as Appendix J, Volume 2, in the Environmental Assessment of Remedial Action at the Shiprock Uranium Mill Tailings Site, Shiprock, New Mexico (May 1984). The extent of disturbance addressed under the 1984 assessment is considerably more than the disturbance that would transpire under the proposed action. However, the 1984 assessment is not considered sufficient due to the age of the document and regulatory changes since it was completed. Consequently, an updated floodplain/wetlands assessment will be prepared.

Once all regulatory actions are complete, a Statement of Findings will be published in the **Federal Register**.

Issued in Albuquerque, New Mexico on June 12, 1998.

**Constance L. Soden,**

*Director, Environmental Protection Division, U.S. Department of Energy, Albuquerque Operations Office.*

[FR Doc. 98–16655 Filed 6–22–98; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Idaho National Engineering and Environmental Laboratory; Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory (INEEL)

**DATES:** Tuesday, July 21, 1998 from 8 a.m. to 6 p.m., Mountain Standard Time (MST); Wednesday, July 22, 1998 from 8 a.m. to 5 p.m., MDT. There will be public comment sessions on Tuesday, July 21, 1998 from 9:45 a.m. to 10 a.m., 12 p.m. to 12:15 p.m., 4 p.m. to 4:15 p.m., and 5:30 p.m. to 5:45 p.m. MDT.

**ADDRESSES:** Cavanaugh's (formerly Holiday Inn Westbank), 475 River Parkway, Idaho Falls, Idaho 83402, (208) 523–8000.

**FOR FURTHER INFORMATION CONTACT:** INEEL Information (1–800–708–2680) or Wendy Green Lowe, Jason Associates Corp. (208–522–1662) or visit the Board's Internet homepage at http://www.ida.net/users/cab.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

**Tentative Agenda**

Presentations on the Draft Proposed Plan for Waste Area Group 3 (Idaho Nuclear Technology and Engineering Center), DOE-Idaho's approach to End—State Planning at the INEEL, and DOE-Idaho's approach to risk assessment.

Presentations and recommendations on the Draft Environmental Impact Statement for the Advanced Mixed Waste Treatment Facility and the Draft Resource Conservation and Recovery Act Part B Permit for the Waste Isolation Pilot Plant.

Status reports on the Argonne National Laboratory—West, Environmental Monitoring at the INEEL, INEEL's compliance with the Federal Facility Agreement/Consent Order, and the Natural Resources Institute.

Member reports on the National League of Women Voters' Intersite Discussions, and activities of CAB subcommittees.

The Board will also discuss the merits of policy level versus detailed technical level CAB recommendations and the CAB's roles and responsibilities regarding public input. For a most current copy of the agenda, contact Woody Russell, DOE—Idaho, (208) 526–0561, or Wendy Green Lowe, Jason Associates Corp., (208) 522–1662. The final agenda will be available at the meeting.

*Public Participation:* The two-day meeting is open to the public, with public comment sessions scheduled for Tuesday, July 21, 1998 from 9:45 a.m. to 10 a.m., 12 p.m. to 12:15 p.m., 4 p.m. to 4:15 p.m., and 5:30 p.m. to 5:45 p.m. MDT. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with it's current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should

contact the INEEL Information line or Wendy Green Lowe, Jason Associates Corp., at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Charles M. Rice, INEEL Citizens' Advisory Board Chair, 477 Shoup Ave., Suite 205, Idaho Falls, Idaho 83402 or by calling Wendy Green Lowe, the Board Facilitator, at (208) 522–1662.

Issued at Washington, DC on June 18, 1998.

**Rachel Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 98–16658 Filed 6–22–98; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

## Secretary of Energy Advisory Board; Notice of Open Meeting

**AGENCY:** Department of Energy.

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

Name: Secretary of Energy Advisory Board—Electric System Reliability Task Force.

**DATES AND TIMES:** Thursday, July 9, 1998, 8:30 am—3:00 pm.

**ADDRESSES:** The Rosemont Convention Center, Conference Rooms 12 & 13, 5555 North River Road, Rosemont, Illinois.

**Note:** The Rosemont Convention Center is located near the O'Hare International Airport.

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

**SUPPLEMENTARY INFORMATION:**

### Background

The electric power industry is in the midst of a complex transition to competition, which will induce many far-reaching changes in the structure of the industry and the institutions which regulate it. This transition raises many reliability issues, as new entities emerge in the power markets and as generation becomes less integrated with transmission.

### Purpose of the Task Force

The purpose of the Electric System Reliability Task Force is to provide advice and recommendations to the Secretary of Energy Advisory Board regarding the critical institutional, technical, and policy issues that need to be addressed in order to maintain the reliability of the nation's bulk electric system in the context of a more competitive industry.

### Tentative Agenda

Thursday, July 9, 1998

8:30–8:45 AM—Opening Remarks & Objectives—Philip Sharp, ESR Task Force Chairman
8:45–10:15 AM—Working Session: Discussion of Draft Position Paper on State/Regional Issues in Transmission System Reliability—Facilitated by Philip Sharp
10:15–10:30 AM—Break
10:30–12:00 PM—Working Session: Discussion of Draft Position Paper on Incentives for Transmission Enhancement—Facilitated by Philip Sharp
12:00–1:00 PM—Lunch
1:00–2:45 PM—Working Session: Planning for the Final Report—Facilitated by Philip Sharp
2:45–3:00 PM—Public Comment Period
3:00 PM—Adjourn

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

### Public Participation

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

### Minutes

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

Issued at Washington, D.C., on June 18, 1998.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 98–16659 Filed 6–22–98; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Intent to File an Application for a New License

June 17, 1998.

a. *Type of filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 362.

c. *Date filed:* June 2, 1998.

d. *Submitted By:* Ford Motor Company, current licensee.

e. *Name of Project:* Twin Cities Project.

f. *Location:* On the Mississippi River, in Hennepin and Ramsey Counties, Minnesota.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of current license:* July 1, 1980.

i. *Expiration date of current license:* June 6, 2003.

j. *The project consists of:* (1) a 160-foot-long, 74-foot-wide powerhouse integral with the U.S. Army Corps of Engineers Lock and Dam No. 1; (2) four generating units with a total installed capacity of 17,920 kW; (3) 36, 2-foot-high hinged flashboards on top of the spillway; (4) transmission facilities consisting of: (a) two 1,550-foot-long, 13.8–kV lines; (b) three 1,000-foot-long, 13.8–kV lines; and (5) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Ford Motor Company, Twin Cities Assembly Plant, Plant Engineering, 966 So. Mississippi River Blvd., St. Paul,

MN 55116, Mr. Dan Hagan, (612) 696–0628.

l. *FERC contract:* Tom Dean (202) 219–2778. Project No. 362

m. Pursuant to 18 CFR 16.9 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by June 6, 2001.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16605 Filed 6–22–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2004–073]**

### Holyoke Water Power Company; Notice of Granting Extension of Time to Complete Response to Deficiency Letter for the Holyoke Project

June 17, 1998.

On February 23, 1998, the Director, Office of Hydropower Licensing (Director) informed Holyoke Water Power Company (HWP) of deficiencies in its license application. Among other things, the license application was deficient in information regarding project cost and financing, which is required in Exhibit D. The February 23 letter established a 90-day deadline from the date of the letter, until May 24, 1998, for HWP to correct the noted deficiencies.

On May 26, 1998, HWP filed its response to the Director's February 23 deficiency letter. In its filing, HWP provided most of the information, but did not provide the information requested with respect to Exhibit D. Rather, HWP filed a motion requesting an extension of time to complete this aspect of the February 23 deficiency letter.

HWP states that, as a result of the restructuring legislation enacted by the Commonwealth of Massachusetts in 1997, its property tax status has changed from a Massachusetts Manufacturing Corporation to a Massachusetts Business Corporation. Consequently, HWP expects its property tax liability to increase beyond that in fiscal year 1997. In light of these changes, as well as other changes presently occurring in the electric utility industry, HWP states that the continued use of the project cost and financing data provided in its license application is not justified. Moreover, HWP states that the aforementioned changes have made it difficult for the company to project cost and financing data in the future.

HWP states that it is currently developing the project cost and financing information requested by the Director, but that the results have not been completed and reviewed. HWP requests a 30-day extension, or until June 23, 1998, to complete and file the project cost and financing information. HWP does not believe that granting the requested extension of time will unduly delay the proceedings in this docket.

Based on the foregoing argument, as well as HWP's diligence in pursuing the licensing process, good cause has been shown for granting HWP's request. The motion filed by HWP was served on all parties in this proceeding, and no party filed a response or objected to granting the motion. Therefore, the deadline for HWP to file its project cost and financing information is extended to June 23, 1998. In making its filing, HWP should be sure that the information provided satisfies the Director's request of February 23. Refinements in the project's cost and financing, if necessary, can be filed any time in the future prior to Commission action in this proceeding.

Please be advised that any further requests for extension of deadlines that affect the schedule of this proceeding will be given careful scrutiny. Moreover, the Commission should be notified prior to a filing deadline if any party in this proceeding sees the need for an extension of time.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16607 Filed 6–22–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP98–18–002]**

### Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

June 16, 1998.

Take notice that on June 10, 1998, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective November 16, 1997:

Substitute Fifth Revised Sheet No. 11
Substitute Second Revised Sheet No. 11A
Substitute Third Revised Sheet No. 11B
Second Substitute Second Revised Sheet No. 50A
Second Substitute Original Sheet No. 50B
Second Substitute Second Revised Sheet No. 122

Iroquois states that this filing is made to comply with the Commission's June 1, 1998 Order in the above-referenced docket, which directed Iroquois to modify its recent negotiated rate tariff filing within 10 days of its Order, by filing revised tariff sheets to be effective November 16, 1997. Iroquois states that, in compliance with that order, it has (i) revised the definitions of ''Negotiated Rate'' and ''Negotiated Rate Formula,'' (ii) removed references to capacity releases from Section 32.2 of its tariff, which deals with negotiated rates; and (iii) clarified how it will evaluate negotiated rates or bids at negotiated rates that use different rate designs.

Iroquois also states that copies of this filing were served upon all customers and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16599 Filed 6–22–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. ER98–441–000, ER98–1019–000, and ER98–2550–000; ER98–495–000, ER98–1614–000, and ER98–2145–000; ER98–496–000 and ER98–2160–000; ER98–441–001, and ER98–495–001, ER98–496–001 consolidated]**

### Southern California Edison Company, California Independent System Operator Corp., El Segundo Power, LLC, Pacific Gas & Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Pacific Gas & Electric Company, San Diego Gas & Electric Company; Notice of Informal Settlement Conference

June 17, 1998.

Take notice that an informal settlement conference will be convened

in the subject proceedings on Monday, June 29, 1998, at 9:00 AM, EDT, through Wednesday, July 1, 1998. The conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), may attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to Section 385.214 of the Commission's Regulations.

For additional information, please contact Paul B. Mohler at (202) 208–1240, or by e-mail at paul.mohler@ferc.fed.us.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16598 Filed 6–22–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EG98–72–000]**

### Western Kentucky Energy Corp.; Notice of Amendment to Application for Commission Determination of Exempt Wholesale Generator Status

June 17, 1998.

Take notice that on June 15, 1998, Western Kentucky Energy Corp. (WKEC), a Kentucky Corporation, with its principal place of business at P.O. Box 32010, 220 West Main Street, Louisville, Kentucky 40202, filed with the Federal Energy Regulatory Commission an amendment to its Application For Determination Of Exempt Wholesale Generator Stats which was filed with the Commission on April 30, 1998, as amended on May 7, 1998, (Application).

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before June 25, 1998, and must be served on the applicant. 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.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16597 Filed 6–22–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER96–1580–002, et al.]**

### Minnesota Power & Light Company, et al. Electric Rate and Corporate Regulation Filings

June 16, 1998.

Take notice that the following filings have been made with the Commission:

**1. Minnesota Power & Light Company**

[Docket No. ER96–1580–002]

Take notice that on June 11, 1998, Minnesota Power & Light Company tendered filling a refund report in compliance with order issued on April 30, 1998, by the Commission in the above referenced docket.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**2. Wisconsin Public Service Corp. and Upper Peninsula Power Co.**

[Docket No. ER98–1561–001]

Take notice that on June 11, 1998, Wisconsin Public Service Corporation tendered for filing revised Standards of Conduct and tariff sheets in compliance with the Commission's May 27, 1998, Order.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**3. Boston Edison Company**

[Docket No. ER98–2547–000]

Take notice that on June 11, 1998, Boston Edison Company (Boston Edison), tendered for filing an amendment of its true-up to actual for the Substation 402 Agreement (FPC Rate Schedule No. 149) between Boston Edison and Cambridge Electric Light Company (Cambridge) for calendar year 1996.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**4. Pittsfield Hydropower Company Inc.**

[Docket No. ER98–2579–000]

Take notice that on June 11, 1998, Pittsfield Hydropower Company, Inc., tendered for filing a Notice of Withdrawal of its filing made on April 20, 1998, in Docket No. ER98–2579–000.

Copies of the notice of withdrawal is being served upon Public Service Company of New Hampshire and the New Hampshire Public Utilities Commission.

*Comment date:* June 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

**5. Carolina Power & Light Company**

[Docket No. ER98–3294–000]

Take notice that on June 11, 1998, Carolina Power & Light Company (CP&L), tendered for filing executed Service Agreements between CP&L and the following eligible buyers: NESI Power Marketing, Inc.; VTEC Energy, Inc.; NP Energy Inc.; North Carolina Electric Membership Corporation; Tennessee Power Company; Rainbow Energy Marketing Corporation; North American Energy Conservation, Inc.; and Delmarva Power & Light Company. Service to each eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4, for sales of capacity and energy at market-based rates.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**6. PP&L, Inc.**

[Docket No. ER98–3295–000]

Take notice that on June 11, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated June 5, 1998, with South Jersey Energy Company (SJEC), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds SJEC as an eligible customer under the Tariff.

PP&L requests an effective date of June 11, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to SJEC and to the Pennsylvania Public Utility Commission.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**7. Wisconsin Electric Power Company**

[Docket No. ER98–3296–000]

Take notice that on June 11, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with Commonwealth Edison Company

(ComEd). Wisconsin Electric respectfully requests an effective date of May 20, 1998, to allow for economic transactions.

Copies of the filing have been served on ComEd, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**8. Public Service Company of New Mexico**

[Docket No. ER98–3298–000]

Take notice that on June 11, 1998, Public Service Company of New Mexico (PNM), tendered for filing a mutual netting/close-out agreement between PNM and Southern Company Energy Marketing, LP (Southern). PNM requested waiver of the Commission's notice requirement so that service under the PNM/Southern netting agreement may be effective as of June 12, 1998.

Copies of the filing were served on Southern and the New Mexico Public Utility Commission.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**9. Bangor Hydro-Electric Company**

[Docket No. ER98–3299–000]

Take notice that on June 11, 1998, Bangor Hydro-Electric Company filed an executed service agreement for non-firm point-to-point transmission service with NorAm Energy Services, Inc.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**10. Commonwealth Electric Company, Cambridge Electric Light Company**

[Docket No. ER98–3300–000]

Take notice that on June 11, 1998, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and Great Bay Power Corporation and Coral Power, L.L.C., Market-Based Power Sales Customers (collectively referred to herein as the Customers).

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Market-Based Power Sales Tariffs designated as Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9). These Tariffs, accepted by the FERC on February 27, 1997, and which have an effective date of February 28, 1997, will allow the Companies and the Customers to enter into separately scheduled short-term transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree.

The Companies request an effective date of May 19, 1998, as specified on each Service Agreement.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**11. Southwest Power Pool**

[Docket No. ER98–3301–000]

Take notice that on June 11, 1998, Southwest Power Pool (SPP), tendered for filing 10 executed service agreements for short-term firm point-to-point transmission service and non-firm point-to-point firm transmission service under the SPP Open Access Transmission Tariff.

Copies of this filing were served upon each of the parties to these agreements.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**12. Commonwealth Edison Company**

[Docket No. ER98–3302–000]

Take notice that on June 11, 1998, Commonwealth Edison Company (ComEd), tendered for filing service agreements establishing Atlantic City Electric Company (ACE), Cinergy Capital & Trading, Inc. (CCT), Coral Power, L.L.C. (CRLP), DuPont Power Marketing (DUPT), e' prime (EP), FirstEnergy Trading and Power Marketing Inc. (FET), LG&E Energy Marketing Inc. (LGEM), NorAm Energy Services, Inc. (NORA), Northern Indiana Public Service Co. (NIPS), and Water Works and Lighting Commission (WWLC), as a customers under ComEd's FERC Electric Market Based-Rate Schedule for power sales.

ComEd requests an effective date of June 3, 1998, for the service agreement and, accordingly, seeks waiver of the Commission's notice requirements. ComEd states that a copy of the filing was served on the affected customers and the Illinois Commerce Commission.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**13. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)**

[Docket No. ER98–3303–000]

Take notice that on June 11, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NSP and City of Fairfax, MN.

NSP requests that the Commission accept the agreement effective May 15, 1998, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**14. Idaho Power Company**

[Docket No. ER98–3304–000]

Take notice that on June 11, 1998, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements under Idaho Power Company FERC Electric Tariff No. 5, Open Access Transmission Tariff, between Idaho Power Company and ConAgra Energy Services, Inc., and between Idaho Power Company and Amoco Energy Trading Corporation.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**15. PP&L, Inc.**

[Docket No. ER98–3305–000]

Take notice that on June 11, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated June 5, 1998 with First Energy Trading and Power Marketing, Inc. (FETPM), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds FETPM as an eligible customer under the Tariff.

PP&L requests an effective date of June 11, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to FETPM and to the Pennsylvania Public Utility Commission.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**16. Western Resources, Inc.**

[Docket No. ER98–3306–000]

Take notice that on June 11, 1998, Western Resources, Inc., tendered for filing an agreement between Western Resources and Northern States Power Company. Western Resources states that the purpose of the agreement is to permit the customer to take service under Western Resources' market-based power sales tariff on file with the Commission. The agreement is proposed to become effective May 18, 1998.

Copies of the filing were served upon Northern States Power Company and the Kansas Corporation Commission.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**17. Illinois Power Company**

[Docket No. ER98–3307–000]

Take notice that on June 11, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which LTV Steel Company, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1998.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**18. Illinois Power Company**

[Docket No. ER98–3308–000]

Take notice that on June 11, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Bridgestone/Firestone, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1998.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**19. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, Southwestern Electric Power Co.**

[Docket No. ER98–3310–000]

Take notice that on June 11, 1998, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies), submitted for filing service agreements under which the CSW Operating Companies will provide transmission and ancillary services to Southern Company Energy Marketing L.P. (Southern), Tenaska Power Services Company (Tenaska), Electric Clearinghouse, Inc. (ECI), Western Resources Generation Services (Western) and Entergy Power Marketing Corp., (Entergy) in accordance with the CSW Operating Companies' open access transmission service tariff. The CSW Operating Companies also submitted notices of cancellation of various service agreements.

The CSW Operating Companies state that a copy of the filing has been served on Southern, Tenaska, ECI, Western and Entergy.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**20. Southern California Edison Company**

[Docket No. ER98–3311–000]

Take notice that on June 11, 1998, Southern California Edison Company (Edison), tendered for filing a letter to the City of Anaheim (Anaheim), California, dated May 20, 1998 (Letter), regarding Loss Accounting Procedures for Existing Contracts.

The Letter sets forth certain understandings between Edison and Anaheim with respect to initial implementation of the Procedures. Additionally, Anaheim has requested, and Edison has agreed, to assume Anaheim's obligations to account for transmission losses in accordance with Sections 5.2 and 5.3 of the Procedures for the period of time Edison acts as Anaheim's scheduling coordinator. Edison is requesting that the Letter become effective on April 1, 1998, concurrent with the Procedures.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**21. Heartland Energy Services Inc.**

[Docket No. ER98–3327–000]

Take notice that on June 11, 1998, Heartland Energy Services, Inc. (HES), filed a Notification of Change in Status. In its filing, HES notified the Commission of its intention to participate in open access markets.

*Comment date:* July 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraph**

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

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16600 Filed 6–22–98; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Amendment of Shoreline Management and Land Use Plan

June 17, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of Shoreline Management and Land Use Plan.

b. *Project No.:* 516–285.

c. *Date Filed:* April 13, 1998 and supplemented May 2, 1998.

d. *Applicant:* South Carolina Electric & Gas Company.

e. *Name of Project:* Saluda Project.

f. *Location:* The proposed amendment would affect lands on Shull Island, Lake Murray in Lexington County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant contact:* Beth Trump, Land Department, South Carolina Electric & Gas Company, 1246 Main Street, Columbia, SC 29201, (803) 733–6912.

i. *FERC contact:* John K. Hannula, (202) 219–0116.

j. *Comment date:* July 15, 1998.

k. *Description of the Application:* South Carolina Electric & Gas Company (licensee) requests Commission authorization to amend its Land Use and Shoreline and Management Plan (LUSMP) to reclassify 4 waterfront lots from ''Recreation'' to ''Easement'' (residential use). The licensee also requests authorization to sell 3 lots presently classified as ''Future Development'' to the 360-foot high water contour and within the 75-foot setback buffer zone.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to

intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTESTS'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16606 Filed 6–22–98; 8:45 am]

**BILLING CODE 6717–01–M**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application Accepted for Filing; Notice That the Application Is not Ready for Environmental Analysis; Notice of Solicitation of Interventions and Protests; and Notice of Scoping and Invitation for Written Scoping Comments

June 17, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major New License.

b. *Project No.:* 2620–005.

c. *Date filed:* March 9, 1998.

d. *Applicant:* Lockhart Power Company.

e. *Name of Project:* Lockhart Project.

f. *Location:* On the Broad River in Union, Chester, York, and Cherokee counties, South Carolina.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Leslie Anderson, General Manager, Lockhart Power Company, 420 River Street, Lockhart, South Carolina 29364, (864) 545–2211.

i. *FERC Contact:* Charles R. Hall at (202) 219–2853.

j. *Deadline Date:* August 18, 1998.

k. *Description of the Project:* The existing project consists of: (1) A 16-foot-high, concrete gravity dam; (2) a 7.5-mile-long, 300-acre reservoir; (3) a 7,497-foot-long canal; (4) a powerhouse containing five turbine-generator units with a total installed capacity of 15,200 kilowatts (kW), proposed for upgrading to 18,000 kW; (5) a 1,500-foot-long tailrace; and (6) appurtenant facilities.

l. *Locations of the Application:* A copy of the application is available for inspection or reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE., Room 2A–1, Washington, DC 20426, or by calling (202) 208–2326. A copy is also available for inspection and reproduction at Lockhart Power Company, 420 River Street, Lockhart, South Carolina 29364, phone (864) 545–2211.

m. Status of Application and Environmental Analysis: This application has been accepted for filing, but it is not ready for environmental analysis. See attached paragraph E1.

n. Invitation to Intervene or Protest: Intervenors are reminded of the Commission's Rules of Practice and Procedure requiring parties filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list for the project. Further, if a party or intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. See attached paragraph B1.

o. Scoping and Invitation for Written Scoping Comments: Interested individuals, organizations, and agencies with environmental expertise are invited to assist the staff in identifying the scope of environmental issues that should be analyzed in the environmental analysis once the application is determined ready for environmental analysis by submitting written scoping comments. To help focus these comments, a scoping document outlining subject areas which could be addressed in an environmental analysis will be mailed to all agencies and interested individuals on the Commission mailing list. Copies of the scoping document may also be requested from the staff.

Persons who have views on the issues or information relevant to the issues may submit written statements for inclusion in the public record. Those written comments should be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, by the deadline date shown in item (j) above. All written correspondence should clearly show the following caption on the first page: Lockhart Project, FERC No. 2620–005.

p. This notice contains the standard paragraphs B1 and E1.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the

application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16608 Filed 6–22–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application Tendered for Filing with the Commission

June 17, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor license.

b. *Project No.:* P–11616–000.

c. *Date Filed:* June 1, 1998.

d. *Applicant:* City of Portland, Michigan.

e. *Name of Project:* Portland Municipal Hydroelectric Project.

f. *Location:* On the Grand River in Ionia County, Michigan.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–824(r).

h. *Applicant Contact:* Robert Masselink, P.E., Glen Hendrix, Earth Tech, Inc., 5555 Glenwood Hills Pkwy, Grand Rapids, MI 49588, (616) 942–9600.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* 60 days from the date of filing of the application.

k. *Description of Project:* The constructed project consists of a dam and reservoir, a forebay and powerhouse located at the south abutment containing two turbine-generator units with a total installed capacity of 375 kilowatts, and appurtenant facilities. The project will generate about 1,572 megawatt-hours per year.

l. With this notice, we are initiating consultation with the MICHIGAN STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16609 Filed 6–22–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 1759]**

### Wisconsin Electric Power Company; Notice of Meetings

June 17, 1998.

From July 14 to July 16, 1998, the Federal Energy Regulatory Commission staff will be meeting with Wisconsin Electric Power Company (WE) and the Collaborative Team to identify and discuss non-project uses of project lands and waters and related issues concerning the Way Dam and Michigamme Reservoir Project (Project No. 1759), which is located on the Michigamme River near Crystal Falls, Michigan. The Way Dam impounds the approximate 6,400-acre Michigamme Reservoir. The Michigamme Reservoir operates as a storage basin for high spring and fall flows, which are released during periods of lower flow in the summer and winter. The meetings will be conducted at WE's office, located at 800 Industrial Park Drive, Iron Mountain, Michigan 49801. On July 14, the meeting will be conducted at 8 a.m., and on July 15 and 16, 1998, the meetings will be conducted at 9 a.m.

If you would like more information about the Upper Menominee River Basin Projects, in which the Way Dam and Michigamme Reservoir Project is part of, please contact one of the individuals:

Patti Leppert-Slack, Federal Energy Regulatory Commission, 888 First Street, NE Rm 72–33, Washington, DC 20426, (202) 219–2767, E-mail: patricia.leppertslack@ferc.fed.us

Rita Hayen, Wisconsin Electric Power Company, 333 W. Everett Street, Milwaukee, WI 53203, (414) 221–2413, E-mail: rita.hayen@wemail.wisenergy

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–16610 Filed 6–22–98; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6113–5]**

### Solicitation of Additional Pilot Projects Under Project XL; June 12, 1998

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; solicitation of additional pilot projects under project XL to ''Reinvent'' Environmental Regulations and Policies.

**SUMMARY:** Project XL, which stands for ''eXcellence and Leadership,'' is a national pilot program that provides a unique opportunity to test innovative ways of achieving better and more cost-effective public health and environmental protection. Under Project XL, EPA offers flexibility in its regulations, policies, procedures, processes and guidance, as well as other benefits to encourage companies, communities and other project sponsors to develop and test ''cleaner, cheaper and smarter'' alternatives to the current system. As of May 1998, seven pilot projects are being implemented and 20 more are in development. Several project sponsors have already achieved a number of significant benefits by participating in XL, including substantial cost savings, increased operational flexibility, better stakeholder relationships, increased environmental protection, and the ability to adapt processes and products more quickly to changes in consumer demand.

One company, for example, in just the first year of its pilot project, was able to consolidate a number of routine reports into two per year and use alternative means to meet air pollution control technology requirements. In addition, the company was able to achieve substantial environmental improvements while saving nearly $176,000 in operating costs. The company is also expecting to avoid $10 million in future capital spending.

Another company—also just in its project's first year—has avoided millions of dollars worth of production delays by eliminating 30–50 permit reviews while substantially increasing recycling, reducing solid and hazardous

waste, and applying stricter air pollution controls. For other examples, please refer to Project XL's Web site at: www.epa.gov/ProjectXL

In developing innovative proposals, project sponsors, regulators, and stakeholders alike must be willing to make resource and time commitments commensurate with designing and implementing new approaches in a multi-stakeholder environment. For some projects, resource commitments have been significant. However, as current project sponsors are eager to attest, the reward lies in the outcome: superior environmental results for the facility and the community, and substantial operational and financial benefits for the project sponsor. The Agency, its co-regulators, and other XL partners have been and are continuing to work hard on streamlining the proposal development process and reducing ''transaction costs.'' EPA has learned a great deal from the first set of proposals that has gone through the process, and as one of the lessons learned, urges potential project sponsors to discuss their idea with Agency and State staff as early as possible. Substantive and process issues can then be raised and addressed early before substantial time and resource investments have been made.

This **Federal Register** document is organized into four sections which have the following purpose: Section A—to clarify the role of regulatory and policy flexibility in XL pilot projects; Section B—to solicit additional ideas for experimental projects under XL (please note that no funding is associated with this solicitation); Section C—to stimulate ideas through a list of optional Project XL themes (note that the suggested themes are entirely optional, and have the sole purpose of conveying a sample of general areas of innovation EPA and others in the regulated and environmental community are interested in exploring under Project XL); and Section D—to describe key elements of good XL proposals that increase EPA receptivity and make the review process easier and faster.

**EFFECTIVE DATE:** June 23, 1998; an open solicitation with no set end date; project sponsors may submit more than one proposal.

**FOR FURTHER INFORMATION CONTACT:**

(1) For XL projects for private and federal facilities, states, and industrial sectors: Contact Christopher Knopes, Office of Reinvention Programs, United States Environmental Protection Agency, Room 1029, 401 M Street SW, Mail Code 1802, Washington, DC 20460. The telephone number for the Office is (202) 260–5754; the facsimile number is (202) 401–6637.

(2) For XL projects for communities: Contact Kristina Heinemann, Office of Sustainable Ecosystems and Communities, USEPA, 401 M Street SW, Mail Code 2182, Washington, DC, 20460. The telephone number is (202) 260–5355; the facsimile number is (202) 260–7875.

(3) Additional information on Project XL, including documents referenced in this document, other EPA policy documents related to Project XL, EPA regional contacts, application information, and descriptions of existing XL projects and proposals, is available via the Internet: For private and federal facilities, states, and sectors at ''http:// www.epa.gov/ProjectXL''; and for communities at http:// www.epa.gov/ProjectXLC. Faxed information is also available via an automated fax-on-demand menu at (202) 260–8590 both for XL facilities and communities.

**SUPPLEMENTARY INFORMATION:** President Clinton announced on March 16, 1995, a portfolio of reinvention initiatives to be implemented by the Environmental Protection Agency as a part of its efforts to achieve greater public health and environmental protection at a more reasonable cost. Project XL is one of these reinvention priorities. Through a series of site-specific agreements with project sponsors, EPA expects to gather data and experiences that will help the Agency make improvements in the current system of environmental protection. Project XL conducts experiments in four areas: facilities, sectors, federal facilities, and communities. State projects are also welcome.

XL projects directly benefit the local environment, participating facilities—both public and private—and their communities. But the benefits of Project XL extend beyond its participants, because EPA, working with state environmental agencies, intends to incorporate successful approaches into the current system of environmental protection.

Much information on Project XL has been provided in previous **Federal Register** documents. In Project XL's first **Federal Register** document on May 23, 1995 (60 FR 27282), EPA described Project XL as a program that offers a balanced set of benefits to the environment, the regulated community and the public, and issued a general solicitation for proposals. In that document, Project XL also defined the following eight criteria by which proposals are selected for participation. The criteria help evaluate whether the project can:

- Produce superior environmental results;
- Produce benefits such as cost savings, paperwork reduction, and operational flexibility;
- Garner stakeholder involvement and support;
- Achieve innovation and multi-media pollution prevention;
- Be transferable to other facilities, sectors, communities, etc.;
- Be feasible (technically and administratively);
- Identify monitoring, reporting, accountability, and evaluation methods; and
- Avoid shifting the risk burden.

A successful project sponsor must also have a solid record of compliance. For more detailed descriptions and definitions of these criteria, please refer to the **Federal Register** documents of May 23, 1995 (60 FR 27282) and April 23, 1997 (62 FR19872).

Because community-based XL projects differ from projects sponsored by other public or private-sector facilities and sectors, EPA addressed the distinction in a separate **Federal Register** document on November 1, 1995 (60 FR 55569). In addition to the criteria listed above, the November 1, 1995, **Federal Register** document included several unique criteria for XL community-sponsored projects. XL for Communities encourages projects that:

- Build capacity for community participation;
- Create economic opportunity; and
- Promote community planning.

In another **Federal Register** document on September 11, 1996 (61 FR 47929), EPA supplemented the general solicitation with an invitation for projects specifically aimed at creating innovative environmental technologies. EPA retains a strong interest in proposals in this area.

An April 23, 1997, **Federal Register** document (62 FR 19872) more clearly defined the criteria of superior environmental performance, regulatory flexibility, and stakeholder involvement. In addition, the document identified several more potential project themes that are important to pursue in the context of testing innovations for 21st century environmental protection. It also included revisions to the process by which an idea becomes an XL project. Emphasis is placed on pre-proposal planning and communication with stakeholders, on EPA's improved internal management of project reviews, and on the need for a close partnership with the states.

Since Project XL is continuously evolving, EPA is always open to and

welcomes comments on the various aspects of the program.

**(A) The Role of Flexibility in XL Pilot Projects**

Flexibility is an important and essential component of Project XL. As an incentive to undertake an XL project, EPA is offering project sponsors flexibility in regulations, policies, guidance, procedures and processes, provided the flexibility does not violate statutory requirements. Please note that regulatory flexibility is only one kind of flexibility offered as a benefit. It can be granted through site-specific rules that replace otherwise applicable requirements; existing waiver mechanisms; alternative permits; and generally applicable interpretive statements. Other tools may be identified on a case by case basis as projects are developed. (For more details, please refer to the **Federal Register** document of April 23, 1997 (62 FR 19872). Cost savings and burden reduction are other examples of incentives and benefits to a project sponsor. Communities may be particularly interested in visibility and recognition for innovative ideas and superior environmental performance that can result from participation in Project XL. To date, XL has implemented projects that take advantage of each type of flexibility and benefit offered.

In summary, XL is about testing new approaches which:

—May require regulatory flexibility or involve changes to policy, guidance, procedures, or processes; and

—Test a different way of doing something, even if EPA already has the authority to do so under the current system, but is not doing it.

Whenever a project also meets the other applicable XL facility or community decision criteria, EPA will aggressively offer the necessary flexibility to produce superior environmental performance and promote greater accountability to stakeholders.

**(B) Solicitation of Additional Ideas for Pilot Projects**

EPA encourages private and public sector facilities, sectors, states, local governments, and communities to use this opportunity to sponsor projects that can truly reinvent the way they conduct environmental management. EPA is also interested in having stakeholders not directly connected with regulated facilities come forward with XL proposal ideas or co-sponsor projects with companies, local governments, or other community organizations. Project XL offers environmental leaders and average performers alike a tremendous opportunity to think ''outside the box'' of our current system and to find solutions to obstacles that limit environmental performance.

To stimulate new XL project ideas, EPA is publishing the optional project themes listed in the next section. Because the total number of projects is limited to 50, it is vital that each project test new ideas with potential for wide application and broad environmental benefits.

EPA is promoting XL projects, both for facilities and communities, which test the following:

- Broader concepts, e.g. projects defined on a geographic basis; projects involving a larger number of facilities; projects which demonstrate Community-Based Environmental Protection (CBEP); projects with a broader, more comprehensive scope. This does not exclude smaller, more incremental, yet significant ideas;
- New strategies, e.g., market-based incentives, paperwork reduction, and environmental information and management systems;
- New tools and technologies, e.g. performance measurement tools and innovative environmental technologies; and
- Approaches for dealing with new environmental challenges, such as control of non-point sources, urban sprawl, and ecosystem protection.

**(C) List of Optional New Themes for XL Projects**

The potential themes listed below are entirely optional and have the sole purpose of conveying which general areas of innovation EPA and others in the regulated and environmental community are interested in exploring under Project XL. In category I below, EPA is suggesting a number of fairly detailed, program-specific themes. In category II, several ideas are listed that have been suggested by outside organizations as worth testing under Project XL and are not explored at the same level of detail. This should in no way discourage consideration of these less developed themes.

In considering XL projects for selection, EPA makes a determination of whether a proposal presents a new approach that EPA wants to test. Proposals which address any of the themes in category I below have the advantage that the Agency has already made that determination. While these proposals must still meet the XL criteria for facilities or for communities and go through a review and negotiation process like other proposals, EPA is committed to streamlining the processing of proposals submitted under any of the themes in category I.

It is important to emphasize again, that this list of themes in no way precludes any other innovative ideas to be tested under Project XL facilities and XL communities, as long as they meet the XL criteria, have a solid compliance record, and can produce ''cleaner, cheaper, and smarter solutions.''

The themes are organized into two broad categories, as summarized below:

*Category I: Themes Developed by EPA*

Testing New Strategies

(in alphabetic order:)

1. Air: Existing Preconstruction Requirements for Major Sources of Air Pollution in Attainment Areas
2. Air: U.S.-Mexico Border Emissions Trading
3. Environmental Management Systems (EMS)
4. Hazardous Waste: Reduction of Persistent, Bioaccumulative, and Toxic (PBT) Chemicals in Hazardous Waste
5. Permitting
6. Superfund Cleanup: Innovative Contracting Approaches
7. Superfund Cleanup: Partnering with Industry to Enhance Completion of Cleanup at Hazardous Waste Sites
8. Superfund Cleanup: Sustainable Reuse—''Recycling'' of Superfund Sites
9. Sustainability of Natural Ecosystems
10. Water: Environmental Performance Measures for Waste Water Pretreatment Programs

Developing New Tools and Technologies

(in alphabetic order)

11. Air: Continuous Monitoring Units for Radionuclides
12. Air: Leak Detection Technology
13. Air: Maximum Achievable Control Technology (MACT) for the Coke Oven Push and Quench Process
14. Multi-media Pollution Prevention: Using the Pollution Prevention (P2) Assessment Framework to Assess Manufacturing Processes

*Category II: Themes Suggested by External Organizations*

The first group of themes below include brief descriptions, while the ideas in the second group were suggested merely as topics to be explored: (in alphabetic order):

- Administrative Paperwork Reduction
- Community-Based Water Protection
- Concentrated Animal Feeding Operations

- Hazardous Waste: Land Disposal Restrictions Regulations
- Market-Based Approaches
- Multi-facility and Multi-media Projects
- Multi-media Pollution Prevention: Using ''Green Chemistry'' To Make Manufacturing Processes ''Greener''

Other ideas suggested by external organizations that the Agency considers worthy of further exploration:

- Alternatives for reducing persistent toxins in the Great Lakes
- Conservation and sustainable use of biodiversity and ecosystem services
- Energy conservation
- Environmental consequences of urban sprawl
- Global warming/climate change
- Green spaces
- Habitat preservation
- Improved management of timberland
- Watershed management

The full write-ups of the themes follow:

*Category I: Themes Developed by EPA*

Testing New Strategies

The themes below would test strategies that could help EPA move toward a new system of environmental protection or make improvements in the current system.

1. Air: Existing Preconstruction Requirements for Major Sources of Air Pollution in Attainment Areas

*Background:* Currently, before beginning construction of a major new air pollution source or a major modification at an existing source in an attainment area, the source must undergo preconstruction review pursuant to the applicable Prevention of Significant Deterioration (PSD) program (see, e.g., 40 CFR 52.21). This review, which involves permitting, technology requirements, and air quality monitoring and analysis, is time and resource intensive. The monitoring responsibility imposes a significant time restriction on when a source can begin construction and, in turn, start operations. The impact of this delay can be of particular concern in northern areas where the construction season is limited.

*Idea or approach to be tested:* This idea is aimed at reducing the preconstruction waiting period in exchange for corresponding benefits to the environment. The premise is simple: to ascertain if the EPA and permitting agencies can predict whether certain types of construction will adversely impact air quality. This would allow for confirmatory monitoring rather than monitoring in advance of construction. At this time, EPA is only soliciting comment on the concept and determining the level of interest in such a study. If EPA determines that there is sufficient interest to proceed, it will issue a more detailed description of the study and solicit requests from sources wishing to participate. At that time, the Agency will discuss in more detail the possible mechanisms for implementing the study, including whether a rulemaking will be required. This XL concept is also discussed in more detail in a memorandum available on the Internet. For further information, please review the memorandum available on the XL homepage at ''http://www.epa.gov/ProjectXL or at www.epa.gov/TTN/OARPG

*Regulatory or other flexibility needed:* By providing superior benefits to the environment and agreeing to offset any adverse impacts on air quality, a participant in the study could obtain a PSD permit and begin construction *prior* to completing all air quality analysis, which can take up to twelve months or more. This could occur as long as the source: (1) satisfied all other applicable PSD permitting requirements, including installation and operation of the best available control technology (BACT), as agreed to by EPA and the permitting authority; (2) agreed to purchase impact offsets if the completed monitoring or modeling demonstrated a violation of the National Ambient Air Quality Standards or exceedance of any applicable increments; and (3) agreed to superior environmental performance that would at a minimum include the installation and operation of continuous emissions monitors. Although the source would still be required to obtain the necessary monitoring data, it would not need to complete the monitoring prior to the permit issuance and beginning of construction. Thus, in exchange for undertaking some superior environmental performance and agreeing to offset any prohibited impacts on air quality through the purchase of offsets, a source could begin construction and start operations up to a year earlier than currently allowed under existing regulations. At this time, the Agency anticipates applying at least the following restrictions to participation: (1) the project would not extend to sources in nonattainment areas, areas considered unclassifiable, or sources that may require Class I impact analysis; (2) EPA would not select sources that are in violation of the PSD program; (3) EPA believes that the study should include only participants for which the relevant state and EPA agree that the proposed construction is not likely to improperly exceed available air quality increments or violate the National Ambient Air Quality Standards.

For more information on this particular theme, please refer to EPA's Project XL home page at http://www.epa.gov/ProjectXL.

2. Air: U.S.-Mexico Border Emissions Trading

*Background:* The border between the U.S. and Mexico runs through the center of the sister cities El Paso and Ciudad Juarez. This common airshed does not meet U.S. standards for ozone, PM and CO. The air pollution problem will not be solved by the U.S. side alone—significant reductions from Mexican sources will be required. Business, environmental and community groups from both sides of the border have been working together to develop solutions to the air pollution problem, including market incentives.

*Idea/approach that could be tested:* U.S.-Mexico Border emissions trading.

*Technology that could be tested:* Retrofit technologies (including conversions to natural gas) for older vehicles and brick making facilities.

*Possible superior environmental performance:* A source facing a pollution control requirement in El Paso could probably achieve far more reductions at lower cost and with greater environmental benefit to El Paso by cleaning up sources in Mexico.

*Regulatory or other flexibility needed:* The trading requirements that credits be surplus and enforceable would be the most difficult to comply with in a U.S.-Mexico emissions trading program. EPA's revised Economic Incentives Program will help with determination of surplus credits. Mexican environmental law contains provisions for enforcement. Work with our Mexican counterparts on enforcement is ongoing and would be further benefited by an XL project. (Legal analysis is available)

*Possible candidate applicants:* Utility companies along the U.S.-Mexico border.

3. Environmental Management Systems (EMS)

*Background:* EPA recently published a position statement on EMSs in the **Federal Register** (63 FR 10294, March 12, 1998), in which it encouraged the use of EMSs in general, and especially those that address overall environmental performance and compliance. It also encouraged the inclusion of stakeholders in EMS development. That statement described a data-gathering effort that EPA is

undertaking, along with a number of states, to evaluate the effect of EMSs.

Today's solicitation of XL proposals in the EMS area is distinct from the data-gathering effort described in the **Federal Register** mentioned above, although a facility participating in that effort could also participate in Project XL. As in all XL projects, EPA would expect a commitment not simply to adopt an EMS, but to attain environmental results better than those that would occur without the project. EPA would be most interested in proposals that involve an exceptionally high quality EMS that appears likely to provide substantial environmental improvements.

*Idea/approach to be tested:* The purpose of this initiative would be to test the use of comprehensive EMSs, including those based on the ISO 14001 International EMS Standard that can also meet the criteria for Project XL, such as superior environmental results and stakeholder involvement. Organizations or communities interested in these projects would be asked to collect information and report on implementation of the EMS in a number of key areas, like environmental performance for both regulated and unregulated activities, compliance, pollution prevention, EMS costs and benefits, and, where feasible, changes in environmental conditions. The value of third-party certification of EMSs and how certification relates to environmental performance may be another area to test.

*Regulatory or other flexibility needed:* An EMS must achieve compliance, but since XL projects are designed to test new approaches, EPA would consider streamlining or otherwise modifying existing regulatory requirements to achieve the superior environmental performance objectives established through an EMS. Any proposals for regulatory relief should be linked to exploring ways in which an EMS may create opportunities for transferable improvements in the regulatory system (e.g. by simplifying reporting or procedural requirements).

*Possible superior environmental performance:* A project might, for example, provide superior environmental results by committing to a reduction in emissions that was expected to result from implementation of the EMS.

4. Hazardous Waste: Reduction of Persistent, Bioaccumulative, and Toxic (PBT) Chemicals in Hazardous Waste

*Background:* The Agency is committed to working with the States and regulated community to reduce by the year 2005 50% of the most persistent, bioaccumulative, and toxic chemicals contained in industrial hazardous waste. Many of the approximately 25,000 companies regulated as large quantity generators under the RCRA hazardous waste laws have demonstrated that reduction of hazardous chemicals at the source of production, using pollution prevention and recycling technology, is in the long run more cost-effective than end-of-the-pipe waste treatment and disposal methods, and that pollution prevention rather than treatment and disposal provides more enhanced protection of human health and the environment and relief from liability than traditional end-of-pipe methods. EPA's Waste Minimization National Plan lays out a strategy for a voluntary program that carries these efforts to the 50% reduction goal by the year 2005.

*Idea/approach that could be tested:* EPA invites companies to explore experiments in regulatory reinvention that promote pollution prevention technologies over waste treatment and disposal technologies. For example, a company may wish to pursue process redesign, equipment modifications, or materials substitutions that would reduce PBT levels in hazardous waste to an extent that would render wastes non-hazardous, reduce the level of treatment needed, and/or reduce the amount of treatment capacity needed—however, compliance requirements for other regulations (e.g. permit modification schedules, effective dates for Land Disposal Restrictions standards, trial burns for combustion units) may impede or preclude achieving this objective.

*Possible superior environmental performance:* Earlier and more cost-effective methods for achieving compliance and reducing risks posed by hazardous waste.

*Regulatory or other flexibility needed:* We would be willing to consider changes to existing policies, procedures, and other requirements to make this possible.

*Possible candidate applicants:* ''Good citizen'' companies, preferably those managing or influencing numerous sites, who have provided leadership in cooperating with other companies and facilitating issue resolution on their own.

5. Permitting

*Background:* EPA believes that innovative technologies and alternative strategies are stepping stones to cleaner, cheaper, smarter environmental management. Elements of some permit programs may, however, impede use of innovative technologies or alternative pollution prevention strategies. Efforts to streamline permitting may be adding further complications by favoring ''routine'' permit actions that may be faster and easier to process over permit actions that involve innovative technologies or alternative strategies. The Agency is looking for approaches that create and maintain enough flexibility within the permitting process to support continued innovation. EPA has already tested some approaches to permit flexibility for innovative technologies, and some permit programs (e.g. the prevention of significant deterioration program for air pollutants, 40 CFR 52.21 (v)) already have approval processes for alternative technologies. The Agency is interested in testing additional techniques.

*Idea/approach to be tested:* EPA is interested in developing a menu of potential permit conditions that could encourage innovation and accommodate the possibility that an innovative or alternative strategy may not perform as expected. Adequate safeguards would be built in to fully protect human health and the environment, and stakeholders would have a role in the decision making.

*Possible superior environmental performance:* Development of more effective environmental technologies and strategies.

*Regulatory or other flexibility needed:* EPA would be willing to consider options, such as compliance schedules providing enough time to get new technologies up and running, offset by interim emissions reductions or decreased emissions over the long term; a reasonable time frame for reinstalling traditional controls if a new technology fails to perform; provisions for reopening the permit; or alternative strategies for sharing legal and financial risks. In return for a superior environmental outcome, EPA would also be willing to consider providing flexibility in areas such as consolidating or streamlining certain administrative requirements, expediting the permitting process, pre-approving certain process changes in lieu of permit modifications, or experimenting with alternative monitoring strategies.

*Possible candidate applicants:* Public and private sector permitted entities.

6. Superfund Cleanup: Innovative Contracting Approaches

*Background:* The FY 1998 House Appropriations Committee Report expressed interest in using fixed-price, ''at-risk contracting'' for the cleanup of an ''orphan'' Superfund site. (''Orphan sites'' are sites where there are no viable

responsible parties able to do necessary cleanup. EPA uses money from the Superfund Trust Fund to clean up these sites.) The appropriations language indicated a belief that this type of contracting, once tested, holds potential for speeding up site cleanup and reducing related costs.

*Idea/approach that could be tested:* A cleanup contractor would submit to EPA a complete cost package based on completion of the Record of Decision, which identifies the cleanup remedy selected for a specific site. The contractor would guarantee a fixed price for implementing the remedy selected by EPA and would absorb any cost overruns.

To the extent permitted by law, EPA would select the cleanup contractor at a pilot site based on the best combination of reasonable cleanup costs and economic reuse of the site.

*Possible superior environmental performance:* Linking site cleanup and site economic reuse assures that cleanup decisions provide maximum protection of workers during cleanup and construction of the intended reuse of the site, and for the public living in proximity to the site and frequenting the site after development. Cleanup decisions are made up-front, with input from the developer, the community, local government, State government, as well as the Federal government. Controlling costs at individual sites will allow EPA to eliminate risks at more sites more quickly.

*Regulatory or other flexibility needed:* EPA would be willing to consider addressing potential Superfund liability concerns regarding waste existing at the site; participating in cleanup costs necessary for reuse which are not inconsistent with the cleanup specified in the Record of Decision, and modifying existing procurement procedures consistent with such a test of an alternate procurement process.

*Anticipated future change in EPA's approach to environmental protection:* The Congress, in the FY 1998 House Appropriations Committee Report, appears to encourage EPA's investigation of more fixed-price contracts in an effort to better contain cleanup costs, and the use of ''at-risk contracting'' where the government does not bear all the risks associated with hazardous site remediation. Both these efforts are intended to control the cost of Superfund cleanups and add an additional contracting mechanism.

*Possible candidate applicants:* Cleanup contractors, real estate developers, or a joint venture of several companies would be likely candidates for this project. Eligible sites include those on the National Priority List which lack viable responsible parties to implement the necessary cleanup.

7. Superfund Cleanup: Partnering With Industry To Enhance Completion of Cleanup at Hazardous Waste Sites

*Background:* With sufficient funding from Congress, the President has committed to enhance protection of human health and the environment by completing cleanup construction at a greatly accelerated rate. More than two-thirds of Superfund sites are being cleaned up by potentially responsible parties (PRPs). The program is faster, fairer, and more efficient due in part to the administrative reforms instituted by the Agency. EPA must continue to find better ways to identify and resolve scientific and technical problems, legal and policy issues, or other potential impediments that may delay the completion of construction at National Priority List sites in order to expedite cleanups that protect human health and the environment.

*Idea/approach that could be tested:* Taking care not to interfere with ongoing enforcement, EPA would partner with companies and affected states to develop new mechanisms for early resolution of potential problems. EPA would also like to find ways to promote waste minimization strategies and innovative cleanup technologies, examine ''batching of remedies'' for certain technologies to enable larger-scale (and lower-priced) approaches to cleanup, and collaborate on research related to hazardous waste cleanup methodologies to facilitate cleanup.

*Possible superior environmental performance:* Earlier elimination of threats to human health and the environment related to risks posed by hazardous waste sites; ''smarter cleanup solutions'' which make treatment cost-effective by optimizing remedy costs over multiple sites, increasing the volume of waste to be treated, or blending waste from multiple sites to make treatment operations more efficient; and greater use of innovative and more effective cleanup technologies.

*Regulatory or other flexibility needed:* EPA would be willing to consider changes to existing policies, procedures, and other requirements to make this possible, being mindful of limitations posed by existing settlements or orders for the performance of work.

*Anticipated future change in EPA's approach to environmental protection:* More collaborative and efficient partnership with PRPs in getting Superfund sites cleaned up in a timely manner. This may have broader application to other environmental cleanup programs.

*Possible candidate applicants:* ''Good citizen'' companies, preferably those managing or influencing numerous sites who have provided leadership in cooperating with other companies and facilitating issue resolution that have resulted in expeditious site cleanup.

8. Superfund Cleanup: Sustainable Reuse-''Recycling'' of Superfund Sites

*Background:* EPA has made substantial progress in speeding cleanup at Superfund sites, but until cleaned-up sites are put back into productive use, the nation will fail to reap the full benefits of the Superfund program. Brownfields programs have successfully leveraged resources from a wide range of stakeholders to clean up properties to facilitate their redevelopment, but these programs have been limited to sites that are not on the Superfund National Priority List.

*Idea/approach that could be tested:* EPA would consider offering procedural flexibility and addressing potential Superfund liability to facilitate redevelopment of cleaned-up Superfund National Priority List sites. EPA would also be willing to offer technical expertise to support local efforts, advice in involving the community, use of helpful information resources, and coordination of access to other agencies and resources.

*Possible superior environmental performance:* Converting cleaned-up, but otherwise underused properties into valuable community assets. In addition, incorporating redevelopment considerations into the cleanup process can (1) lead to faster cleanups with consequent faster environmental protection as parties take voluntary actions to achieve the desired redevelopment use; (2) ensure binding agreements are in place to monitor institutional controls that are necessary at sites with waste left on-site, and (3) in many cases, result in environmental enhancements that are associated with the reuse (e.g., cleanup of nearby creeks to support fishing and recreation).

*Regulatory or other flexibility needed:* EPA would be willing to consider changes to its existing policies, procedures, and guidance in order to minimize or eliminate, where appropriate, barriers to the redevelopment of cleaned-up Superfund National Priority List sites posed by the potential applicability of the Federal Superfund statute and regulations. EPA may also consider expediting the release of parts of sites from the Superfund process if they would be returned to productive use through redevelopment.

Cleanups consistent with the National Contingency Plan would still be required.

*Anticipated future change in EPA's approach to environmental protection:* Removal or minimization of barriers to returning cleaned-up Superfund sites to productive use. This may have broader application to other environmental cleanup programs.

*Possible candidate applicants:* Companies with expertise in redeveloping properties, communities interested in regional redevelopment opportunities or in combining multiple sites for economic and environmental master plans, and Community Development Corporations.

9. Sustainability of Natural Ecosystems

Sustainability is a concept that describes the balance between conservation of natural resources and economic development. The following is a possible project scenario for testing an approach that includes sustainability as a key feature.

*Background:* In an effort to address threats to ecosystem viability arising from sedimentation and non-point source runoff caused by local farming in river watersheds, EPA is interested in testing the idea of stakeholders developing and implementing resource plans for watersheds.

*Idea/approach that could be tested:* Restoration approaches through community planning and local involvement. A planning committee of local farmers, landowners, and environmentalists could be formed. That committee would develop a resource plan that identifies a vision for the restoration and protection of the area that includes the type of future conditions they want to obtain and target for restoration. They also could identify issues of concern including ecological diversity, erosion, open dumping, and ground and surface water quality, and seek to address these issues in a manner compatible with a healthy economy and high quality of life. Issues of concern could be identified through committee discussions, watershed assessment field trips, and public meetings. Representatives from conservation organizations and local universities could also support the committee. Ultimately, this effort could provide a model for partnerships between EPA and local communities to solve long-term ecosystem problems.

*Technology that could be tested:* Community visioning and long-term planning for preservation of local natural resources and a sustainable economy that integrates economic, social, and environmental goals. Planning that involves a diverse cross-section of the community. Citizen monitoring of water quality and tracking of results.

*Possible superior environmental performance:* Preservation of an ecosystem important to the local community both for quality of life and economic reasons.

*Regulatory or other flexibility needed:* The community may desire flexibility in an area being addressed by the project or in another area where federal or state regulations, policies, guidance or Agency standard operating procedure present obstacles to achieving better environmental results.

*Possible candidate applicants:* Communities—local governments, community organizations, regional planning associations, and any other interested public or private entity. Projects addressing this theme could also be implemented through regional or ecosystem-scale initiatives like some of the National Estuary Projects that have resulted in comprehensive conservation and management plans, and other efforts such as the work in EPA's Atlanta Office (Region IV) with the Southern Appalachia Project that could result in recommendations that could be implemented through XL.

10. Water: Environmental Performance Measures for Waste Water Pretreatment Programs

*Background:* The Pretreatment Program is a cooperative effort of federal, state, and local regulatory environmental agencies established to protect water quality. Generally, the Program is implemented by Publicly-Owned Treatment Works with the objective of reducing the amount of pollutants discharged by industry and other non-domestic wastewater sources into municipal sewer systems, and thereby, reducing the amount of pollutants released into the environment from wastewater treatment plants.

*Idea or approach that could be tested:* EPA is interested in exploring alternative environmental performance-based pretreatment programs on a pilot basis. The intent of this effort is to investigate ways of increasing the effectiveness of the pretreatment program and thus obtain greater environmental benefit. Please refer to a separate segment of this **Federal Register** Notice, in which the Agency announces and describes its interest in exploring alternatives in this area in much greater detail. It is also available from Patrick Bradley, telephone number 202–260–6963.

*Regulatory or other flexibility needed:* EPA would be willing to provide POTWs regulatory relief from certain programmatic requirements (e.g., specific monitoring frequencies, specific control mechanism issuance requirements, etc.), so that they could implement alternative programs that would increase the environmental benefits. EPA is willing to consider various concepts of what an adequate environmental performance-based program might be, what POTWs would qualify for administering such a program, and what existing pretreatment program requirements would not be applicable to approved pilot programs.

**Developing New Tools and Technologies**

The themes listed below suggest ways that could help EPA improve current monitoring, measurement, and assessment tools and technologies.

1. Air: Continuous Monitoring Units for Radionuclides

*Background:* DOE is planning to use mixed waste incinerators to process high BTU content waste. Process pollution control equipment, when operating properly, captures most of the radionuclides. To determine if there are any releases, a filter is examined and tested on a daily or weekly basis to gather data. Many gases (CO, $NO_X$, $SO_X$) are monitored real or near real time, but radionuclides are monitored periodically. Thus, incinerators may potentially expose individuals to radionuclides during the time elapsed between periodic testing and actions taken to shut down the incinerator.

*Idea/approach that could be tested:* Continuous monitoring units for radionuclides. On time reporting of this information to the public could be another dimension of this project.

*Technology that could be tested:* A real or near real time monitor for radionuclides.

*Possible superior environmental performance:* A rugged and reliable unit which provides continuous real time monitoring data would allow almost simultaneous shut down of the incinerator if radionuclides are emitted. Thus, potential exposure to radionuclides should be reduced.

*Regulatory or other flexibility needed:* Radionuclide emissions from DOE facilities are regulated under 40 CFR part 61, subpart H (radionuclides NESHAPs). Subpart H allows use of environmental measurements to demonstrate compliance under certain conditions and with prior EPA approval. The project would require EPA flexibility in granting prior

approval to test the units and possibly relaxing the criteria for approval.

12. Air: Leak Detection Technology

*Background:* The chemical and petroleum refinery industries have to deal with a large number of potential emission points and a personnel-intensive approach to monitoring them under the Leak Detection and Repair provisions of current air rules (CAAA section 111 and 112). The number of components requiring emissions monitoring at refineries can range from 60,000 at small facilities to 500,000 at large facilities. While these provisions were developed via regulatory negotiation with industry and environmentalists, there may be alternative approaches to reduce emissions from these sources that are less burdensome and potentially more productive.

*Idea/approach that could be tested:* The Consolidated Air Rule and the Petroleum Refinery subcommittee of EPA's Common Sense Initiative are both exploring the question of whether industry can demonstrate that certain valves, pumps or seals do not leak as much as others and thereby reduce the frequency that they must be monitored. However, there will always be some amount of monitoring required.

Independent studies conducted by the Petroleum Refining Common Sense Initiative (CSI) Subcommittee and the American Petroleum Institute (API) suggest that the incidence of leaks in the population of refinery equipment is ''essentially random in well-controlled plants'' and that chronic leakers of regulatory significance (>10,000 ppm) are difficult, if not impossible to identify.

This XL project would explore whether there are other monitoring technologies that may be equally or more effective at identifying leaks than EPA's rules require, but that may be cheaper and easier to use for industry. Another aspect of this project may be to verify the CSI and API studies by exploring how much a component may leak and use that information to target the big leakers.

*Technology that could be tested:* There are new advances in leak detection that could be explored for industry use. One leak detection technology currently under development is a periodically-poled lithium niobate (PPLN) laser imaging system which, if proven effective, could be used to identify Volatile Organic Compound emissions from groups of components. Based on information provided by the Petroleum CSI Subcommittee, the CSI Council has recommended that the Agency prepare to engage in a process to test, verify, and approve this new leak detection technology that might be proposed as an alternative to current monitoring requirements. Subcommittee members informed the Council that the U.S. Department of Energy has pledged financial support for the development of a PPLN laser imaging system prototype. Industry, through API, has pledged in-kind services in terms of facilities and personnel to field test the technology. The CSI Subcommittee plans to fund an evaluation of the pilot test.

*Possible superior environmental performance:* If leaking components can be more effectively identified, overall emissions to the environment can be reduced. At the same time, EPA could potentially reduce burden and cost to industry.

*Regulatory or other flexibility needed:* EPA would need to allow participating plants the flexibility to use monitoring approaches other than the prescribed rule approach.

*Possible candidate applicants:* Any of the Consolidated Air Rule participants in the chemical industry, American Petroleum Institute, or the National Petroleum Refiners Association may be interested.

13. Air: Maximum Achievable Control Technology (MACT) for the Coke Oven Push and Quench Process

*Background:* The coke oven push and quench process is a listed source category to be regulated under Title III. EPA is required to promulgate a final Maximum Achievable Control Technology (MACT) standard by November 2000. The push and quench operations deal with the removal and cooling of coke from coke ovens. Once the coal to coke conversion is complete inside of the coking ovens, the hot coke is pushed by a ram from the oven into a quenching car. The quenching car of hot coke is moved by rail to the quench tower, where several thousand gallons of water are used to cool the coke. The push and quench process at coke oven facilities is a very large source of fugitive dust ($PM_{10}$, $PM_{2.5}$) organic Hazardous Air Pollutants (HAPs) and waste water. Conventional control technologies (i.e., localized hooding and control) are only marginally successful due to technical and economical limitations. As such, the MACT for this significant source category, if based on conventional technologies, will result in minimal benefits.

*Technology that could be tested:* The Kress Indirect Dry Cooling (KIDC) System replaces the quenching car with a box that is slightly wider and deeper than the coke charge. A carrier positions the box flush against the coke oven where the box can receive the push. After the push is complete and the pusher ram is withdrawn, the KIDC box's guillotine door closes. Fugitive dust is nearly eliminated from the push operation. VOCs which continue to offgass from the coke are controlled by a flare at the rear of the box. Following the push, the carrier moves the box to the quench station, and onto a cooling rack. Cooling water runs over the box to cool the coke indirectly. In addition to the environmental benefits, the KIDC system is intended to improve coke quality due to the indirect cooling.

In 1990, EPA/ORD began a demonstration of KIDC system at the Bethlehem Steel Coke Plant at Sparrows Point, Maryland. Unfortunately, the demonstration was interrupted and not completed for reasons unrelated to the KIDC system. However, preliminary data received from the demonstration were promising. Based on visible emission observations, emissions of particulate from the pushing operations were reduced by roughly 75% while emissions during quenching were virtually eliminated.

*Possible superior environmental performance:* The KIDC system has the potential to greatly reduce the air and water pollution resulting from the coke oven push and quench processes.

Emissions, based on AP–42 emission factors and the preliminary data for KIDC, are as follows:

| TSP | Conventional | KIDC |
|---|---|---|
| Coke Pushing | 2.0 lb/ton ..... | 0.5 lb/ton. |
| Quenching .... | 1.0 lb/ton ..... | 0.0 lb/ton. |

| VOC | Conventional | KIDC |
|---|---|---|
| Coke Pushing | 0.2 lb/ton ..... | 0.15 lb/ton. |
| Quenching .... | Unknown ..... | 0.00 lb/ton. |

*Regulatory or other flexibility needed:* Substantial capital and time would be required to modify an existing facility and install the demonstration equipment. There are no guarantees that the equipment will work as planned (although the design indicates that it would likely be superior to the technology upon which the MACT standard would be based) or that the demonstration would be complete by the MACT standard compliance date. For these reasons, the facility would need some guarantee of relief from the MACT standard for a defined period of time, in order to protect the facility's capital investment in the demonstration project.

*Possible candidate applicants:* Other integrated steel mills.

14. Multi-media Pollution Prevention: Using the Pollution Prevention (P2) Assessment Framework to Assess Manufacturing Processes

*Background:* When designing an industrial process and producing new chemicals (in the form of new products or waste), industry often does not have any guidance from EPA to help them assess the potential regulatory burden associated with products of a new process. The Pollution Prevention Assessment Framework (P2 Assessment Framework), developed by EPA, packages a number of hazard, exposure and risk assessment methodologies that EPA uses in evaluating chemicals for which there are little or no data. The goal of the P2 Assessment Framework is to provide industry with methodologies that can identify problematic chemicals early in the design or manufacturing stage, or to assess the risk of chemical options for a specific purpose. The P2 Assessment Framework can aid industry in fostering pollution prevention as well as saving time and money, as demonstrated by a pilot project with the Eastman Kodak Company. Kodak recently issued a press release describing the business benefits of using EPA's P2 Assessment Framework. Kodak's press release indicated that the P2 Framework ''. . . saved Kodak tens of thousands of dollars in development costs . . . with each one tested.'' EPA is interested in doing further testing of the tool in addition to the Kodak pilot.

*Idea or approach to be tested:* The P2 Assessment Framework can help industry practice cost-effective pollution prevention by reducing the regulatory burden associated with the production or use of new or existing high-risk chemicals. A wide array of chemicals can be screened quickly, thereby saving time and money by identifying potentially problematic chemicals early in the process, and finding more benign substitutes for them.

*Possible superior environmental performance:* Prevention of the production of potentially more hazardous chemicals (either as product or waste) from a production facility.

*Regulatory or other flexibility needed:* We would consider changes to existing policies, procedures, or permitting requirements to make this possible.

*Possible candidate applicants:* Any company developing new chemical substances, reformulating existing products or processes, or choosing among competing chemical substances for product development and manufacturing.

*Category II: Themes Suggested by External Organizations*

To stimulate additional ideas, EPA is including some themes in this Notice that were suggested as good ideas for Project XL pilots by representatives of public and private sector organizations during numerous meetings around the country. These ideas are briefly described below and, based on Agency review, are considered worthy of further exploration.

Administrative Paperwork Reduction

Record-keeping and reporting-burden reductions could be achieved through projects that provide EPA with the same information but in formats and ways that are more useful to EPA and less burdensome to the regulated entity. For example, EPA might agree to drop requirements for hard copy reporting of data in exchange for electronic submission of data. Superior environmental performance could be achieved, for example, by reinvesting cost savings in other areas that produce such results.

Community-Based Water Protection

Municipalities are required to implement multiple water protection programs, most notably the operation of publicly-owned treatment works, the storm water program and pretreatment programs, and in some cases combined sewer overflow programs. In many cases, these programs are implemented independently with little or no coordination or communication between them. In some communities, non-point sources that are not addressed by these programs may pose significant threats to water quality. The suggestion is to explore possible ways of integrating multiple water protection programs.

Concentrated Animal Feeding Operations

Nationally there are approximately 7,000 concentrated animal feeding operations (CAFOs). Under the Clean Water Act, CAFOs are ''point sources'' and subject to the National Pollutant Discharge Elimination System (NPDES) permitting requirements. The largest operations are also subject to the feedlots requirements under the Effluent Limitation Guidelines. The current technology standard specifies ''no discharge.'' The applicable NPDES and Effluent Guideline regulations have not kept pace with technology improvements nor the changing nature of the animal agriculture industry. Potential projects could test innovative approaches, such as watershed permits, or innovative technologies for the management of animal manure.

Hazardous Waste: Land Disposal Restrictions Regulations

Industry has often suggested that if they had more time to come into compliance with new land disposal restriction regulations that they would be able to make significant steps towards waste minimization, potentially even eliminating a particular waste stream. Companies may be able to develop approaches that allow complete elimination of a waste stream, specifically under the technology-based treatment standards that hazardous waste must meet before being placed in or on the land.

Market-Based Approaches

Economic and market incentives could be developed for better environmental performance, including exploring financial instruments; the insurance industry; lenders, (e.g. for the redevelopment of brownfields); ways to combine sources of funding to help pay for the development and testing of new technologies; and ways to provide economic incentives for environmentally beneficial behavior, e.g. credits for using solar power.

Multi-facility and Multi-media Projects

Projects might test strategies for large companies that have many site locations or manufacturing and supplier chains; or strategies for related industries in different geographic locations, such as hazardous waste disposal and treatment companies; or auto companies, body shops, and paint shops. An example might be: Establishing a network of preconstruction air monitoring for a group of facilities giving relief from individual monitoring requirements. Even though these types of projects are very broad and may pose considerable management and implementation challenges, EPA is eager to entertain ideas along these lines as opportunities for truly innovative environmental protection approaches.

Multi-media Pollution Prevention: Using ''Green Chemistry'' To Make Manufacturing Processes ''Greener'

The Green Chemistry program is designed to foster chemical methods that reduce or eliminate the use or generation of toxic substances during the design, manufacturing, and use of chemical products and processes. A part of the Green Chemistry program promotes partnership with industry in developing green chemistry

technologies. A possible XL project may involve the use of green chemistry that would make a production process cleaner, and reduce the regulatory burden that would be required of the production facility.

Other Ideas Suggested by External Organizations that the Agency Considers Worthy of Further Exploration:

These ideas were proposed merely as topics that would need to be fleshed out. (in alphabetic order)

- Alternatives for reducing persistent toxins in the Great Lakes
- Conservation and sustainable use of biodiversity and ecosystem services (for example, pollination, natural pest control, natural water flow management, and natural filtering and breakdown processes of pollutants)
- Energy conservation
- Environmental consequences of urban sprawl
- Global warming/climate change
- Green spaces
- Habitat preservation
- Improved management of timberland
- Watershed management

**(D) Key Elements of Good XL Proposals**

A successful project sponsor must have a solid record of compliance and demonstrate that the proposed XL project meets the eight XL criteria, as discussed in previous **Federal Register** documents and summarized in the ''Supplementary Information'' section in the beginning of this document. The review process will be easier and EPA, States, and other stakeholders will be more receptive to proposals if they:

√ Clearly lay out what is innovative about the approach to be tested and the potential benefits of applying the approach to other facilities, sectors, or communities, i.e. its transferability;

√ Clearly identify the area(s) of flexibility needed in EPA regulations, policies, and/or procedures;

√ Be as clear as possible about the benefits the project sponsor will derive from implementing the project, such as environmental improvements at the facility and in the community, worker health protection improvements, time-to-market savings and/ or paperwork reductions. EPA is also very interested in measurements of resources and cost savings.

√ Avoid being focused primarily on the requirement the project sponsor wants to avoid, but focus instead on the new approach to be tested;

√ Have early stakeholder support and a well-developed plan for facilitated stakeholder involvement;

√ Plan your idea in pre-proposal discussions before the actual proposal is formally submitted; pre-proposal discussions with EPA, States and other stakeholders go a long way toward reducing ''transaction costs'' (i.e. time and resources) in the selection and negotiation of projects;

√ Lay out a plan for how environmental baselines will be measured and superior environmental performance achieved. For more information on baselines, please refer to the **Federal Register** document (62 FR 19872) issued on April 23, 1997.

√ Propose a workable schedule for the development of a final project agreement and a plan for how the project will be managed.

EPA encourages potential project sponsors to talk early to EPA before submitting a formal proposal. This allows the Agency to help develop the proposal and to explain the process. The Agency recognizes that community project sponsors may require special assistance from EPA in developing proposals and any resulting projects. This assistance could include working with community project sponsors to help identify additional resources to support development and implementation of XL projects.

Proposals, in brief, will go through the following process: EPA will evaluate all proposals with input from relevant EPA and State offices to determine whether a proposal has the potential of meeting Project XL's set of criteria for facilities and/or communities, and whether it contains environmental, regulatory, and policy concepts worth testing in Project XL. If the Agency and the relevant State(s) determine that it is appropriate to proceed with proposal development, the project sponsor then leads a process involving all affected stakeholders to develop an agreement on the project.

**Conclusion**

Project XL presents a unique opportunity for private and public sector facilities, states, sectors, and local communities to design and test alternative approaches, while deriving substantial benefits for themselves and the communities around them. 27 facilities, sectors, states, and communities are already implementing or developing such innovations. EPA has integrated many ''lessons learned'' into its regulatory and policy-setting system. In addition, the Agency has learned how to process XL proposals with greater efficiency and efficacy. EPA's goal of implementing 50 XL pilot projects will provide the Agency with a range of innovations that can create a better system of protecting our environment and our health in the 21st century.

Dated: June 11, 1998.

**J. Charles Fox,**

*Associate Administrator, Office of Reinvention.*

[FR Doc. 98–16398 Filed 6–22–98; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6113–6]**

## Pretreatment Program Reinvention Pilot Projects under Project XL

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; Solicitation of Local Pilot Pretreatment Program Proposals under Project XL.

**SUMMARY:** Publicly Owned Treatment Works (POTWs) regulated under the National Pretreatment Program are required to identify industrial users, issue permits to these users, monitor industrial user activities through on-site sampling and inspections, and carry out other administrative functions involving extensive recordkeeping and reporting.

Many POTWs have mastered the programmatic aspects of their pretreatment programs, and a number of these POTWs feel that their programs should be measured against environmental results rather than strict adherence to procedural and administrative requirements. These POTWs have expressed an interest in being allowed to focus their resources on activities that they believe will provide greater environmental benefits than are achieved by complying with the current requirements.

The Project XL program, which is discussed in greater detail in another document in today's **Federal Register**, was implemented to provide the flexibility to conduct innovative pilot projects to develop and test ''cleaner, cheaper and smarter'' programmatic alternatives that could yield greater environmental results than those achieved under the current regulatory system. EPA is interested in exploring alternative environmental performance-based pretreatment programs on a pilot basis under the Project XL program.

Today, EPA is requesting that POTWs interested in pursuing a program based on environmental performance measures submit preliminary, one to two page proposals explaining what they would include in their Local Pilot Pretreatment Programs. These short proposals must include a clear description of the alternative program the POTW plans to implement, the environmental benefits to be gained by

the program, the regulatory requirements that need to be revised, and how program resources would be modified. POTWs that are interested in participating must submit their proposals to their State Pretreatment Program Coordinator, EPA Regional Pretreatment Program Coordinator, and the Director of EPA's Office of Wastewater Management. EPA will review the preliminary proposals and choose those that are most likely to achieve measurable improvements in environmental performance.

The number of proposals selected will be based on available Approval Authority resources for reviewing and modifying Approved Pretreatment Programs and coordinating pilot program implementation.

**EFFECTIVE DATES:** POTWs interested in participating in this Project XL solicitation have until September 21, 1998 to submit a preliminary proposal for consideration.

**ADDRESSES:** POTWs must submit formal proposals to Mr. Michael B. Cook, Director, Office of Wastewater Management (MC 4201), U. S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. Duplicate copies of your proposal should be sent, concurrently, to the appropriate EPA Regional Pretreatment Coordinator and the State Pretreatment Program Coordinator providing oversight of your pretreatment program. This **Federal Register** document has been placed on the Internet for review and downloading at the following location: ''www.epa.gov/owm'.

**FOR FURTHER INFORMATION CONTACT:** Patrick Bradley, U.S. Environmental Protection Agency, Office of Wastewater Management (4203), 401 M Street, S.W., Washington, DC 20460, telephone number (202) 260–6963.

## I. Introduction

*In General, What is EPA Requesting?*

EPA is interested in exploring alternative environmental performance-based pretreatment programs on a pilot basis under EPA's Project XL program. The intent of this effort is to investigate ways of increasing the effectiveness of the pretreatment program and thus obtaining greater environmental benefit.

Today, EPA is requesting that interested POTWs submit preliminary proposals for implementing Local Pilot Pretreatment Programs. EPA will choose the proposals that are most likely to achieve measurable improvements in environmental performance. The number of proposals selected will be based on available approval authority resources for reviewing and modifying approved pretreatment programs and coordinating pilot program implementation. EPA expects to implement no more than fifteen projects.

The process for reviewing and choosing acceptable pilot program candidates will include input from the POTW's State and EPA Regional Pretreatment Coordinators, as well as opportunity for public participation. After opportunity for public participation at the local level and review of a pilot by the selected POTW's State and EPA Regional Office, EPA Headquarters will revise 40 CFR part 403, if necessary, to allow the selected Local Pilot Pretreatment Programs to be tested, and then the POTW's NPDES permit will be modified to authorize the POTW to implement its pilot program instead of its current Approved POTW Pretreatment Program. States might first need to revise their own regulations or statutes to authorize the pilot program.

*What Are the Current Pretreatment Program Requirements?*

The minimum requirements for an Approved POTW Pretreatment Program are currently found in 40 CFR 403.8(f). POTWs with Approved Pretreatment Programs must maintain adequate legal authority, identify industrial users, designate which are Significant Industrial Users under 40 CFR 403.3(t), and perform required monitoring, permitting and enforcement. Other sections of part 403 require POTWs with Approved Pretreatment Programs to sample and apply national standards to their industrial users. POTWs are also required to develop local limits in accordance with 40 CFR 403.5. An environmental performance-based pilot program would replace certain programmatic requirements of the POTW's Approved Pretreatment Program.

*How Do the Current Requirements Relate to Environmental Objectives?*

As described in 40 CFR 403.2, the general pretreatment regulations promote three objectives:

(a) To prevent the introduction of pollutants into POTWs which will interfere with the operation of POTWs, including interference with the use or disposal of municipal sludge;

(b) To prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works; and

(c) To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

These objectives require local programs to be designed so they are preventative in nature, and therefore, any pilot program must also maintain this preventative approach. The specific requirements for an Approved POTW Pretreatment Program are intended to achieve these objectives. Individual pretreatment programs, however, are not routinely required to report on the achievement of environmental measures.

The 1991 National Pretreatment Program Report to Congress provides extensive data related to the sources and amounts of pollutants discharged to POTWs, the removal of pollutants by secondary treatment technology, and the general effectiveness of the pretreatment program. The 1991 Report did, however, point to a serious lack of comprehensive environmental data with which to fully assess the effectiveness of both the national and local pretreatment programs.

*Why is EPA Considering Allowing POTW Local Pilot Pretreatment Programs at This Time?*

Some POTWs have mastered the programmatic aspects of the pretreatment program (identifying industrial users, permitting, monitoring, etc.) and want to move into more environmental performance-based processes. These POTWs have expressed an interest in being allowed to focus their resources on activities that they believe will provide greater environmental benefit than is achieved by complying with the current requirements. Some POTWs want to be able to make decisions on allocating resources based on the risk associated with the industrial contributions they receive or other factors. Others want to be able to focus more resources on ambient monitoring in their receiving waters and/or to integrate their pretreatment programs with their storm water monitoring programs. In general, these POTWs want the opportunity to redirect limited resources away from currently required activities that they do not believe are benefiting the environment and toward activities that can achieve measurable improvements in the environment.

The Project XL program was implemented to provide the flexibility to conduct innovative pilot projects. This current solicitation represents an attempt to spur innovation in the pretreatment program to increase environmental benefits and, in conjunction with the streamlining proposal, to determine if further streamlining of the program is needed,

and in what direction those future streamlining efforts should be directed.

## II. Stakeholder Comments

*How Have Stakeholders Been Involved in the Development of This Idea?*

EPA has been working with stakeholders to learn how to direct the pretreatment program toward the achievement of environmental goals. In 1993, pursuant to a Cooperative Agreement with EPA, the Association of Metropolitan Sewage Agencies (AMSA) assembled a 16-member steering committee to explore environmental measures of performance of pretreatment programs. The committee consisted of federal and state approval authorities, local and state control authorities, industrial users, and environmental groups. This committee helped shape the original research and reviewed findings to identify appropriate measures of performance.

The Committee identified 18 measures for assessing the performance of a pretreatment program. Consistent with the committee's belief that an adequate program would need to be judged by environmental trends, compliance rates, and procedural or programmatic criteria, the measures were separated into the following three categories:

Measures of Trends in Pollutant Loadings and Concentrations

1. Trends in mass loadings of metal and other toxic compounds and nonconventional pollutants in POTW effluent; and comparisons to allowable levels in NPDES permits where such limits exist.

2. Trends in emissions of hazardous pollutants to the air, particularly for volatile pollutants from unit processes and metals from incineration.

3. Trends in mass loadings of metals and other toxic contaminants in POTW influent, as a total and where possible, divided into domestic, commercial, industrial, and storm water contributions to the total; and comparison to allowable loadings as calculated during the headworks analysis, where such an analysis is available.

4. Reductions in annual average metals levels in biosolids, with an indication of any trend towards or compliance with the most stringent nationwide biosolids standards.

Measures of Compliance With Requirements

5. Percent compliance with NPDES permit discharge requirements.

6. For each POTW, whether the POTW is failing Whole Effluent Toxicity (WET) tests due to industrial sources.

7. Percent compliance with non-pathogen biosolids quality limits for the management method currently used, with sites divided into categories based on applicable biosolids regulations.

8. Percent compliance at each Industrial User with categorical limits.

9. Percent compliance at each Industrial User with all permit limits.

10. Percent of Industrial users in compliance with reporting requirements.

11. For each control authority, the number and percent of Industrial Users in a significant noncompliance (SNC) for the current year that were also in SNC last year.

Procedural or Programmatic Measures

12. Whether an effective method is being used to prevent, detect, and remediate incidents of violations of the specific pretreatment prohibitions attributable to industrial or commercial sources (e.g., fire and explosion hazards).

13. Whether an effective procedure is being used to identify non-domestic users and to update the list of regulated users.

14. Number of sample events conducted by the control authority per significant industrial user (SIU) per year, and percent of all sample events that were conducted by the control authority.

15. Number of inspections per SIU per year.

16. Whether the control authority has site-specific, technically-based local limits, based on the most recent regulatory changes and latest NPDES permit requirements; or a technical rationale for the lack of such limits.

17. Whether the POTW or control authority has significant activities or accomplishments that demonstrate performance beyond traditional goals and standards.

18. Whether or not POTWs have an effective public involvement program in place.

EPA then funded a second multi-stakeholder peer review group assembled by AMSA to evaluate the extent to which POTWs were using or collecting data to support these measures. The evaluation consisted of site visits to five case study cities. During the site visits, the researchers collected data on the current status of performance measurement and investigated ways to redirect the pretreatment program using a broader array of environmental indicators. The final report (Case Studies in the Application of Performance for POTW Pretreatment Programs, May 1997), presented ''preliminary conclusions regarding the use of environmental indicators within the broader context of streamlining the pretreatment program to meet objectives of the Clean Water Act while better serving the needs of local communities and the nation as a whole.''

One of the principal findings of the May 1997 report was a recommendation for ''Pilot Programs'' to investigate performance measures. The report recommended pilot programs as a means to phase-in and promote reinvention efforts at low risk. Specifically, the Report suggested:

> Under such a strategy, only those wastewater utilities that could demonstrate readiness to manage locally directed programs would be eligible for a pilot. Once eligible, the exact dimensions of each local program would be negotiated with the public and the appropriate Approval Authority. Administrative orders or enforcement discretion could be used during the pilot to allow local priorities to shape local programs in place of strict compliance with national program regulations under 40 CFR part 403. Accountability would be sustained through agreed upon measures of performance.

The August 1996 WEF/AMSA Pretreatment Streamlining Workshop also recommended creating a fundamentally more innovative and results-oriented pretreatment program that focussed on environmental endpoints. The Workshop's final report recommends a national pretreatment program consisting of three different tiers or options for local programs. One option would be a performance approach that would provide POTWs with flexibility in administering various aspects of their pretreatment programs in exchange for evaluating the accomplishments of the programs based on a series of designated performance-based measures that had been agreed upon by all stakeholders.

Finally, AMSA hosted a 1997 stakeholder meeting in Chicago where more than 20 members of key stakeholder groups, including POTWs, federal and state regulators, and industrial users, discussed all of these previous efforts and portions of this proposal. The attendees at the meeting did not reach consensus on a methodology for addressing environmental performance measures, but one recommendation was to pursue a change to the regulations that would allow pilot programs to test some alternate approaches.

## III. Today's Request for Project Proposals

*What is EPA Requesting?*

EPA is requesting that POTWs that are interested in pursuing a program based on environmental performance measures submit preliminary, one to two page proposals explaining what they would include in their Local Pilot Pretreatment Programs. These short proposals must include a clear description of the alternative program the POTW plans to implement, the environmental benefits to be gained by the program, the regulatory requirements that need to be revised, and how resources will be modified. POTWs that are interested in participating must submit their preliminary proposals within 90 days of the publication date of this **Federal Register** Notice to their State Pretreatment Program Coordinator, EPA Regional Pretreatment Program Coordinator, and the Director of EPA's Office of Wastewater Management. EPA will then contact the POTWs that submitted acceptable proposals and request detailed proposals within 90 days which outline exactly how the POTWs plan to implement their Local Pilot Pretreatment Programs and how they address the Project XL criteria. These proposals will be reviewed by EPA.

EPA encourages interested POTWs to contact EPA early—via their Regional Pretreatment Coordinator or their Regional XL Coordinator or their State Pretreatment Coordinator—to express their interest in submitting a proposal. EPA stands ready to discuss pilot ideas or to clarify principles, expectations or guidance for the Pretreatment Pilot Program or Project XL.

The following sections outline what EPA believes should be the criteria for determining which POTWs may qualify for administering a Local Pilot Pretreatment Program, what would be an adequate Local Pilot Pretreatment Program, and what existing pretreatment program requirements would not have to be part of an approved Local Pilot Pretreatment Program. They also discuss application, approval, withdrawal and reporting requirements.

*How Would Local Pilot Pretreatment Programs be Selected?*

After consultation with the POTW's State, EPA Regional Office, and other Offices in EPA Headquarters, the Director of EPA's Office of Wastewater Management will select the pilot projects from the proposals that best meet EPA's criteria. If more than fifteen (15) Local Pilot Pretreatment Programs meet the criteria generally, EPA will select the programs that are likely to achieve the greatest transferable environmental benefit.

Transferable environmental benefit means the methodology is such that other POTW programs may be likely to implement the method and also achieve increased environmental benefits. EPA will select a proposal for further consideration only if the POTW's State and EPA Regional Office agree to participate.

*Which POTWs May Apply To Run a Pilot Program?*

The pilot program is being limited to POTWs that have demonstrated that they have run successful Pretreatment Programs, have available significant amounts of environmental performance data (or demonstrated ability to collect the necessary data), and are most likely to achieve transferable environmental benefits greater than those achieved under the current requirements. EPA intends to apply the following criteria to determine which POTWs may be considered for a Local Pilot Pretreatment Program:

1. The POTW is administering an Approved POTW Pretreatment Program.
2. The POTW has a solid record of compliance. In general, this means that the POTW must not be the subject of a planned or ongoing judicial or administrative enforcement action, be in significant noncompliance with applicable requirements, or have outstanding obligations under (or be in violation of) an order or consent decree. Additionally, a POTW's history of compliance will also be considered; POTWs most likely to be included in the pilot program would be those which do not have a history or pattern of violations, violations resulting in serious threats or harms, or have other recent significant compliance problems.
3. The POTW has five years of influent, effluent, and sludge quality data, as well as three years of ambient water quality measurements for its receiving water or can demonstrate the ability to collect ambient data.

*What Are the Project XL Criteria?*

Since this pilot programis being administered under the Project XL program, the proposals must address the Project XL criteria:

1. Superior Environmental Performance

Projects that are chosen should be able to achieve environmental performance that is superior to what would have been achieved absent the XL project. EPA uses a two-part method of determining whether an XL project will achieve superior environmental performance: (1) Develop a quantitative baseline estimate of what would have happened to the environment absent the project and, then compare that baseline estimate against the project's anticipated environmental performance; and (2) Consider both quantitative and qualitative measures in determining if the anticipated environmental performance will produce a level of environmental performance superior to the baseline.

2. Cost Savings and Paperwork Reduction

The project should produce cost savings or economic opportunity, and/or result in a decrease in paperwork burden.

3. Stakeholder Support

The extent to which project proponents have sought and achieved the support of parties that have a stake in the environmental impacts of the project is an important factor. Stakeholders may include communities near the project, local or state governments, businesses, environmental and other public interest groups, or other similar entities.

4. Innovation/Multi-Media Pollution Prevention

EPA is looking for projects that test innovative strategies for achieving environmental results. These strategies may include processes, technologies, or management practices. Projects should embody a systematic approach to environmental protection that tests alternatives to several regulatory requirements and/or affects more than one environmental medium. EPA has a preference for protecting the environment by preventing the generation of pollution rather than by controlling pollution once it has been created. Pilot projects should reflect this preference.

5. Transferability

The pilots are intended to test new approaches that could conceivably be incorporated into the Agency's programs or in other industries, or other facilities in the same industry. EPA is therefore most interested in pilot projects that test new approaches that could one day be applied more broadly.

6. Feasibility

The project should be technically and administratively feasible and the project proponents must have the financial capability to carry it out.

7. Monitoring, Reporting and Evaluation

The project proponents should identify how to make information about the project, including performance data, available to stakeholders in a form that is easily understandable. Projects should have clear objectives and requirements that will be measurable in order to allow EPA and the public to evaluate the success of the project and enforce its terms. Also, the project sponsor should be clear about the time frame within which results will be achievable.

8. Shifting of Risk Burden

The project must be consistent with Executive Order 12898 on Environmental Justice. It must protect worker safety and ensure that no one is subjected to unjust or disproportionate environmental impacts.

These criteria are described in detail in the following **Federal Register** documents: 60 FR 27282, May 23, 1995 and 62 FR 19872, April 23, 1997.

*What Environmental Results Must a Local Pilot Pretreatment Program Achieve?*

The POTW's Local Pilot Pretreatment Program would have to commit the POTW to achieve environmental results consistent with the XL program's expectations. As detailed in the **Federal Register** document of April 23, 1997, ''In order to test innovative approaches to reinvent environmental protection for the 21st Century, Project XL offers potential project sponsors and co-sponsors the opportunity to develop and implement alternative strategies that produce superior environmental performance, replace specific regulatory requirements, and promote greater accountability to stakeholders. The May 23, 1995, **Federal Register** document defining the XL program stated EPA's intent to approve only those projects that 'achieve superior environmental performance relative to what would have been achieved through compliance with otherwise applicable requirements.' This document further refines the definition of superior environmental performance to assist future applicants, stakeholders and those evaluating the program.'' The system uses a two tiered approach. The first tier establishes an environmental performance benchmark for an XL project. This quantifies current performance levels and sets a baseline against which the project's anticipated environmental performance can be compared. The project benchmark will be set at either the current actual environmental loadings (historical environmental data) or the future allowable environmental loadings, whichever is more protective. Tier two is an examination of factors that lead EPA to judge that a project will produce truly superior environmental performance.

For local POTW Pretreatment Programs, Superior Environmental Performance may include:

(i) Reducing pollutant loadings to the environment or achieving some other environmental benefit beyond that currently achieved through the existing pretreatment program (including collecting environmental performance data and data related to environmental impacts in order to measure the environmental benefit. Such information would include data on pollutant loadings to the environment, ambient environmental conditions and measures of the impact of these conditions on the health of ecosystems. The data should be able to support decisions concerning the future use of pretreatment program resources),

(ii) Reducing or optimizing costs related to implementation of the pretreatment program with the savings used to attain environmental benefits elsewhere in the watershed in any media, and

(iii) Other environmental benefits gained by allowing pretreatment program flexibility.

EPA's ultimate objective is to gain information on how the pretreatment program might be better oriented towards the achievement of measures of environmental performance. This objective is consistent with the principles of the National Performance Review.

EPA's intent is to allow Local Pilot Pretreatment Programs to be administered by those POTWs that best further those objectives. Each pilot program's method of achieving the environmental benefit should be transferable so that other programs may be able to implement the method and also achieve increased environmental benefits.

Collecting environmental performance data alone would not be enough to qualify as an objective. The data collected must be used to benefit the environment. For example, the data collected could help POTWs apply enforcement and compliance assistance resources more effectively.

If the focus of the Local Pilot Program is to reduce the cost of administering the Approved POTW Pretreatment Program without reducing the local program's environmental effectiveness, the resources saved must be dedicated to some other environmental application. In this situation, the resources might be used to integrate the Pretreatment Program with other local environmental protection programs such as storm water monitoring or collection system management or local pollution prevention initiatives. In all cases, the benefits of a trade-off of resources from existing pretreatment requirements to other activities will need to be quantified and tracked.

A Local Pilot Pretreatment Program could focus resources on program integration and then measure the environmental benefits of an integrated program. Environmental performance measures can foster increased integration of pretreatment programs with other local environmental programs and with broader environmental efforts, such as watershed or community-based environmental protection.

It is intended that Local Pilot Pretreatment Programs will provide clearer linkages between environmental goals and program implementation procedures. This will allow programs to identify the goals that are best for their specific situations and to design procedures to reach those goals.

To determine what the environmental focus should be, the POTW should conduct community outreach. Through a stakeholder dialogue, the POTW may gain additional perspective on what is important to the community and may help the POTW to make resource allocation decisions. Each pilot POTW would then set its own goals based upon input from the local community.

The POTW would then design a management program (the Local Pilot Pretreatment Program) to achieve the environmental goals. The alternate program would include specific measures to determine whether or not implementation procedures are achieving their desired results.

*Which Existing Requirements Would not Have to be Part of Local Pilot Pretreatment Programs?*

Local Pilot Pretreatment Programs may not have to implement certain currently required pretreatment program elements if they are not necessary for the achievement of the POTW's environmental objectives. The resources saved from not implementing these program elements could then be redirected to other means of achieving and measuring environmental performance.

EPA proposes that a Local Pilot Pretreatment Program would still need to include adequate legal authority to identify and control industrial users, and the authority to take appropriate and necessary enforcement actions.

These authorities would then be supported by a set of procedures. The legal authority and procedures must be clearly explained in the POTW's proposal.

Specifically, the Local Pilot Pretreatment Programs would still be required to develop/maintain legal authority and ensure compliance with categorical pretreatment standards and local limits, including taking necessary enforcement actions. The POTW would be required, at a minimum, to identify industrial users that are subject to categorical standards, receive and review reports from the categorical users, and take enforcement action as appropriate based on the reports received. The Local Pilot Pretreatment Programs would also be required to develop and implement procedures to operate their programs such as permitting, inspection and monitoring, and technically-based local limits. However, the procedures would not necessarily have to include the prescriptive permitting or reporting requirements in 40 CFR 403.8(f) or 403.12. The POTW may not necessarily be expected to permit a specific subset of industrial users designated by the federal regulations, but instead would have the latitude to decide which industrial users need permits. The POTW would be expected to monitor (sample and inspect) industrial users, but would be able to decide how often to monitor the users. These procedures would likely involve modifying existing program procedures rather than developing new procedures.

Industrial users would continue to be subject to all currently applicable requirements; except that, as described above, a Local Pilot Pretreatment Program may alter the timing of certain reports and may consider certain industrial users that are subject to national categorical standards to no longer be SIUs.

*What Will Be the Duration of Local Pilot Pretreatment Programs?*

Local Pilot Pretreatment Programs may be approved to operate for one five-year period. Prior to the end five-year period (at least 180 days), the POTW may apply for a renewal or extension of the project period. If a POTW is not able to meet the performance goals of its Local Pilot Pretreatment Program, the Approval Authority may allow the performance measures to be adjusted if the primary objectives of the Local Pilot Pretreatment Program will be met. The revised Local Pilot Pretreatment Program must be approved in accordance with the procedures in 40 CFR 403.18.

If the primary objectives of the proposal are not being met, the Approval Authority shall direct the POTW to discontinue implementing the Local Pilot Pretreatment Program and resume implementation of its previously approved pretreatment program. The Approval Authority will ensure that the POTW's NPDES permit includes a reopener clause with this requirement.

The results of the pilots, including recommendations in POTW pilot reports, will be used to determine the direction of future Pretreatment Program streamlining and/or reinvention.

*Will the Pilot Program POTW Be Required to Submit Periodic Progress reports?*

The POTW will be required to periodically report the progress of its pilot program. The POTW's periodic report would describe its Local Pilot Pretreatment Program activities and accomplishments, including activities and accomplishments of any participating agencies and public involvement. The report should include an analysis of all environmental data collected over the reporting period and activities conducted to reduce pollutant loadings to the environment and any other activities that address the objectives of the Local Pilot Pretreatment Program.

The report following the fourth year of pilot program implementation must also include the findings of the pilot. This report must specifically address all objectives of the pilot program and provide measures related to the effectiveness of the program, as implemented, in meeting the objectives. The report should also include recommendations concerning the implementation of the pretreatment program at the local level.

The minimum report requirements will be detailed in the POTW's NPDES permit. This requirement will be similar to the current requirement for the POTW to annually report to the Approval Authority the status of its Pretreatment Program. See 40 CFR 403.12(i). At the discretion of the NPDES permitting authority, the report may be required more frequently than once per year.

*What Should a Proposal to Implement a Pilot Program Include?*

The POTW should discuss the pilot project with its State and EPA Regional Office early in the process of developing a proposal, and prior to submitting any proposal to EPA Office of Wastewater Management. This should save time for both the Approval Authority and the POTW.

A POTW seeking approval to implement a Local Pilot Program must first submit a preliminary, one to two page, written proposal to EPA Headquarters (Office of Wastewater Management—MC 4201) with copies to its Approval Authority and EPA Regional Office within 90 days of the publication of this document. These short proposals must include a clear description of the alternative program the POTW plans to implement, the environmental benefits to be gained by the program, the regulatory requirements that will be revised, and how resources will be modified. The request should be mailed to U.S. EPA, Office of Wastewater Management (MC 4201), 401 M Street, S.W., Washington, DC 20460. Telephone inquiries may be directed to Patrick Bradley at (202) 260–6963.

If EPA determines the POTW's preliminary proposal meets the criteria explained in this document, EPA will request that the POTW submit a more detailed proposal in 90 days. The detailed proposal shall include a complete draft of the POTW's proposed Local Pilot Pretreatment Program, including a description of the specific measures to determine whether or not the alternative management procedures are achieving their desired results. The proposal shall address all necessary modifications to the procedures, legal authority and resources of the POTW's existing Approved Pretreatment Program. It must also contain commitments from the appropriate municipal officials that the POTW will have the necessary legal authority, procedures, personnel and resources to implement the pilot program. The proposal should include a copy (or drafts) of any statutes, ordinances, regulations, agreements, or other authorities that the POTW will rely upon for its administration of the Local Pilot Pretreatment Program.

The POTW's draft pilot program should address all of the major pretreatment program elements. It should document how the POTW will continue to develop, implement, and enforce its Local Pilot Pretreatment Program. For example, it should identify the manner in which Pretreatment Standards will be applied to individual Industrial Users (e.g., by order, permit, ordinance, etc.). It should also identify how the POTW intends to ensure compliance with Pretreatment Standards (including categorical Pretreatment Standards) and Requirements, and to enforce them in the event of noncompliance by Industrial Users. The detailed proposal should also address how the Local

Pretreatment Pilot Program would meet the eight Project XL criteria discussed earlier in this notice.

EPA believes stakeholder involvement in developing Local Pilot Pretreatment Programs is crucial to the success of the programs. Therefore, as part of the application, the POTW must clearly explain its process for involving stakeholders in the design of the pilot program. This process should be based upon the guidance set out in the April 23, 1997, **Federal Register** document. The support of parties that have a stake in the program is very important.

Once EPA has accepted a candidate based on its detailed proposal, the POTW, EPA, the State and local stakeholders should finalize a Final Project Agreement (FPA). The FPA is a non-binding agreement that enumerates the conditions of the project. (In order to expedite this process, EPA will develop a FPA template for these projects that will contain the elements that are anticipated to be common among these projects and shall make this available to the candidates.) The actual regulatory flexibility will be granted by modifying 40 CFR part 403 to allow these specific POTWs to operate Local Pilot Pretreatment Programs.

After an opportunity for public participation at the local level and the development of the Final Project Agreement, a selected POTW's Approval Authority would approve or disapprove the pilot program using the procedures in 40 CFR 403.18. The POTW may implement its Local Pilot Pretreatment Program once its NPDES permit has been modified to incorporate the program as an enforceable permit element.

As with any XL Project, EPA intends to work cooperatively with the POTWs that submit applications for Local Pilot Pretreatment Programs to develop and fine tune the applications. Applicants must recognize that EPA retains the ultimate authority to select projects based on a qualitative consideration of the criteria described earlier. Since these are pilot projects and there are a limited number of pilots that can be approved, projects that satisfy many or all of the criteria may not be chosen for Local Pilot Pretreatment Programs status. The decision of which projects will be selected will be based on an Agency decision about which projects are expected to best serve the objectives of this program. No person is required to submit a proposal or obtain approval as a condition of commencing or continuing a regulated activity. Accordingly, there will be no formal administrative review available for proposals that are not selected, nor does EPA believe there will be a right to judicial review.

Dated: June 20, 1998.

**Michael B. Cook,**

*Director, Office of Wastewater Management.*

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## ENVIRONMENTAL PROTECTION AGENCY

**[PF–813; FRL–5795–1]**

## Notice of Filing of Pesticide Petitions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

**DATES:** Comments, identified by the docket control number PF–813, must be received on or before July 23, 1998.

**ADDRESSES:** By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** The product manager listed in the table below:

| Product Manager | Office location/telephone number | Address |
|---|---|---|
| Mary Waller | Rm. 247, CM #2, 703–308–9354, e-mail:waller.mary@epamail.epa.gov. | 1921 Jefferson Davis Hwy, Arlington, VA |
| James Tompkins | Rm. 239, CM #2, 703–305–5687, e-mail: tompkins.james@epamail.epa.gov. | |
| Stephanie Willett | Rm. 202, CM #2, 703-305-5419, e-mail:willett.stephanie@epamail.epa.gov. | Do. |

**SUPPLEMENTARY INFORMATION:** EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–813] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the

use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

**List of Subjects**

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 12, 1998.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

**Summaries of Petitions**

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

**1. AgrEvo USA Company**

*PP 4F4380*

EPA has received a pesticide petition (PP [4F4380]) from AgrEvo USA Company, 2711 Centerville Road, Wilmington, DE 19808 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of flutolanil in or on the raw agricultural commodity of rice grain at 2.0 parts per million (ppm), rice straw at 12.0 ppm and in or on the processed commodities of rice hulls at 7.00 ppm and rice bran at 3.0 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

*A. Residue Chemistry*

1. *Plant and animal metabolism*. The metabolism of flutolanil in plants and animals is adequately understood for the purposes of this petition. Animal studies in rats, ruminants, and poultry indicate that flutolanil is metabolized primarily to desisopropylflutolanil and its conjugates. Plant metabolism studies have been conducted in rice, cucumber, and peanuts. The metabolic profile for flutolanil was similar in all three crops. The major route of degradation was 4′-0-dealkylation to desisopropylflutolanil, followed by conjugation. Other metabolites may occur at very low levels due to hydroxylation and oxidation of the side chain, hydroxylation of the aniline ring, and methylation of the hydroxyl groups. These minor metabolites were also subject to conjugation. The residues of concern are the parent flutolanil and desisopropylflutolanil.

2. *Analytical method*. The analytical method designated as AU-95R-04 has been independently validated and is adequate for enforcement purposes. A multi-residue method for flutolanil has been previously submitted. It has the following disclaimer: The method is for use only by experienced chemists who have demonstrated knowledge of the principles of trace organic analysis and have proven skills and abilities to run a complex residue analytical method obtaining accurate results at the part per million level (PPML). Users of this method are expected to perform additional method validation prior to using the method for either monitoring or enforcement. The method can detect gross misuse.

3. *Magnitude of residues*. 24 field trials consisting of foliar applications to rice were conducted in California, Louisiana, Texas, Arkansas, Arizona, Missouri, and Mississippi. Applications of flutolanil formulated as 50WP or 70WP were made at a total seasonal rate of 1.0 lb active ingredient (a.i) per acre resulted in flutolanil-derived residues ranging from below the limit of detection (<0.05 ppm) to 1.66 ppm in whole rice grain and hulled rice and from 0.95 ppm to 11.28 ppm in rice straw.

A processing study was also conducted in Louisiana in which the 50WP formulation of flutolanil was applied to rice following label directions at a total rate of 1.0 lb active ingredient per acre. Residues of flutolanil were observed in all processed commodities and ranged from <0.05 ppm in polished rice to 1.37 ppm in grain dust below 420 microns.

*B. Toxicological Profile*

1. *Acute toxicity*. A battery of acute studies was conducted: the acute oral $LD_{50}$ in rat and mice were >10,000 milligram/kilograms (mg/kg), Toxicity category IV; acute dermal $LD_{50}$ in rat was >2,000 mg/kg, Toxicity category III; and acute inhalation $LC_{50}$ in rat was >5.98 milligram/liter (mg/l), Toxicity category III. There was slight eye irritation; no dermal irritation; and no dermal sensitization.

2. *Genotoxicty*. Flutolanil has been tested in a battery of *in-vitro* and *in-vivo* assays. No evidence of genotoxicity was noted in gene mutation assays with *Salmonella, E. coli*, or mouse lymphoma cells; a mouse micronucleus assay or in an *in-vitro* unscheduled DNA synthesis assay. A weak positive response was noted in an *in-vitro* cytogenetics assay in Chinese hamster lung cells but no evidence of clastogenicity was noted in an *in-vitro* cytogenetics assay in human lymphocytes. The overall weight of evidence indicates that flutolanil is not genotoxic.

3. *Reproductive and developmental toxicity*. A 3-generation rat reproduction study was conducted at dietary concentrations of 0, 1,000 and 10,000 ppm. The NOEL for this study is considered to be 1,000 ppm (63 milligram/kilograms/day (mg/kg/day), based on reduced pup weights late in lactation at 10,000 ppm. Because the Agency considered this study supplementary, a 2-generation rat reproduction study subsequently was conducted at dietary concentrations of 200, 2,000, and 20,000 ppm. No adverse findings were noted at any dose level and the NOEL was considered to be 20,000 ppm 1,936 mg/kg/day. The Agency, however, has concluded that the NOEL of the original study 63 mg/kg/day should continue to be used for risk assessment.

Developmental toxicity (teratology) studies were conducted in both rats and rabbits at dose levels of 0, 40, 200, and 1,000 mg/kg/day. No significant maternal or developmental toxicity was noted in either study. Thus, both the maternal and developmental NOEL's for both rats and rabbits were considered to be 1,000 mg/kg/day highest dose tested (HDT).

4. *Subchronic toxicity*. A 90-day rat feeding study was conducted at dose levels of 500, 4,000 and 20,000 ppm. The NOEL in this study was considered to be 500 ppm (37 mg/kg/day for males and 44 mg/kg/day for females) based on increased liver weights at 4,000 ppm and slightly decreased body weights at 20,000 ppm.

In a 90-day oral toxicity study in dogs, flutolanil was administered via capsule at dose levels of 0, 80, 400 and 2,000 mg/kg/day. The NOEL was determined to be 80 mg/kg/day based on enlarged livers and increased glycogen deposition at 400 and 2,000 mg/kg/day, and increased alkaline phosphatase and cholesterol levels and thyroid/parathyroid organ weights at 2,000 mg/kg/day.

In a 21-day dermal toxicity study, flutolanil was applied dermally to rats for 15-days over a 21-day interval at dose levels of 0 and 1,000 mg/kg/day. No evidence of dermal irritation or systemic toxicity was observed. Thus, the NOEL was considered to be 1,000 mg/kg/day.

5. *Chronic toxicity*. In a 2-year chronic toxicity/oncogenicity study, flutolanil was administered to rats at dietary levels of 0, 40, 200, 2,000 and 10,000 ppm. The NOEL was considered to be 2,000 ppm (86.9 mg/kg/day for males and 103.1 mg/kg/day for females) based on reduced body weight gain in males and increased liver weights in females at 10,000 ppm. No evidence of carcinogenicity was observed.

In a 78-week carcinogenicity study, flutolanil was administered to mice at dietary concentrations of 0, 300, 1,500, 7,000 and 30,000 ppm. The NOEL was considered to be 7,000 ppm (735 mg/kg/day for males) and 1,500 ppm (162 mg/kg/day for females) based on decreased body weight gains at the higher level(s). No evidence of carcinogenicity was observed.

A 2-year chronic toxicity study was conducted in beagle dogs at dose levels of 0, 50, 250, and 1,250 mg/kg/day. The NOEL was considered to be 250 mg/kg/day based on decreased weight gain at 1,250 mg/kg/day.

6. *Animal metabolism*. Studies in rats, ruminants, and poultry suggest that flutolanil is not well-absorbed following oral administration. Once absorbed, however, it is rapidly metabolized, primarily to desisopropylflutolanil and its conjugates, and rapidly excreted via urine and feces.

7. *Endocrine disruption*. No special studies have been conducted to investigate the potential of flutolanil to induce estrogenic or other endocrine effects. However, no evidence of such effects has been observed in the subchronic, chronic, or reproductive studies previously discussed. Thus, the potential for flutolanil to cause endocrine effects is considered to be minimal.

*C. Aggregate Exposure*

1. *Dietary exposure*. Includes food and drinking water—i. *Food*. Time-limited tolerances have been previously established for flutolanil in or on rice commodities, and tolerances with no time limitations are established for peanut commodities, meat, milk, and eggs. Potential dietary exposures to flutolanil from these food commodities were assessed using the exposure one software system (TAS, Inc.) and food consumption data from the 1977-1978 USDA Continuing Surveys of Food Consumption by Individuals (CSFCI). For the purposes of this assessment, it was assumed that 100% of all of the above commodities were at the existing tolerance levels for flutolanil.

ii. *Drinking water*. The potential for flutolanil to leach into groundwater has been assessed in two terrestrial field dissipation studies, a long-term terrestrial field dissipation study, and an aquatic field dissipation study. Under field conditions, the half-life of flutolanil varied from 101 to 123 days in the long-term field soil dissipation study, which was consistent with the other field studies, and was approximately 180 days in the aquatic environment. Flutolanil strongly adsorbs to soil following application and did not exhibit mobility under either terrestrial or aquatic conditions. The water solubility of flutolanil is quite low ( 5.0 ppm). Based on these environmental fate data and the conditions of use, the potential for movement of flutolanil into groundwater is very low, and as such the potential contribution of any such residues to the total dietary intake of flutolanil will be negligible. No maximum contaminant level (MCL) or Health Advisory Level for residues of flutolanil in drinking water has been established.

2. *Non-dietary exposure*. As prostar 50WP (EPA Reg No. 45639-153) is a professional turf and ornamental fungicide, flutolanil is used primarily (>95%) on golf courses for control of brown patch disease (Rhizoctonia solani). Very limited use of prostar 50WP may occur on commercial ornamental turf by professional lawn care applicators or on sod farms. The product is rarely, if ever, used on homeowner turf due to the fact that the diseases it controls (Brown patch, Fry ring, snow molds) occur in high-fertility, high-maintenance turf (e.g. golf courses), not in homeowner lawns. Thus, non-dietary exposure to flutolanil would be minimal. Furthermore, no dermal toxicity endpoints of concern have been identified for flutolanil. Thus, an assessment of non-dietary exposure and risk is not considered to be necessary.

*D. Cumulative Effects*

Flutolanil has demonstrated only minimal toxicity in animal studies. The mechanism of this toxicity is unknown. Furthermore, there are no available data to indicate that flutolanil has a common mechanism of toxicity with other substances. Thus, only the potential risks from flutolanil are being considered in this document.

*E. Safety Determination*

1. *U.S. population*. Based on the existing and proposed tolerances in rice, peanuts, and secondary commodities, the Theoretical Maximum Residue Contribution (TMRC) of the current action is estimated to be 0.001124 mg/kg/day for the U.S. population in general. This exposure would utilize less than 1% of the RfD. There is generally no concern for exposures below 100% of the RfD since the RfD represents the exposure level at or below which daily exposure over a lifetime will not pose any appreciable risks to human health. Therefore, there is a reasonable certainty that no harm will result to the U.S. population in general from aggregate exposure to flutolanil.

2 *Infants and children*. Data from reproductive and developmental toxicity studies are generally used to assess the potential for increased sensitivity of infants and children. No evidence of developmental toxicity was noted in rats or rabbits, even at the limit dose of 1,000 mg/kg/day. Reduced pup weights in the absence of parental toxicity were noted at the HDL (10,000 ppm) in a 3-generation rat reproduction study. However, no such effects were noted in a subsequent reproduction study, even at a HDT (20,000 ppm). Furthermore, the reduced weight gain in the first study began late in the lactation period, at a time when the pups were likely ingesting significant quantities of diet. Feed intake is much higher in young animals than in adults and the apparent increase in sensitivity may simply reflect the higher test material intake in these pups on a mg/kg basis compared to the adults. Thus, AgrEvo believes that the overall weight of evidence does not indicate any special concern for infants and children, and that no additional safety factor is necessary.

Based on the existing and proposed tolerances in rice, peanuts, and secondary commodities, the Theoretical Maximum Residue Contribution (TMRC) from the current petition is estimated to be 0.006218 mg/kg/day for the most highly exposed sub-population, non-nursing infants (less

than 1-year old).. This exposure would utilize less than 1 % of the RfD. Therefore, there is a reasonable certainty that no harm will result to infants or children from aggregate exposure to flutolanil.

*F. International Tolerances*

No CODEX tolerances have been established or proposed for residues of flutolanil. (Mary Waller).

**2. Bayer Corporation**

*PP 6F4631*

EPA has received a pesticide petition (PP 6F4631) from Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120–0013 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.527 by establishing tolerances for inadvertent residues of *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2- [[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide [hereafter referred to as flufenacet, the proposed common chemical name] and metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on the raw agricultural commodities of Crop Group 15 (cereal grains), Crop Group 16 (forage, stover and hay of cereal grains), Crop Group 17 (grass forage, and grass hay), alfalfa forage, alfalfa hay, alfalfa seed, clover forage, and clover hay at 0.1 parts per million (ppm) when present therein as a result of the application of flufenacet to field corn and soybeans as a herbicide. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

*A. Residue Chemistry*

1. *Plant metabolism*. The nature of the residue in field corn, soybeans, livestock and rotational crops is adequately understood. The residues of concern for the tolerance expression are *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide parent and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety. Based on the results of animal metabolism studies it is unlikely that secondary residues would occur in animal commodities from the use of flufenacet on field corn and soybeans.

2. *Analytical method*. An adequate analytical method, gas chromatography/mass spectrometry with selected ion monitoring, is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 119E, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–305–5937).

3. *Magnitude of residues*. Time limited tolerances exist for the combined residues of flufenacet, *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on field corn grain at 0.05 ppm, field corn forage at 0.4 ppm, field corn stover at 0.4 ppm, and soybean seed at 0.1 ppm. The petitioner, Bayer Corporation has amended its petition (PP 6F4631) to include tolerances for residues of *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety at 0.1 ppm for residues in or on the raw agricultural commodities of Crop Group 15 (cereal grains), Crop Group 16 (forage, stover and hay of cereal grains), Crop Group 17 (grass forage and grass hay), alfalfa forage, alfalfa hay, alfalfa seed, clover forage, and clover hay. The proposed tolerance levels are adequate to cover residues likely to be present in rotational crops planted after corn or soybeans which were treated with flufenacet.

*B. Toxicological Profile*

1. *Acute toxicity*. A rat acute oral study with a $LD_{50}$ of 1,617 milligrams/kilograms for males and 589 mg/kg for females.

2. *Genotoxicty*. Flufenacet was negative for mutagenic/genotoxic effects in a Gene mutation/*In vitro* assay in bacteria, a Gene mutation/*In vitro* assay in chinese hamster lung fibroblasts cells, a Cytogenetics/*In vitro* assay in chinese hamster ovary cells, a Cytogenetics/*In vivo* mouse micronucleus assay, and an *In vitro* unscheduled DNA synthesis assay in primary rat hepatocytes.

3. *Reproductive and developmental toxicity*. A two-generation rat reproduction study with a parental systemic no observed effect level (NOEL) of 20 ppm [1.4 mg/kg/day in males and 1.5 mg/kg/day in females] and a reproductive NOEL of 20 ppm [1.3 mg/kg/day] and a parental systemic lowest observed effect level (LOEL) of 100 ppm [7.4 mg/kg/day in males and 8.2 mg/kg/day in females] based on increased liver weight in F1 females and hepatocytomegaly in F1 males and a reproductive LOEL of 100 ppm [6.9 mg/kg/day] based on increased pup death in early lactation (including cannibalism) for F1 litters and the same effects in both F1 and F2 pups at the high dose level of 500 ppm [37.2 mg/kg/day in F1 males and 41.5 mg/kg/day in F1 females, respectively]. A rat developmental study with a maternal NOEL of 25 mg/kg/day and with a maternal LOEL of 125 mg/kg/day based on decreased body weight gain initially and a developmental NOEL of 25 mg/kg/day and a developmental LOEL of 125 mg/kg/day based on decreased fetal body weight, delayed development [mainly delays in ossification in the skull, vertebrae, sternebrae, and appendages], and an increase in the incidence of extra ribs. A rabbit developmental study with a maternal NOEL of 5 mg/kg/day and a maternal LOEL of 25 mg/kg/day based on histopathological finds in the liver and a developmental NOEL of 25 mg/kg/day and a developmental LOEL of 125 mg/kg/day based on increased skeletal variations.

4. *Subchronic toxicity*. A 84–day rat feeding study with a No Observed Effect Level ( NOEL) less than 100 ppm [6.0 mg/kg/day] for males and a NOEL of 100 ppm [7.2 mg/kg/day] for females and with a Lowest Observed Effect Level (LOEL) of 100 ppm [6.8 mg/kg/day] for males based on suppression of thyroxine (T4) level and a LOEL of 400 ppm [28.8 mg/kg/day] for females based on hematology and clinical chemistry findings. A 13–week mouse feeding study with a NOEL of 100 ppm [18.2 mg/kg/day for males and 24.5 mg/kg/day for females] and a LOEL of 400 ppm [64.2 mg/kg/day for males and 91.3 mg/kg/day for females] based on histopathology of the liver, spleen and thyroid. A 13–week dog dietary study with a NOEL of 50 ppm [1.70 mg/kg/day for males and 1.67 mg/kg/day for females] and a LOEL of 200 ppm [6.90 mg/kg/day for males and 7.20 mg/kg/day for females] based on evidence that the bio-transformation capacity of the liver has been exceeded, (as indicated by increase in LDH, liver weight, ALK and hepatomegaly), globulin and spleen pigment in females, decreased T4 and

ALT values in both sexes, decreased albumin in males, and decreased serum glucose in females. A 21–day rabbit dermal study with the dermal irritation NOEL of 1,000 mg/kg/day for males and females and a systemic NOEL of 20 mg/kg/day for males and 150 mg/kg/day for females and a systemic LOEL of 150 mg/kg/day for males and 1,000 mg/kg/day for females based on clinical chemistry data (decreased T4 and FT4 levels in both sexes) and centrilobular hepatocytomegaly in females.

5. *Chronic toxicity*. A 1–year dog chronic feeding study with a NOEL was 40 ppm [1.29 mg/kg/day in males and 1.14 mg/kg/day in females] and a LOEL of 800 ppm [27.75 mg/kg/day in males and 26.82 mg/kg/day in females] based on increased alkaline phosphatase, kidney, and liver weight in both sexes, increased cholesterol in males, decreased T2, T4 and ALT values in both sexes, and increased incidences of microscopic lesions in the brain, eye, kidney, spinal cord, sciatic nerve and liver. A rat chronic feeding/carcinogenicity study with a NOEL less than 25 ppm [1.2 mg/kg/day in males and 1.5 mg/kg/day in females] and a LOEL of 25 ppm [1.2 mg/kg/day in males and 1.5 mg/kg/day in females] based on methemoglobinemia and multi-organ effects in blood, kidney, spleen, heart, and uterus. Under experimental conditions the treatment did not alter the spontaneous tumor profile. In a mouse carcinogenicity study the NOEL was less than 50 ppm [7.4 mg/kg/day] for males and the NOEL was 50 ppm [9.4 mg/kg/day] for females and the LOEL was 50 ppm [7.4 mg/kg/day] for males and the LOEL was 200 ppm [38.4 mg/kg/day] for females based on cataract incidence and severity. There was no evidence of carcinogenicity for flufenacet in this study.

6. *Animal metabolism*. A rat metabolism study showed that radio-labeled flufenacet was rapidly absorbed and metabolized by both sexes. Urine was the major route of excretion at all dose levels and smaller amounts were excreted via the feces. A 55–day dog study with subcutaneous administration of Thiadone [flufenacet metabolite] supports the hypothesis that limitationsin glutathione interdependent pathways and antioxidant stress result in metabolic lesions in the brain and heart following flufenacet exposure.

7. *Endocrine disruption*. EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other effect. The Agency is currently working with interested stakeholders, including other government agencies, public interest groups, industry and research scientists in developing a screening and testing program and a priority setting scheme to implement this program. Congress has allowed 3 years from the passage of FQPA (August 3, 1999) to implement this program. At that time, EPA may require further testing of this active ingredient and end use products for endocrine disrupter effects. Based on the toxicological findings for flufenacet relating to endocrine disruption effects, flufenacet should be considered as a candidate for evaluation as an endocrine disrupter when the criteria are established.

*C. Aggregate Exposure*

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

1. *Dietary exposure*—i. *Food*. Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, varying consumption patterns of major identifiable subgroups of consumers, including infants and children is taken into account. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. Using tolerance levels and percent crop treated, the residues in the diet (food only) are calculated to be 0.0001 milligrams/kilogram of body weight per day (mg/kg bwt/day) or 2.6% of the RfD for the general U.S. population and 0.00023 mg/kg bwt/day or 5.8% of the RfD for children aged 1–6 years.

ii. *Drinking water*. Residues of flufenacet in drinking water may comprise up to 0.0039 mg/kg bwt/day (0.0040–0.0001 mg/kg bwt/day) for the U.S. population and 0.0038 mg/kg bwt/day (0.00400–0.00023 mg/kg bwt/day) for children 1–6 years old (the group exposed to the highest level of flufenacet residues in both food and water). The drinking water levels of concern (DWLOCs) for chronic exposure to flufenacet in drinking water calculated for the U.S. population was 136 parts per billion (ppb) assuming that an adult weighs 70 kg and consumes a maximum of 2 liters of water per day. For children (1–6 years old), the DWLOC was 37.7 ppb assuming that a child weighs 10 kg and consumes a maximum of 1 liter of water per day. The drinking water estimated concentration (DWECs) for groundwater (parent flufenacet and degradate thiadone) calculated from the monitoring data is 0.03 ppb for chronic concentrations which does not exceed DWLOC of 37.7 ppb for children (1–6 years old). The DWEC for surface water based on the computer models PRZM 2.3 and EXAMS 2.97.5 was calculated to be 14.2 ppb for chronic concentration (parent flufenacet and degradate thiadone) which does not exceed the DWLOC of 37.7 ppb for children (1–6 years old).

2. *Non-dietary exposure*. There are no non-food uses of flufenacet currently registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended. No non-dietary exposures are expected for the general population.

*D. Cumulative Effects*

Flufenacet is structurally a thiadiazole. EPA is not aware of any other pesticides with this structure. For flufenacet, EPA has not yet conducted a detailed review of common mechanisms to determine whether it is appropriate, or how to include this chemical in a cumulative risk assessment. After EPA develops a methodology to address common mechanism of toxicity issues to risk assessments, the Agency will develop a process (either as part of the periodic review of pesticides or otherwise) to reexamine these tolerance decisions. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, flufenacet does not appear to produce a toxic metabolite produced by other substances. For the purposes of these tolerance actions; therefore, EPA has not assumed that flufenacet has a common mechanism of toxicity with other substances.

*E. Safety Determination*

1. *U.S. population*—i. *Acute risk*. The acute endpoint for flufenacet and its metabolites is 75 mg/kg/day. The acute

exposure for flufenacet and its metabolites is 0.0015 mg/kg/day for the general U.S. population and 0.002 mg/kg/day for children 1–6 years of age. The DWLOC for acute exposure to flufenacet in drinking water calculated for the U.S. population was 2.87 ppm and for children (1–6 years old) was 813 ppb. These figures were calculated as follows. First, the acceptable acute exposure to flufenacet in drinking water was obtained by subtracting the acute dietary food exposures from the ratio of the acute LOEL to the acceptable margin of exposure (MOE) for aggregate exposure. Then, the DWLOCs were calculated by multiplying the acceptable exposure to flufenacet in drinking water by estimated body weight (70 kg for adults, 10 kg for children) and then dividing by the estimated daily drinking water consumption (2 L/day for adults, 1 L/day for children). The Agency's SCI-Grow model estimates peak levels of flufenacet and its metabolite thiadone in groundwater to be 15.3 ppb. PRZM/EXAMS estimates peak levels of flufenacet and its metabolite thiadone in surface water to be 17 ppb. EPA's acute drinking water level of concern is well above the estimated exposures for flufenacet in water for the U.S. population and subgroup with highest estimated exposure.

ii. *Chronic risk*. The chronic endpoint for flufenacet is 0.004 mg/kg bwt/day. Using tolerance levels and percent crop treated, the residues in the diet (food only) are calculated to be 0.0001 mg/kg bwt/day or 2.6% of the Reference dose (RfD) for the general U.S. population and 0.00023 mg/kg bwt/day or 5.8% of the RfD for children aged 1–6 years. Therefore, residues of flufenacet in drinking water may comprise up to 0.0039 mg/kg bwt/day (0.0040–0.0001 mg/kg bwt/day) for the U.S. population and 0.0038 mg/kg bwt/day (0.00400–0.00023 mg/kg bwt/day) for children 1–6 years old (the group exposed to the highest level of flufenacet residues in both food and water). The DWLOCs for chronic exposure to flufenacet in drinking water calculated for the U.S. population was 136 ppb assuming that an adult weighs 70 kg and consumes a maximum of 2 liters of water per day. For children (1–6 years old), the DWLOC was 37.7 ppb assuming that a child weighs 10 kg and consumes a maximum of 1 liter of water per day. The drinking water estimated concentration (DWECs) for groundwater (parent flufenacet and degradate thiadone) calculated from the monitoring data is 0.03 ppb for chronic concentrations which does not exceed the DWLOC of 37.7 ppb for children (1–6 years old). The DWEC for surface water based on the computer models PRZM 2.3 and EXAMS 2.97.5 was calculated to be 14.2 ppb for chronic concentration (parent flufenacet and degradate thiadone) which does not exceed the DWLOC of 37.7 ppb for children (1–6 years old). EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to flufenacet residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of flufenacet, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Although there is no indication of increased sensitivity to young rats or rabbits following pre- and/or post-natal exposure to flufenacet in the standard developmental and reproductive toxicity studies, an additional developmental neurotoxicity study, which is not normally required, is needed to access the susceptibility of the offspring in function/neurological development. Therefore, EPA has required that a developmental neurotoxicity study be conducted with flufenacet and a threefold safety factor for children and infants will be used in the aggregate dietary acute and chronic risk assessment. Although there is no indication of additional sensitivity to young rats or rabbits following pre- and/or post-natal exposure to flufenacet in the developmental and reproductive toxicity studies; the Agency concluded that the FQPA safety factor should not be removed but instead reduced because:

(i) There was no assessment of susceptibility of the offspring in functional/neurological developmental and reproductive studies.

(ii) There is evidence of neurotoxicity in mice, rats, and dogs.

(iii) There is concern for thyroid hormone disruption.

*F. International Tolerances*

There are no Codex Alimentarius Commission (Codex) Maximum Residue Levels (MRLs) for flufenacet. (James A. Tompkins).

**3. FMC Corporation**

*PP 8F4970*

EPA has received pesticide petitions (PP 8F4970) from FMC Corporation, 1735 Market Street,Philadelphia, PA 19103, proposing pursuant to section 408 (d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.418 by establishing a tolerance for residues of the insecticide zeta-cypermethrin (±α-Cyano(3-phenoxyphenyl)methyl ( ±) cis, trans 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate)in or on the raw agricultural commodity Brassica vegetables, head and stem at 2.0 ppm and Brassica vegetables, leafy at 14.0 ppm; and the leafy vegetables (except Brassica vegetables) group at 10.0 ppmn. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

*A. Residue Chemistry*

1. *Plant metabolism*. The metabolism of cypermethrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radio labelled cypermethrin in various crops all showing similar results. The residue of concern is the parent compound only.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of cypermethrin in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances (Gas Chromatography with Electron Capture Detection (GC/ECD).

3. *Magnitude of residues*. Crop field trial residue data from studies conducted at the maximum label rates for head and stem Brassica vegetables, leafy Brassica greens, and leafy vegetables (except Brassica vegetables) group, show that the proposed zeta-cypermethrin tolerances on Brassica vegetables, head and stemat 2.0 ppm and Brassica vegetables, leafy at 14.0 ppm; and the leafy vegetables (except Brassica vegetables) group at 10.0 ppm will not be exceeded when the zeta-cypermethrin products labeled for these uses are used as directed.

*B. Toxicological Profile*

1. *Acute toxicity*. For the purposes of assessing acute dietary risk, FMC has used the no-observed-effected label (NOEL) of 3.8 mg/kg/day based on the NOEL of 7.5 mg/kg/day from the cypermethrin chronic feeding/oncogenicity study in rats and a correction factor of two to account for the differences in the percentage of the biologically active isomer. The LOEL of 50.0 mg/kg/day was based on neurological signs which were displayed during week one of the study. This acute dietary end point is used to determine acute dietary risks to all population subgroups.

2. *Genotoxicity*. The following genotoxicity tests were all negative: *in vivo* chromosomal aberration in rat bone marrow cells; *in vitro* cytogenic chromosome aberration; unscheduled DNA synthesis;CHO/HGPTT mutagen assay; weakly mutagenic: gene mutation (Ames).

3. *Reproductive and developmental toxicity*. No evidence of additional sensitivity to young rats was observed following pre- or postnatal exposure to zeta-cypermethrin.

i. A 2-generation reproductive toxicity study with zeta-cypermethrin in rats demonstrated a NOEL of 7.0 mg/kg/day and a LOEL of 27.0 mg/kg/day for parental/systemic toxicity based on body weight, organ weight, and clinical signs. There were no adverse effects in reproductive performance. The NOEL for reproductive toxicity was considered to be > 45.0 mg/kg/day the highest dose tested (HDT).

ii. A developmental study with zeta-cypermethrin in rats demonstrated a maternal NOEL of 12.5 mg/kg/day and a LOEL of 25 mg/kg/day based on decreased maternal body weight gain, food consumption and clinical signs. There were no signs of developmental toxicity at 35.0 mg/kg/day, the higest dose level tested (HDLT).

iii. A developmental study with cypermethrin in rabbits demonstrated a maternal NOEL of 100 mg/kg/day and a LOEL of 450 mg/kg/day based on decreased body weight gain. There were no signs of developmental toxicity at 700 mg/kg/day, the HDLT.

4. *Subchronic toxicity— Short- and intermediate-term toxicity*. The NOEL of 3.8 mg/kg/day based on the NOEL 7.5 mg/kg/day from the cypermethrin chronic feeding/oncogenicity study in rats and a correction factor of two to account for the biologically active isomer would also be used for short-and intermediate-term MOE calculations (as well as acute, discussed in (1) above). The LOEL of 50.0 mg/kg/day was based on neurological signs which were displayed during week one of the study.

5. *Chronic toxicity*. The reference dose (RfD) of 0.0125 mg/kg/day for zeta-cypermethrin is based on a NOEL of 2.5 mg/kg/day from a cypermethrin rat reproduction study and an uncertainty factor of 200 (used to account for the differences in the percentage of the biologically active isomer). The endpoint effect of concern was based on consistent decreased body weight gain in both sexes at the LOEL of 7.5 mg/kg/day.

Cypermethrin is classified as a Group C chemical (possible human carcinogen with limited evidence of carcinogenicity in animals) based upon limited evidence for carcinogenicity in femalemice; assignment of a Q* has not been recommended.

6. *Animal metabolism*. The metabolism of cypermethrin in animals is adequately understood. Cypermethrin has been shown to be rapidly absorbed, distributed, and excreted in rats when administered orally. Cypermethrin is metabolized by hydrolysis and oxidation.

7. *Metabolite toxicology*. The Agency has previously determined that the metabolites of cypermethrin are not of toxicological concern and need not be included in the tolerance expression.

8. *Endocrine disruption*. No special studies investigating potential estrogenic or other endocrine effects of cypermethrin have been conducted. However, no evidence of such effects were reported in the standard battery of required toxicology studies which have been completed and found acceptable. Based on these studies, there is no evidence to suggest that cypermethrin has an adverse effect on the endocrine system.

*C. Aggregate Exposure*

1. *Dietary exposure*—i. *Food*. Permanent tolerances, in support of registrations, currently exist for residues of zeta-cypermethrin on cottonseed; pecans; lettuce, head; onions, bulb; and cabbage and livestock commodities of cattle, goats, hogs, horses, and sheep. For the purposes of assessing the potentialdietary exposure for these existing and the subject proposed tolerances, FMC has utilized available information on anticipated residues, monitoring data and percent crop treated as follows:

ii. *Acute exposure and risk*. Acute dietary exposure risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. For the purposes of assessing acute dietary risk for zeta-cypermethrin, FMC has used the NOEL of 3.8 mg/kg/day based on the NOEL of 7.5 mg/kg/day from the cypermethrin chronic feeding/oncogenicity study in rats and a correction factor of two to account for the differences in the percentage of the biologically active isomer. The LOEL of 50.0 mg/kg/day was based on neurological signs which were displayed during week one of this study. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis, using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the margins of exposure (MOE) are significantly greater than the EPA standard of 100 for all subpopulations. The 95th percentile of exposure for the overall U. S. population was estimated to be 0.000708 mg/kg/day (MOE of 5364); 99th percentile 0.002677 mg/kg/day (MOE of 1420); and 99.9th percentile 0.012098 mg/kg/day (MOE of 314). The 95th percentile of exposure for all infants <1- year old was estimated to be 0.000264 mg/kg/day (MOE of 14394); 99th percentile 0.00189 mg/kg/day (MOE of 2011); and 99.9th percentile 0.018164 mg/kg/day (MOE of 209). The 95th percentile of exposure for nursing infants <1-year old was estimated to be 0.000026 mg/kg/day (MOE of 147540); 99th percentile 0.000484 mg/kg/day (MOE of 7843); and 99.9th percentile 0.002004 mg/kg/day (MOE of 1896).The 95th percentile of exposure for non-nursing infants < 1- year old was estimated to be 0.000367mg/kg/day (MOE of 10342); 99th percentile 0.005649 mg/kg/day (MOE of 673); and 99.9th percentile 0.019823 mg/kg/day (MOE of 192). The 95th percentile of exposure for children 1 to 6-years old (the most highly exposed population subgroup) and children 7 to 12-years old was estimated to be, respectively, 0.000742 mg/kg/day (MOE of 5120) and 0.00748 mg/kg/day (MOE of 5077); 99th percentile 0.003061 mg/kg/day (MOE of 1241) and 0.002638 (MOE of 1440); and 99.9th percentile 0.031769 mg/kg/day (MOE of 120) and 0.013432 (MOE of 283). Therefore, FMC concludes that the acute dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

iii. *Chronic exposure and risk*. RfD of 0.0125 mg/kg/day for zeta-cypermethrin is based on a NOEL of 2.5 mg/kg/day from a cypermethrin rat reproduction

study and an uncertainty factor of 200 (used to account for the differences in the percentage of the biologically active isomer). The endpoint effect of concern was based on consistent decreased body weight gain in both sexes at the LOEL of 7.5 mg/kg/day. A chronic dietary exposure/risk assessment has been performed for zeta-cypermethrin using the above RfD. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into the analysis to estimate the anticipated residue contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000098 mg/kg body weight/day (mg/kg/bwt/day) and utilize 0.8 % of the RfD for the overall U. S. population. The ARC for non-nursing infants (<1-year) and nursing infants (<1-year) are estimated to be 0.00016 mg/kg/day and 0.00001 mg/kg/day and utilizes 1.3 % and 0.1 % of the RfD, respectively. The ARC for children 1-6 years old (subgroup most highly exposed) and children 7-12 years old are estimated to be 0.000172 mg/kg bwt/day and 0.000092 mg/kg bwt/day and utilizes 1.4 % and 0.7 % of the RfD, respectively. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100 % of the RfD. Therefore, FMC concludes that the chronic dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

2. *Drinking water*. Laboratory and field data have demonstrated that cypermethrin is immobile in soil and will not leach into groundwater. Other data show that cypermethrin is virtually insoluble in water and extremely lipophilic. As a result, FMC concludes that residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Further, a screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in groundwater at depths of 1 and 2 meters are essentially zero (<0.001 part per billion (PPB). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 PPB. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible. Therefore, FMC concludes that together these data indicate that residues are not expected to occur in drinking water.

3. *Non-dietary exposure*. Zeta-cypermethrin is registered for agricultural crop applications only, therefore non-dietary exposure assessments are not warranted.

*D. Cumulative Effects*

In consideration of potential cumulative effects of cypermethrin and other substances that may have a common mechanism of toxicity, to our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by cypermethrin would be cumulative with those of other chemical compounds; thus only the potential risks of cypermethrin have been considered in this assessment of its aggregate exposure. FMC intends to submit information for the EPA to consider concerning potential cumulative effects of cypermethrin consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997) (FRL 5734-6) and other EPA publications pursuant to the Food Quality Protection Act.

*E. Safety Determination*

1. *U.S. population*. Based on a complete and reliable toxicology database, the RfD for zeta-cypermethrin is 0.0125 mg/kg/day, based on a NOEL of 2.5 mg/kg/day and a LOEL of 7.5 mg/kg/day from the cypermethrin rat reproduction study and an uncertainty factor of 200. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into an analysis to estimate the ARC for 26 population subgroups. The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000098 mg/kg/bwt/day and utilize 0.8 of the RfD or the overall U. S. population. The ARC for non-nursing infants (<1-year) and nursing infants (<1- year) are estimated to be 0.00016 mg/kg/day and 0.00001 mg/kg/day and utilizes 1.3 % and 0.1 % of the RfD, respectively. The ARC for children 1-6 years old (subgroup most highly exposed) and children 7-12 years old are estimated to be 0.000172 mg/kg bwt/day and 0.000092 mg/kg bwt/day and utilizes 1.4 % and 0.7 % of the RfD, respectively. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100 % of the RfD. Therefore, FMC concludes that the chronic dietary risk of zeta-cypermethrin, as estimated by the aggregate risk assessment, does not appear to be of concern.

For the overall U.S. population, the calculated margins of exposure (MOE) at the 95th percentile was estimated to be 5364; 1420 at the 99th percentile; and 314 at the 99.9th percentile. For all infants < 1-year old, the calculated MOE at the 95th percentile was estimated to be 14394; 2011 at the 99th percentile; and 209 at the 99.9th percentile. For nursing infants < 1-year old, the calculated MOE at the 95th percentile was estimated to be 147540; 7843 at the 99th percentile; and 1896 at the 99.9th percentile. For non-nursing infants < 1-year old, the calculated MOE at the 95th percentile was estimated to be 10342; 673 at the 99th percentile; and 192 at the 99.9th percentile. For the most highly exposed population subgroup, children 1- 6 years old, and for children 7-12 years old, the calculated MOEs at the 95th percentile were estimated to be, respectively, 5120 and 5077; 1241 and 1440 at the 99th percentile; and 120 and 283 at the 99.9th percentile. Therefore, FMC concludes that there is reasonable certainty that no harm will result from acute exposure to zeta-cypermethrin.

2. *Infants and children*—i. *General*. In assessing the potential for additional sensitivity of infants and children to residues of zeta-cypermethrin, FMC considered data from developmental toxicity studies in the rat and rabbit, and a 2-generation reproductive study in the rat. The data demonstrated no indication of increased sensitivity of rats to zeta-cypermethrin or rabbits to cypermethrin in utero and/or postnatal exposure to zeta-cypermethrin or cypermethrin. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. FFDCA section 408 provides that EPA may apply an additional margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database.

ii. *Developmental toxicity studies*. In the prenatal developmental toxicity studies in rats and rabbits, there was no evidence of developmental toxicity at the HDT (35.0 mg/kg/day in rats and 700 mg/kg/day in rabbits). Decreased body weight gain was observed at the maternal LOEL in each study; the maternal NOEL was established at 12.5 mg/kg/day in rats and 100 mg/kg/day in rabbits.

iii. *Reproductive toxicity study*. In the 2-generation reproduction study in rats, offspring toxicity (body weight) and parental toxicity (body weight, organ weight, and clinical signs) was observed at 27.0 mg/kg/day and greater. The parental systemic NOEL was 7.0 mg/kg/day and the parental systemic LOEL was 27.0 mg/kg/day. There were no developmental (pup) or reproductive effects up to 45.0 mg/kg/day, HDT.

iv. *Pre- and post-natal sensitivity*—a. *Pre-natal*. There was no evidence of developmental toxicity in the studies at the HDT in the rat (35.0 mg/kg/day) or in the rabbit (700 mg/kg/day). Therefore, there is no evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor.

b. *Post-natal*. Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special post-natal sensitivity to infants and children in the rat reproduction study.

c. *Conclusion*. Based on the above, FMC concludes that reliable data support use of the standard 100-fold uncertainty factor, and that an additional uncertainty factor is not needed to protect the safety of infants and children. As stated above, aggregate exposure assessments utilized significantly less than 1 % of the RfD for either the entire U. S. population or any of the 26 population subgroups including infants and children. Therefore, it may be concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to cypermethrin residues.

3. *Subchronic toxicity— Short- and intermediate-term toxicity*. The NOEL of 3.8 mg/kg/day based on the NOEL 7.5 mg/kg/day from the cypermethrin toxicity/oncogenicity study in rats and a correction factor of two to account for the biologically active isomer would also be used for short- and intermediate-term MOE calculations (as well as acute, discussed in (E.1.) above). The LOEL of this study of 50.0 mg/kg/day was based on neurological signs observed in the first week of the study.

*F. International Tolerances*

There are no Codex, Canadian, or Mexican residue limits for residues of zeta-cypermethrin in or on Brassica, head and stem vegetables; Brassica, leafy vegetables; and leafy vegetables (except Brassica vegetables) group. (Stephaine Willette).

[FR Doc. 98–16673 Filed 6–22–98; 8:45 am]

BILLING CODE 6560–50–F

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6114–3]**

## Proposed CERCLA Prospective Purchaser Agreement and Proposed CERCLA Section 122(h)(1) Administrative Cost Recovery Settlement Agreement for the Ingram-Richardson Site

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposal of CERCLA Prospective Purchaser Agreement and Proposal of CERCLA section 122(h)(1) Administrative Cost Recovery Settlement Agreement for the Ingram-Richardson site.

**SUMMARY:** In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq*., as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99–499, notification is hereby given that a proposed Agreement and Covenant Not to Sue (Agreement) for the Ingram-Richardson Site (the Site) located near Frankfort, in Clinton County, Indiana, has been executed by Clinton County, Indiana (the County), Frankfort Market Place, Inc. (Frankfort Market Place), and Kelly Strange (Mr. Strange). The proposed Agreement has been submitted to the Attorney General for approval. The proposed Agreement would resolve certain potential claims of the United States under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, against the County, as the prospective purchaser of the Site. The proposed Agreement also would resolve the potential liability of Frankfort Market Place and Mr. Strange (who are alleged to be past and current owners and operators of the Site) under CERCLA section 107 for certain past response costs incurred in connection with the Site, pursuant to the administrative cost recovery settlement authority conferred by CERCLA section 122(h)(1), 42 U.S.C. 9622(h)(1).

The components of the proposed Agreement relating to the County would require the County to pay $7,500 to the United States and to demolish unusable buildings on the Site before redeveloping the Site for use as a residential treatment center for juveniles. The United States would remove the CERCLA lien currently placed on the Site property.

The components of the proposed Agreement relating to Frankfort Market Place and Mr. Strange provide that: (1) Frankfort Market Place and Mr. Strange will pay $7,500 to the United States, to be applied toward more than $2.789 million in unreimbursed past response costs incurred in connection with removal action undertaken at the Site; (2) Frankfort Market Place and Mr. Strange will convey their ownership interest in the Site to the County, at no cost to the County; and (3) the United States will grant Frankfort Market Place and Mr. Strange a covenant not to sue for past response costs incurred in connection with the removal action (and will dismiss without prejudice a pending, unanswered civil judicial complaint filed by the United States against Frankfort Market Place under CERCLA section 107), and those parties will obtain contribution protection as provided by CERCLA sections 113(f)(2) and 122(h)(4) upon satisfactory completion of their obligations under the Agreement.

The Site is not on the NPL, and no further response activities at the Site are anticipated at this time.

**DATES:** Comments on the proposed Agreement must be received by July 23, 1998.

**ADDRESSES:** A copy of the proposed Agreement is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Karen Peaceman at (312) 353–5751 prior to visiting the Region 5 office.

Comments on the proposed Agreement should be addressed to Karen Peaceman, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard, (Mail Code C–14J), Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Karen Peaceman at (312) 353–3751 of the U.S. EPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this notice, is open for comments on the proposed Agreement. Comments should be sent to the addressee identified in this document.

**Doug Ballotti,**

*Acting Director, Superfund Division, Region #5.*

[FR Doc. 98–16670 Filed 6–22–98; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

June 16, 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 August 24, 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 Approval No.:* 3060–0405.

*Title:* Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station.

*Form No.:* FCC 349.

*Type of Review:* Extension of currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 875.

*Estimated Hours Per Response:* 16 hours (4 hours respondent, 1.5 hours contract attorney, 10.5 hours consulting engineer).

*Frequency of Response:* On occasion reporting requirement.

*Cost to Respondents:* $2,492,000.

*Estimated Total Annual Burden:* 3,500.

*Needs and Uses:* FCC 349 is used to apply for authority to construct a new FM translator or FM booster broadcast station, or to make changes in the existing facilities of such stations. This collection also includes the third party disclosure requirement of Section 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for new or major change in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application. The data is used by FCC staff to ensure that the applicant meets basic statutory requirements and will not cause interference to other licensed broadcast services.

*OMB Approval No.:* 3060–0662.

*Title:* Section 21.930, Five year build-out requirements.

*Form No.:* N/A.

*Type of Review:* Extension of currently approved collection.

*Respondents:* Businesses or other for-profit.

*Number of Respondents:* 493.

*Estimated Hours Per Response:* 4 hours (1 hour respondent, 3 hours consulting engineer).

*Frequency of Response:* On occasion reporting requirement.

*Cost to Respondents:* $184,975.

*Estimated Total Annual Burden:* 493.

*Needs and Uses:* A BTA authorization holder has a five-year build-out period, beginning on the date of the grant of the BTA authorization and terminating on the 5th year anniversary of the grant of the authorization, within which it may develop and expand MDS station operations within its service area. Section 21.930(c) requires the Basic Trading Area (BTA) holder to file with the Commission a demonstration that the holder has met construction requirements. This demonstration must be filed sixty days prior to the end of the five year build-out period. These filings will not occur until FY 2001. (The certification of completion of construction (FCC 304–A) required by Section 21.930(a)(3) has separate OMB approval under control number 3060–0664.) The data is used by FCC staff to determine if the BTA holder has met its construction requirements and to ensure that service is promptly delivered to the public. The Commission will issue a declaration that the holder has met the construction requirements.

*OMB Approval No.:* 3060–0660.

*Title:* Section 21.937, Negotiated Interference Protection.

*Form No.:* N/A.

*Type of Review:* Extension of currently approved collection.

*Respondents:* Businesses or other for-profit.

*Number of Respondents:* 75.

*Estimated Hours Per Response:* 30 hours (6 hours respondent, 8 hours contract attorney, 16 hours consulting engineer).

*Frequency of Response:* On occasion reporting requirement.

*Cost to Respondents:* $270,000.

*Estimated Total Annual Burden:* 450 hours.

*Needs and Uses:* Under Section 21.937, the level of acceptable electromagnetic interference that occurs at or within the boundaries of an adjacent Basic Trading Area (BTA), partitioned service area or an incumbent MDS station's protected service area, can be negotiated and established with the written consent of the affected licensee. Thus, Section 21.937 permits negotiated interference agreements among these parties. These written agreements must be submitted to the Commission within thirty days of ratification. (These agreements are often included with the submission of the FCC 304 attached as Exhibits.) These agreements allow the parties to establish acceptable levels of interference based on the design of their stations and service needs. These agreements are the most effective means of regulating interference and they provide flexibility in designing MDS systems.

*OMB Approval No.:* 3060–0657.

*Title:* Section 21.956, Filing of long-form applications or statements of intention.

*Form No.:* N/A.

*Type of Review:* Extension of currently approved collection.

*Respondents:* Businesses or other for-profit.

*Number of Respondents:* 2.

*Estimated Hours Per Response:* 3.0 hours (1.0 hour respondent, 2 hours consulting engineer).

*Frequency of Response:* On occasion reporting requirement.

*Cost to Respondents:* $900.

*Estimated Total Annual Burden:* 2 hours.

*Needs and Uses:* Where the Basic Trading Area (BTA) is so heavily encumbered that the winning bidder is unable to file a long-form application for a station within the BTA while protecting incumbents from harmful interference, the winning bidder must file a statement of intention of use of the BTA in accordance with Section 21.956. This statement of intention must identify all incumbents and describe in detail its plan for obtaining the authorized/proposed MDS stations within the BTA. This statement must also include the exhibits detailed in 21.956(b). The long-form application (FCC 304) has separate OMB approval under control number 3060–0654. The data is used by FCC staff to determine whether to grant a BTA authorization.

*OMB Approval No.:* 3060–0654.

*Title:* Application for a Multipoint Distribution Service Authorization.

*Form No.:* FCC 304.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Businesses or other for-profit.

*Number of Respondents:* 500.

*Estimated Hours Per Response:* 19 hours (1 hour respondent, 16 hours consulting engineer, 2 hours contract attorney).

*Frequency of Response:* On occasion reporting requirement.

*Cost to Respondents:* $1,495,000.

*Estimated Total Annual Burden:* 500 hours.

*Needs and Uses:* The FCC 304 will be used by existing MDS operators to modify their stations or to add a signal booster station. It will also be used by some winning bidders in the competitive bidding process to propose facilities to provide wireless cable service over any usable MDS channels within their Basic Trading Area (BTA). The Commission has revised the FCC Form 304 to further streamline the application process and to accommodate electronic filing. This collection of information also includes the burden for the technical rules involving the interference or engineering analysis and service requirements under Sections 21.902, 21.913 and 21.938. These analyses will not be submitted with the application but will be retained by the operator and must be made available to the Commission upon request. The data is used by FCC staff to ensure that the applicant is legally, technically and otherwise qualified to become a Commission licensee. MDS/ITFS applicants/licensees will need this information to perform the necessary analyses of the potential for harmful interference to their facility.

*OMB Approval No.:* 3060–0664.

*Title:* Certification of Completion of Construction for a Multipoint Distribution Service Station.

*Form No.:* FCC 304A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Businesses or other for-profit.

*Number of Respondents:* 300.

*Estimated Hours Per Response:* 0.5 hours.

*Frequency of Response:* On occasion reporting requirement.

*Cost to Respondents:* N/A.

*Estimated Total Annual Burden:* 150 hours.

*Needs and Uses:* The FCC 304A will be used to certify that the facilities as authorized in the FCC 304 have been completed and that the station is now operational, ready to provide service to the public. The Commission has revised the FCC Form 304 to further streamline the application process and to accommodate electronic filing. Each license will specify as a condition that upon the completion of construction, the licensee must file with the Commission an FCC 304A, certifying that the facilities as authorized have been completed and that the station is now operational and ready to provide service to the public. The conditional license shall be automatically forfeited upon the expiration of the construction period specified in the license unless within 5 days after that date an FCC 304A has been filed with the Commission.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 98–16629 Filed 6–22–98; 8:45 am]

BILLING CODE 6712–01–F

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## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Approved by Office of Management and Budget

June 17, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418–0214.

**Federal Communications Commission.**

*OMB Control No.:* 3060–0813.

*Expiration Date:* 6/30/2001.

*Title:* Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems.

*Form No.:* N/A.

*Estimated Annual Burden:* 194,457 annual hours; 15 minutes - 12 hours per response; 125,996 responses. This collection contains various reporting and third party requirements that range in estimated completion time.

*Description:* The Commission is placing several burdens on the wireless E911 industry and on government entities and phone systems. Most of these are one time rather than ongoing requirements, and are minimal to ensure the rapid implementation of the technologies needed to bring emergency help to wireless callers throughout the United States. In establishing these requirements, the Commission balanced consumers' need for dependable, speedy access to 911 services with carriers' need for flexibility in providing emergency services. The actions were taken in response to concerns raised by the initial Report and Order.

*OMB Control No.:* 3060–0690.

*Expiration Date:* 6/30/2001.

*Title:* Rules Regarding 37.0–38.6 GHz and 38.6–40.0 GHz Bands.

*Form No.:* FCC 402 and FCC 494.

*Estimated Annual Burden:* 210,318 annual hours; 30 minutes to 20 hours per respondent; 13,905 responses. The Commission estimates that approximately 25% of the respondents will hire consultants to prepare this information.

*Description:* The information is used by the Commission staff to provide adequate point-to-point microwave spectrum, which will facilitate provision of communications infrastructure for commercial and private mobile radio opeations and competitive wireless local telephone service. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 98–16630 Filed 6–22–98; 8:45 am]

BILLING CODE 6712–01–F

## FEDERAL MARITIME COMMISSION

### Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Atlantic Overseas Express Inc., 2550 NW 72 Avenue, Suite 100, Miami, FL 33122, Officers: Jorge E. Gomez, President, Lourdes Leon, Vice President

Dated: June 17, 1998.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 98–16631 Filed 6–22–98; 8:45 am]

BILLING CODE 6730–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Notice of Meeting of the Advisory Committee on Blood Safety and Availability

**AGENCY:** Office of the Secretary, DHHS.

**ACTION:** Notice of meeting.

The Advisory Committee on Blood Safety and Availability will meet on August 27, 1998, from 8:00 am to 5:00 pm and on August 28, 1998 from 8:00 am to 3:00 pm. The meeting will take place in the Ticonderoga Room of the Hyatt Regency Hotel on Capitol Hill, 400 New Jersey, NW., Washington, DC. 2001. The meeting will be entirely open to the public.

The Committee will consider potential barriers to the evolution from human- to recombinant-based blood products. On August 27, 1998 the committee will review information presented to it by representatives of consumers, industry and government agencies. At the conclusion of these presentations, the public will be invited to comment. Following these presentations, the Committee will consider what, if any, recommendations to make to the Department on this matter.

Prospective speakers should notify the Executive Secretary of their desire to address the Committee and should plan for no more than 5 minutes of comment.

An attempt will be made to schedule future meetings of the Advisory Committee on Blood Safety and Availability on the last Thursday and Friday of January, April and August in 1999.

**FOR FURTHER INFORMATION CONTACT:** Stephen D. Nightingale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Safety, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, DC 20201. Phone (202) 690–5560 FAX (202) 690–6584 e-mail SNIGHTIN@osophs.dhhs.gov.

Dated: June 15, 1998.

**Stephen D. Nightingale, MD.,**

*Executive Secretary, Advisory Committee on Blood Safety and Availability.*

[FR Doc. 98–16604 Filed 6–22–98; 8:45 am]

BILLING CODE 4160–17–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Agency Information Collection Under OMB Review

*Title:* Information Collection from applicants who will respond to Request for Applications for funding of 6 OCS competitive grants.

*OMB No.:* 0970–0062.

*Description:* The Office of Community Services is requesting approval to continue the use of its program announcements to collect information which will enable the agency to determine which projects to fund and the amount of the grant awards. The programs covered include: Community Food and Nutrition; Discretionary Grants Program; Low Income Home Energy Assistance Program; Job Opportunities for Low-Income Individuals; Training and Technical Assistance and Capacity Building; and Family Violence Prevention and Services Program.

Information collected from the requirements contained in these 6 program announcements will be the sole source of information available to OCS in reviewing applications leading to awards of discretionary grants to eligible applicants.

The applications forms that will be used contain information for competitive review in accordance with the program announcements' guidelines. The data provided is necessary to compute the amount of the grant in relation to proposed project activities by the ACF Grant Officers.

OMB recommended that ACF submit one information collection package covering all OCS program announcements, since the same application form is used in each announcement. This information collection was last approved in 1995 and is due to expire September 30, 1998. Since the last approval, the Demonstration Partnership Program no longer exists. Therefore, this request covers 6 programs, rather than the 7 programs previously covered.

*Respondents:* Not-for-profit institutions.

| Instrument | Estimated number of respondents | Number of responses per respondent | Average burden hours per | Total burden hours |
|---|---|---|---|---|
| CFN Announcement | 250 | 1 | 10 | 2500 |
| LIHEAP Announcement | 10 | 1 | 24 | 240 |
| Community Economic Dev. Announcement | 200 | 1 | 35 | 7000 |
| JOLI Announcement | 150 | 1 | 40 | 6000 |
| CSBG T&TA Announcement | 25 | 1 | 24 | 600 |
| Family Violence Announcement | 100 | 1 | 40 | 4000 |

*Estimated Total Annual Burden:* 20,340.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW,

Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: June 17, 1998.

**Bob Sargis,**

*Acting Reports Clearance Officer.*

[FR Doc. 98–16627 Filed 6–22–98; 8:45 am]

BILLING CODE 4184–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 98F–0436]**

### Asahi Denka Kogyo K.K.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Asahi Denka Kogyo K.K. has filed a petition proposing that the food additive regulations be amended to provide for the expanded safe use of 2,2′-methylenebis(4,6-di-*tert*-butylphenyl)2-ethylhexyl phosphite as an antioxidant and/or stabilizer in high density polyethylene articles intended for contact with food.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS–15), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3095.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4599) has been filed by Asahi Denka Kogyo K.K., c/o Japan Technical Information Center, Inc., 775 S. 23d St., Arlington, VA 22202. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of 2,2′-methylenebis(4,6-di-*tert*-butylphenyl)2-ethylhexyl phosphite as an antioxidant and/or stabilizer in high density polyethylene articles intended for contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 11, 1998.

**Laura M. Tarantino,**

*Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.*

[FR Doc. 98–16622 Filed 6–22–98; 8:45 am]

BILLING CODE 4160–01–F

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 77N–0240]**

### Erythrityl Tetranitrate; Drug Efficacy Study Implementation; Revocation of Exemption; Opportunity for a Hearing

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is revoking the temporary exemption that has allowed single-entity coronary vasodilator drug products containing erythrityl tetranitrate to remain on the market beyond the time limits scheduled for implementation of the Drug Efficacy Study. FDA is announcing that the products lack substantial evidence of effectiveness and is offering an opportunity for a hearing on a proposal to withdraw approval of any applicable new drug applications (NDA's) or abbreviated new drug applications (ANDA's).

**DATES:** The revocation of exemption is effective June 23, 1998; requests for hearings are due on or before July 23, 1998; data in support of hearing requests are due on or before August 24, 1998.

**ADDRESSES:** Communications in response to this notice should be identified with the reference number DESI 1786 and directed to the attention of the appropriate office named below.

A request for a hearing, supporting data, and other comments are to be identified with Docket No. 77N–0240 and submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

A request for an opinion on applicability of this notice to a specific product should be directed to the Division of Prescription Drug Compliance and Surveillance (HFD–330), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

**FOR FURTHER INFORMATION CONTACT:** Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Under the agency's Drug Efficacy Study Implementation (DESI) program, the National Academy of Sciences/National Research Council (NAS/NRC) evaluated the effectiveness of certain coronary vasodilators. Based on NAS/NRC's recommendations, FDA classified the coronary vasodilators as probably and possibly effective for indications relating to the management, prophylaxis, or treatment of anginal attacks. This classification was announced in the **Federal Register** of February 25, 1972 (37 FR 4001).

In a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623), as amended July 11, 1973 (38 FR 18477), August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), FDA temporarily exempted the single-entity coronary vasodilators covered by the DESI program from the time limits established for completing the program (Paragraph XIV, Category I exemption). FDA granted this exemption to allow manufacturers additional time to conduct clinical studies to determine effectiveness of the drugs for prevention of anginal attacks. In the August 26, 1977, notice, FDA added certain dosage forms of erythrityl tetranitrate (not included in the Drug Efficacy Study but regarded as related drugs) to the Paragraph XIV, Category I exemption.

The exemption notices established conditions for marketing the single-entity coronary vasodilators pending FDA's conclusions about the products. FDA required that each manufacturer conduct bioavailability studies on its own product(s) and that at least one manufacturer conduct clinical effectiveness studies for each chemical entity to which the same effectiveness conclusions would ultimately apply. An

ANDA was required for marketing of products not the subject of an NDA; such products were to be conditionally approved, pending the results of ongoing studies. Conditionally approved ANDA's were given the same status as the ''deemed approved'' NDA's under review in the DESI program, i.e., safe but not proven effective (42 FR 43127 and 43129).

The following applications for erythrityl tetranitrate received conditional approval under the terms of the exemption notices:

1. ANDA 86–194; Cardilate Chewable Tablets containing 10 milligrams (mg) erythrityl tetranitrate per tablet; Glaxo Wellcome (formerly Burroughs Wellcome), 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709–2700.

2. ANDA 86–203; Cardilate Tablets containing 5, 10, or 15 mg of erythrityl tetranitrate per tablet; Glaxo Wellcome.

In response to the exemption notices, the then Burroughs Wellcome Co. submitted efficacy data on its erythrityl tetranitrate products, but later requested in separate letters that FDA withdraw approval of ANDA's 86–194 and 86–203, stating that the marketing of the products had been discontinued. FDA withdrew approval of ANDA 86–194 in the **Federal Register** of February 13, 1996 (61 FR 5562 at 5563). FDA considers the requests for withdrawal of the ANDA's to also constitute requests for withdrawal of the efficacy data. Accordingly, FDA is now proposing to withdraw approval of the applications based on lack of substantial evidence of effectiveness.

## II. Revocation of Exemption

According to FDA's records, no person other than Glaxo Wellcome has submitted data or expressed an intention to perform clinical studies on single-entity erythrityl tetranitrate, and it is now reclassified to lacking substantial evidence of effectiveness. The temporary exemption, as it pertains to the drug, is revoked.

No other single-entity coronary vasodilators remain exempt under the Paragraph XIV, Category I exemption, and Category I is now dissolved.

## III. Notice of Opportunity for a Hearing

On the basis of all the data and information available to her, the Director of the Center for Drug Evaluation and Research is unaware of any adequate and well-controlled clinical investigation, conducted by experts who are qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (the act)(21 U.S.C. 355) and 21 CFR 314.126, that demonstrates effectiveness of single-entity erythrityl tetranitrate.

Notice is given to the holder of any NDA or ANDA for single-entity erythrityl tetranitrate, to manufacturers or distributors of the drug, and to all other interested persons, that the Director of the Center for Drug Evaluation and Research proposes to issue an order under section 505(e) of the act withdrawing approval of any NDA or ANDA and all amendments and supplements thereto providing for single-entity erythrityl tetranitrate and its indication relating to the management, prophylaxis, or treatment of anginal attacks. The Director of the Center for Drug Evaluation and Research finds that new information before her with respect to the drug, evaluated together with the evidence available to her when applications were approved under the exempting notices, shows that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

This notice applies to any person who manufactures or distributes a drug product containing single-entity erythrityl tetranitrate that is not the subject of an approved NDA and that is identical, related, or similar as defined in § 310.6 (21 CFR 310.6). It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Prescription Drug Compliance and Surveillance (address above).

This notice of opportunity for a hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act (21 U.S.C. 321(p)) or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962 (Pub. L. 87–781), or for any other reason.

In accordance with section 505 of the act and the regulations issued under it (21 CFR parts 310 and 314), an applicant and all other persons subject to this notice are hereby given a opportunity for a hearing to show why approval of any applicable NDA's or ANDA's should not be withdrawn.

An applicant or any other person subject to this notice who decides to seek a hearing shall file: (1) On or before July 23, 1998, a written notice of appearance and request for a hearing, and (2) on or before August 24, 1998, the data, information, and analyses relied on to demonstrate that there is a genuine issue of material fact to justify a hearing, as specified in § 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, a notice of appearance and request for a hearing, information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in §§ 314.150 and 314.200, and in 21 CFR part 12.

The failure of an applicant or any other person subject to this notice to file a timely written notice of appearance and request for a hearing, as required by § 314.200, constitutes an election by that person not to use the opportunity for a hearing concerning the action proposed and a waiver of any contentions concerning the legal status of that person's drug product(s). Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for a hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice of opportunity for a hearing are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505 (21 U.S.C. 355)) and under authority delegated to the Director of the

Center for Drug Evaluation and Research (21 CFR 5.70 and 5.82).

Dated: May 28, 1998.

**Janet Woodcock,**

*Director, Center for Drug Evaluation and Research.*

[FR Doc. 98–16578 Filed 6–22–98; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

### Statement of Organization, Functions, and Delegations of Authority

Part F, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Health Care Financing Administration (HCFA), 49 FR 34247, dated September 6, 1984, is amended to include the following delegation of authority from the Secretary to the Administrator, HCFA, for carrying out Title XXVII, of the Public Health Service Act, as amended.

- Section F.30., Delegations of Authority is amended by adding the following paragraph.

UU. The authority vested in the Secretary by Title XXVII of the Public Health Service Act, as amended by the Health Insurance Portability and Accountability Act of 1986, Public Law 104–191.

This delegation shall be exercised under the Department's policy on regulations. In addition, I hereby affirm and ratify any actions taken by the Administrator or other HCFA officials which, in effect, involved the exercise of this authority prior to the effective date of this delegation.

This delegation is effective immediately.

Dated: June 11, 1998.

**Donna E. Shalala,**

*Secretary.*

[FR Doc. 98–16592 Filed 6–22–98; 8:45 am]

BILLING CODE 4120–07–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; Comment Request; Biologic Specimen-Based Study of Dietary Measurement Error for Nutritional Epidemiology and Surveillance

**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 National Institutes of Health (NIH), National Cancer Institute (NCI) 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:* Biologic specimen-based study of dietary measurement error for nutritional epidemiology and surveillance. *Type of Information Collection Request:* New. *Need and use of Information Collection:* The agency conducts and funds studies examining the relationship between diet and chronic diseases. The study will collect, on a sample of 400 free-living men and women, 40–69 years of age, two 24-hour dietary recalls, two food frequency questionnaires, a physical activity questionnaire, a dietary screener questionnaire, and an opinion form. Respondents will receive a dose of doubly labeled water and provide spot urine samples to measure energy expenditure, will collect two 24-hour urines to measure urinary nitrogen, and provide blood samples to measure biochemical measures of dietary intake. The data will be used to assess the magnitude and structure of dietary measurement error in dietary surveillance and nutritional epidemiologic studies. *Frequency of response:* One-time study. *Affected public:* Individuals or households. *Types of Respondents:* U.S. adults 40–69 years of age. The annual reporting burden is as follows:

| Data collection | Estimated number of respondents | Estimated number of responses per respondent | Average burden hours per response | Estimated total hour burden | Estimated total annual burden hours requested |
|---|---|---|---|---|---|
| Screener | 400 | 1 | 0.167 | 67 | 67 |
| 24-hour recall #1 | 400 | 1 | .5 | 200 | 200 |
| 24-hour recall #2 | 400 | 1 | .5 | 200 | 200 |
| Food frequency questionnaire #1 | 400 | 1 | 1 | 400 | 400 |
| Food frequency questionnaire #2 | 400 | 1 | 1 | 400 | 400 |
| Physical activity questionnaire | 400 | 1 | .25 | 100 | 100 |
| Opinion forms | 400 | 1 | .25 | 100 | 100 |
| Dietry screener questionnaire | 400 | 1 | .167 | 67 | 67 |
| Dosing with DLW/initial urine collections | 400 | 1 | 4 | 1600 | 1600 |
| Spot urine collections | 400 | 1 | 0.25 | 100 | 100 |
| Spot hr urine collection #1 | 400 | 1 | .167 | 67 | 67 |
| 24-hr urine collection #2 | 400 | 1 | .167 | 67 | 67 |
| Blood collection | 400 | 1 | .25 | 100 | 100 |
| Total | 400 | 1 | .67 | 3,468 | 3,468 |

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

**Request for Comments**

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Amy F. Subar, Ph.D., Project Officer, National Cancer Institute, EPN 313, 6130 EXECUTIVE BLVD MSC 7344, BETHESDA MD 20892–7344, or call non-toll-free number (301) 496–8500, or FAX your request to (301) 435–3710, or E-mail your request, including your address, to amy__subar@nih.gov.

**COMMENTS DUE DATE:** Comments regarding this information collection are best assured of having their full effect if received on or before August 21, 1998.

Dated: June 5, 1998.

**Reesa Nichols,**

*NCI Project Clearance Liaison.*

[FR Doc. 98–16586 Filed 6–22–98; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* July 10, 1998.

*Time:* 1:00 PM to 2:00 PM

*Agenda:* To review and evaluate grant applications.

*Place:* Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

*Contact Person:* Jean G. Noronha, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* July 22, 1998.

*Time:* 1:00 PM to 2:30 PM.

*Agenda:* To review and evaluate grant applications.

*Place:* Parklawn Building—Room 9–105, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

*Contact Person:* Henry J. Haigler, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9–105, Rockville, MD 20857, 301–443–7216.

(Catalogue of Federal Domestic Assistance Program No.s 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 17, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–16585 Filed 6–22–98; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* June 22, 1998.

*Time:* 8:30 am to 5:00 PM.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel George, 15 E Street, NW., Washington, DC 20001.

*Contact Person:* Jean G. Noronha, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* June 23, 1998.

*Time:* 10:00 AM TO 11:30 AM.

*Agenda:* To review and evaluate grant applications.

*Place:* Parklawn Building—Room 9C–26, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, (Telephone Conference Call).

*Contact Person:* Mary Sue Krause, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* June 26, 1998.

*Time:* 11:00 AM TO 12:00 PM.

*Agenda:* To review and evaluate grant applications.

*Place:* Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

*Contact Person:* Sheila O'Malley, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 17, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–16587 Filed 6–22–98; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of

the data collection plans and instruments, contact the SAMHSA Reports Clearance Officer on (301)443–7978.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This notice is a re-publication that reflects inclusion of a revised tobacco module that has been determined necessary since the initial publication of a 60-day public comment notice for the 1999 National Household Survey on Drug Abuse on June 3 (63 FR 30244).

**Proposed Project**

1999 National Household Survey on Drug Abuse—(0930–0110)—Revision—The National Household Survey on Drug Abuse (NHSDA) is a survey of the civilian, noninstitutionalized population of the United States 12 years old and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, ONDCP, Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources. For 1999, the tobacco component of the core questionnaire will be revised and expanded to permit a more comprehensive set of data on tobacco product use, including information on usual brand.

The sample size of the survey will also be expanded to permit prevalence estimates for each of the fifty states and the District of Columbia. The total annual burden estimate is 97,200 hours as shown below:

| | No. of respondents | No. of responses per respondent | Average burden per response (hours) | Total burden (hours) |
|---|---|---|---|---|
| Household Screener | 263,991 | 1 | 0.05 | 13,200 |
| NHSDA Questionnaire | 70,000 | 1 | 1.20 | 84,000 |
| Total | | | | 97,200 |

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: June 15, 1998.

**Richard Kopanda,**

*Executive Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 98–16616 Filed 6–22–98; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Notice of Decision and Availability of Decision Documents on the Issuance of Permits for Incidental Take of Threatened and Endangered Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice advises the public that between August 20, 1997, and June 1, 1998, Region 1 of the Fish and Wildlife Service issued the following permits for incidental take of threatened and endangered species, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). Each permit was granted only after the Service determined that the application had been submitted in good faith; that all permit issuance criteria were met, including the requirement that granting the permit will not jeopardize the continued existence of the species; and that the permit was consistent with the Act and applicable regulations, including a thorough review of the environmental effects of the action and alternatives, pursuant to the National Environmental Policy Act of 1969. Copies of these permits and associated decision documents are available upon request. Decision documents for each permit include a Findings and Recommendations; a Biological Opinion; and either a Finding of No Significant Impact, a Record of Decision, or an Environmental Action Statement.

| Name of permittee | Permit No. | Issuance date |
|---|---|---|
| Kern Water Bank Authority | 828086 | 10/2/97 |
| Contra Costa County Public Works Department | 833486 | 10/6/97 |
| Kern County Waste Management Department | 830963 | 10/24/97 |
| John Laing Homes (California), Incorporated | 835424 | 10/29/97 |
| City of Sacramento | 823773 | 12/31/97 |
| SunCal Companies | 839428 | 2/13/98 |
| E.L. Yeager Construction Company | 839580 | 2/23/98 |
| San Diego County | 840414 | 3/16/98 |
| LAMCO, Incorporated | 842272 | 5/6/98 |
| Corrections Corporation of America | 842781 | 5/17/98 |

**ADDRESSES:** Individuals wishing copies of any of the above permits and associated decision documents should contact the Fish and Wildlife Service, Division of Consultation and Conservation Planning, 911 N.E. 11th Avenue, 4th Floor East, Portland, Oregon 97232.

**FOR FURTHER INFORMATION CONTACT:** Laura Hill, Fish and Wildlife Biologist, at the above address; telephone (503) 231–6241.

Dated: June 8, 1998.

**Thomas J. Dwyer,**

*Regional Director, Region 1, Portland, Oregon.*

[FR Doc. 98–16621 Filed 6–22–98; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Letters of Authorization to Take Marine Mammals

**AGENCY:** U.S. Fish and Wildlife Service, Interior.

**ACTION:** Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

**SUMMARY:** In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations [50 CFR 18.27(f)(3)], notice is hereby given that Letters of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry exploration, development, and production activities have been issued to the following companies:

| Company | Activity | Date issued |
|---|---|---|
| BP Exploration (Alaska) Inc | Exploration | June 8, 1998. |

**FOR FURTHER INFORMATION CONTACT:** Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

**SUPPLEMENTARY INFORMATION:** Letters of Authorization were issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations ''Marine Mammals; Incidental Take During Specific Activities (58 FR 60402; November 26, 1993); modified and extended (60 FR 42805; August 17, 1995).

Dated: June 11, 1998.

**David B. Allen,**

*Regional Director.*

[FR Doc. 98–16306 Filed 6–22–98; 8:45 am]

BILLING CODE 4310–55–M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[CO–050–1620–00]**

## Closure of a Road on Public Lands; Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Closure order for a road in Fremont County, CO.

**SUMMARY:** Notice is hereby given that, effective June 25, 1998, the BLM non-system road between the Upper and Lower Grape Creek Wilderness Study Areas will be closed to all types of motorized vehicle access and travel. The purpose of this closure is to prevent further disturbance to soils and vegetation in and near the riparian area, reduce sedimentation into Grape Creek and reduce the development of unauthorized user-created trails into the Upper and Lower Grape Creek Wilderness Study Areas. Authority for this action is found in 43 CFR 8364.1 and the Federal Land Policy and Management Act of 1976. The 3 mile (approximate) road closure is specifically identified as follows: Fremont County, Colorado.

Begin closure on the BLM system road 6227, located approximately 2/10 of a mile east of Grape Creek in T 20S, R71W Section 8. The road closure continues in a westerly direction along the BLM non-system road through section 7 and T 20S, R72W Sections 12 and 11, and ends at the public/private boundary on the north boundary of the NE of the NE of Section 11.

**DATES:** Effective June 25, 1998 and shall remain in effect unless revised, revoked, or amended.

**ADDRESSES:** Bureau of Land Management, Royal Gorge Resource Area, 3170 East Main Street, Canon City, CO 81212; Telephone (719) 269–8500.

**FOR FURTHER INFORMATION CONTACT:** Levi Deike, Area Manager or Diana Kossnar, Outdoor Recreation Planner at the Royal Gorge Resource Area at the above address and phone number.

**SUPPLEMENTARY INFORMATION:** This closure does not apply to emergency, law enforcement, and federal or other government vehicles while being used for official or emergency purposes, or to any vehicle whose use is expressly authorized or otherwise officially approved by BLM. Violation of this order is punishable by fine and/or imprisonment as defined in 43 CFR 8340 and subparts thereof. A copy of this **Federal Register** Notice and a map of the road closure is posted in the Canon City District Office.

**Donnie R. Sparks,**

*District Manager.*

[FR Doc. 98–16660 Filed 6–22–98; 8:45 am]

BILLING CODE 4310–JB–P

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[AZ–020–05–3809–00; AZA 29237]**

## Notice of Availability of Draft Environmental Impact Statement for the Proposed Yarnell Mining Project, Arizona

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** Notice of Availability and Notice of Public Hearings.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environment Policy Act of 1969, the Bureau of Land Management, Phoenix Field Office, has prepared a draft environmental impact statement (DEIS) that describes the impacts of a proposed surface gold mine and ore processing facility, known as the Yarnell Mining Project, that would be located on public, private, and state lands near the town of Yarnell in Yavapai County in central Arizona.

**DATES:** The DEIS is available for public review and comment for the next 60 days. Written comments on the DEIS must be postmarked on or before August 25, 1998. Public hearings will be held on July 28, 29, and 30, 1998, at the times and locations listed under Supplementary Information.

**ADDRESSES:** Written comments should be sent to the Project Manager for the Yarnell Mining Project EIS, Bureau of Land Management, Phoenix Field Office, 2015 West Deer Valley Road, Phoenix, AZ 85027.

**FOR FURTHER INFORMATION CONTACT:** Connie Stone, EIS Project Manager, (602) 580–5517.

**SUPPLEMENTARY INFORMATION:** The DEIS was prepared in response to a proposed mining plan of operations submitted by the Yarnell Mining Company, a subsidiary of Bema Gold (U.S.) Inc. The impact analysis in the DEIS includes proposed mitigation measures and alternatives to the proposed project. The Environmental Protection Agency,

Region IX, is serving as a cooperating agency.

**Description of the Proposed Action**

The proposed project facilities would include an open pit mine, two waste rock dumps, ore crushing and cyanide heap leaching facilities, laboratories, an office, and a water supply system of four wells or well fields and two pipelines. Facilities would be constructed on 118 acres of BLM-administered land, 75 acres of private land, and 8 acres of state land that would be part of the water supply system. The mine would operate for 6 years, followed by a 7-year period of closure and reclamation.

**Alternatives Analyzed**

The following three alternatives to the proposed action were analyzed: (1) No Action alternative; (2) Alternative 2—Elimination of the South Waste Rock Dump and Consolidation of Waste Rock Into the North Waste Rock Dump; and (3) Alternative 3—Elimination of the North Waste Rock Dump and Consolidation of Waste Rock Into the South Waste Rock Dump.

**Other Relevant Information**

Copies of the DEIS have been mailed to all individuals and organizations that requested them, and executive summaries have been mailed to all on the project mailing list. A copy of the DEIS or summary may be obtained upon request by contacting Connie Stone at the BLM Phoenix Field Office. PublicUnited States reading copies are also being kept at the BLM Phoenix Field Office, the BLM Arizona State Office (222 N. Central Avenue in Phoenix), and the Public Libraries in Yarnell, Wickenburg, and Prescott.

**Public Hearings**

Three public hearings will be held, the location and schedules for which are as follows:

July 28, 1998, 6:00 to 9:00 p.m., at the Wickenburg Community Center, 160 N. Valentine St., Wickenburg, Arizona.

July 29, 1998, 4:00 to 8:00 p.m., at the Yarnell Senior Center, 136 Broadway St., Yarnell, Arizona.

July 30, 1998, 6:00 to 9:00 p.m., at the Prescott Resort Conference Center, 1500 Highway 69, Prescott, Arizona.

**Public Input Requested**

Comments on the alternatives and the adequacy of the impact analyses are most useful when they address one or more of the following:

- Errors in the analysis,
- New information affecting the analysis,
- Misinformation that could affect the outcome of the analysis,
- Requests for clarification,
- A substantive new alternative that differs from any of the existing alternatives.

Dated: June 17, 1998.

**Michael A. Taylor,**

*Field Manager.*

[FR Doc. 98–16617 Filed 6–22–98; 8:45 am]

BILLING CODE 4310–32–M

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

### Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and other federal agencies with an opportunity to comment on proposed and 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 86–128 for certain transactions involving employee benefit plans and securities broker-dealers. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addressee section below on or before August 24, 1998. The Department of Labor 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;
- 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.

**ADDRESSES:** Interested parties are invited to submit written comments regarding the collection of information of any or all of the Agencies. Send comments to Mr. Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782 (this is not a toll-free number).

**FOR FURTHER INFORMATION CONTACT:**

**I. Background**

Prohibited Transaction Class Exemption 86–128 permits persons who serve as fiduciaries for employee benefit plans to effect or execute securities transactions on behalf of employee benefit plans. The exemption also allows sponsors of pooled separate accounts and other pooled investment funds to use their affiliates to effect or execute securities transactions for such accounts in order to recapture brokerage commissions for benefit of employee benefit plans whose assets are maintained in pooled separate accounts managed by the insurance companies. In the absence of the exemption, certain aspects of these transactions might be prohibited by section 406(b) of the Employee Retirement Income Security Act of 1974 (ERISA) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code) by reason of Code section 4975(c)(1)(E) or (F).

**II. Current Actions**

The Office of Management and Budget's approval of this ICR will expire on September 30, 1998. This existing collection of information should be continued because without the relief provided by this exemption, broker-fiduciaries who provide research and investment management services to accounts for which they also effect transactions for the purchase or sale of

securities, may be barred by ERISA from providing these combined services to employee benefit plans. Without this exemption, these sales could not continue, causing disruption of the existing business practices of plans and the businesses that service them.

In order to insure that the exemption is not abused, that the rights of participants and beneficiaries are protected, and that the exemption's conditions are being complied with, the Department has included in the exemption two information collection requirements. The first requirement is to provide the independent fiduciary with either confirmation slips for each individual transaction or to provide quarterly reports. In the quarterly report the broker-fiduciary must provide certain financial information including the total of all transaction related charges incurred by the plan. The second requirement calls for the annual reporting of transaction charges incurred by the plan as the amount of such charges paid to other persons. Furthermore, the annual report must contain some measure of portfolio turnover.

*Agency:* Department of Labor, Pension and Welfare Benefits Administration.

*Title:* Class Exemption 86–128 for Certain Transactions Involving Employee Benefit Plans and Securities Broker-Dealers.

*Type of Review:* Extension of a currently approved collection.

*OMB Numbers:* 1210–0059.

*Affected Public:* Individuals or households; Business or other for-profit; Not-for-profit institutions.

*Total Respondents:* 163,562.

*Average Time Per Response:* 10 minutes to 15 minutes.

*Total Responses:* 286,232.

*Frequency of Response:* Quarterly; Annually.

*Total Annual Burden:* 64,743 hours.

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: June 18, 1998.

**Gerald B. Lindrew,**

*Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.*

[FR Doc. 98–16644 Filed 6–22–98; 8:45 am]

BILLING CODE 4510–29–M

## MERIT SYSTEMS PROTECTION BOARD

### Sunshine Act Meeting

**TIME AND DATE:** 10:00 a.m., Thursday, June 25, 1998.

**PLACE:** Board Conference Room, Eighth Floor, 1120 Vermont Avenue, N.W., Washington, D.C., 20419.

**STATUS:** The meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Agency caseload and case processing.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Robert E. Taylor, Clerk of the Board, (202) 653–7200.

Dated: June 18, 1998.

**Robert E. Taylor,**

*Clerk of the Board.*

[FR Doc. 98–16729 Filed 6–18–98; 4:41 pm]

BILLING CODE 7400–01–M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Visual Arts Section (Creation & Presentation Category) to the National Council on the Arts will be held on July 28–31, 1998. The panel will meet from 9:00 a.m. to 5:30 p.m. on July 28–30, and from 9:00 a.m. to 4:00 p.m. on July 31, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. A portion of this meeting, from 3:00 to 5:30 p.m. on July 30, will be open to the public for a policy discussion on community, state, and field issues and needs, Leadership Initiatives, Millennium projects, and guidelines.

The remaining portions of this meeting, from 9:00 a.m. to 5:30 p.m. on July 28 and 29, from 9:00 a.m. to 3:00 p.m. on July 30, and from 9:00 a.m. to 4:00 p.m. on July 31, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4)(6), and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: June 17, 1998.

**Kathy Plowitz-Worden,**

*Panel Coordinator, Panel Operations, National Endowment for the Arts.*

[FR Doc. 98–16595 Filed 6–22–98; 8:45 am]

BILLING CODE 7537–01–M

## NATIONAL TRANSPORTATION SAFETY BOARD

### Sunshine Act Meeting

**TIME AND DATE:** 9:30 a.m., Tuesday, June 30, 1998.

**PLACE:** NTSB Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

6899A Railroad Accident Report—Collision and Derailment between Union Pacific Railroad Freight Trains MKSNP–01 and ZSEME–29 near Delia, Kansas, July 2, 1997.

**NEWS MEDIA CONTACT:** Telephone: (202) 314–6100.

**FOR MORE INFORMATION CONTACT:** Rhonda Underwood, (202) 314–6065.

Dated: June 19, 1998.

**Rhonda Underwood,**

*Federal Register Liaison Officer.*

[FR Doc. 98–16834 Filed 6–19–98; 3:28 pm]

BILLING CODE 7533–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 150–00016, License No. Kentucky 201–431–51 EA 98–021]**

## Ground Engineering and Testing Service, Inc.; Louisville, Kentucky; Order Imposing Civil Monetary Penalty

**I**

Ground Engineering and Testing Service, Inc. (Licensee) is the holder of Kentucky Materials License No. 201–431–51 which was amended on November 29, 1994. The license authorizes the Licensee to possess and use licensed sealed sources in portable gauges for measurement of the properties of construction materials at temporary job sites anywhere in the Commonwealth of Kentucky.

**II**

An inspection of the Licensee's activities was conducted by the NRC on December 12, 1997. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated March 25, 1998. The Notice states the nature of the violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in letters dated April 22 and 23, 1998. In its responses, the Licensee admitted that the violation occurred, but denied that the violation was the result of careless disregard and requested that the civil penalty be mitigated based upon its prompt corrective action.

**III**

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violation occurred as stated, that the amount of the proposed civil penalty should be reduced by $2,750 based upon the Licensee's prompt corrective action, and that a civil penalty in the amount of $2,750 should be imposed.

**IV**

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered* that:

The Licensee pay a civil penalty in the amount of $2,750 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

**V**

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Deputy Assistant General Counsel for Enforcement at the same address and to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, SW, Suite 23T85, Atlanta, Georgia, 30303.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

Whether on the basis of the violation admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 15th day of June 1998.

For the Nuclear Regulatory Commission.

**Ashok C. Thadani,**

*Deputy Executive Director for Regulatory Effectiveness.*

**Appendix—Evaluation and Conclusion**

On March 25, 1998, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for a violation identified during an NRC inspection conducted on December 12, 1997. Ground Engineering and Testing Service, Inc. (Licensee) responded to the Notice in letters dated April 22 and 23, 1998. The Licensee admitted the violation, but contended that its actions did not represent careless disregard for regulatory requirements, and that its action in response to the violation constituted prompt corrective action warranting credit. The NRC's evaluation and conclusion regarding the Licensee's request is as follows:

*Restatement of Violation*

10 CFR 30.3 requires, in part, that no person shall possess or use byproduct material except as authorized by a specific or general license issued by the NRC.

10 CFR 150.20(a) provides, in part, that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in non-Agreement States and areas of exclusive federal legislative jurisdiction subject to the provisions of 10 CFR 150.20(b).

10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in non-Agreement States or areas of exclusive federal legislative jurisdiction shall, at least three days before engaging in each activity, file four copies of NRC Form 241, ''Report of Proposed Activities in non-Agreement States,'' with the Regional Administrator of the Appropriate NRC Regional Office.

10 CFR 150.20(b)(3) requires, in part, that any person engaging in activities in non-Agreement States or areas of exclusive federal legislative jurisdiction shall not, under the general license concerning activities in non-Agreement States, possess or use radioactive materials, or engage in the activities authorized in paragraph 10 CFR 150.20(a), for more than 180 days in any calendar year.

Contrary to the above, between January 1, 1997 and December 18, 1997, the licensee used licensed materials for a total of 290 days at sites under NRC jurisdiction in West Virginia and Indiana, and in an area of exclusive federal jurisdiction at Fort Knox, Kentucky, without either a specific or general license issued by the NRC and without filing NRC Form 241, as required. The specific sites and periods of usage were as follows:

| Month | Days used | Location | Cumulative days in 1997 | |
|---|---|---|---|---|
| January | 21 | Fort Knox, KY | 21 | |
| March | 9 | Buffalo, WV | | 30 |
| April | 30 | Buffalo, WV | | 60 |
| May | 31 | Buffalo, WV | | 91 |

| Month | Days used | Location | Cumulative days in 1997 | |
|---|---|---|---|---|
| June | 30 | Buffalo, WV | | 121 |
| July | 31 | Buffalo, WV | | 152 |
| August | 31 | Buffalo, WV 31; Ft. Knox 3 | 183 | |
| September | 30 | Buffalo, WV 30; Ft. Knox 7 | 213 | |
| October | 28 | Buffalo, WV 28; Ft. Knox 9; Clarksville/Jeffersonville IN. | 7 | 241 |
| November | 30 | Buffalo, WV 30 | | 271 |
| December | 19 | Buffalo, WV 19; Ft. Knox 1 | 290 | |

This is a Severity Level III violation (Supplement VI).

Civil Penalty—$5,500.

*Summary of Licensee's Request for Mitigation*

The Licensee admitted that the violation occurred as stated in the Notice, but denied that the violation was the result of careless disregard for NRC requirements and protested the civil penalty of $5,500. In support of its assertion that the violation was not the result of careless disregard, the Licensee explained that the Louisville office, where the violation was identified, had been informed by the corporate office that licensing for non-Agreement States would be obtained prior to initiation of work. However, the corporate office person responsible for obtaining such licenses did not obtain the licenses. The Licensee asserted that this situation resulted from the fact that the corporate office was undergoing a troubled period, but that there had been no willful disregard for NRC requirements. Furthermore, the Licensee noted that any actions required by an NRC license had been completed, and that no effort was made to conceal the use of radioactive equipment at sites requiring an NRC license, and that its compliance in other ways refutes the claim of ''careless disregard.''

The Licensee also asserted that, contrary to the claim in the Notice that there had been delay in halting use of nuclear gauges, immediately upon determining that an NRC license had not been obtained, it halted all testing with portable nuclear gauges at sites under NRC jurisdiction. According to the Licensee, this constituted appropriate, prompt corrective action warranting credit.

*NRC Evaluation of Licensee's Request for Mitigation*

The Licensee has provided no new information which would refute a finding of careless disregard. Ground Engineering was aware of the requirement of filing for reciprocity, as evidenced by its having done so in 1995. Moreover, the Licensee was notified by the Commonwealth of Kentucky on September 23, 1997, during a Kentucky inspection, of the need to file for reciprocity or obtain an NRC license prior to conducting operations in areas of NRC jurisdiction. Notwithstanding this notification, Ground Engineering continued to use licensed materials in areas under NRC jurisdiction without an NRC license until December 1997. The finding of careless disregard was based on the fact that Ground Engineering had been given this notice, but did not take sufficient steps to assure that a proper license was obtained. In addition, the Kentucky license was amended in September 1997 to clearly state that it did not authorize operations in areas under exclusive federal jurisdiction. This should have served as an additional reminder of the need to obtain reciprocity or a specific NRC license prior to conducting licensed activities in these areas.

The Licensee's contention that its failure to file for reciprocity resulted from its misplaced reliance upon the corporate office, which was undergoing a troubled period, does not excuse the Licensee from compliance with NRC requirements. If fact, its knowledge that the corporate office was undergoing a period of upheaval should have alerted it to the fact that it needed to confirm that the proper license for conducting licensed activities had been obtained.

With regard to the Licensee's claim that its corrective action warranted credit, the NRC's conclusion that the Licensee's corrective action was not prompt was based on the belief that the licensed material continued to be used until December 18, 1997. However, in its responses, the Licensee provided new information to the NRC which indicates that on December 12, 1997, after the Licensee was informed by the NRC of the violation, all operations at the Buffalo, West Virginia site were suspended and the gauge was placed in locked storage. Based upon this new information, the NRC has determined that the Notice should be revised to reflect that you used licensed material between January 1 and December 12, 1997, rather than the previously cited period of time, January 1 through December 18, 1997. In addition, we have also determined that credit is warranted for your prompt corrective action.

*NRC Conclusion*

The NRC has concluded that an adequate basis for retracting a finding of careless disregard was not provided. However, the NRC has determined that the Licensee provided an adequate basis for mitigating the civil penalty in light of its prompt corrective action. Consequently, the proposed civil penalty in the amount of $5,500 should be mitigated to $2,750 and should be imposed.

[FR Doc. 98–16646 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 55–22234–SP ASLBP No. 98–745–01–SP]**

## Randall L. Herring; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.1207 of the Commission's Regulations, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the Presiding Officer to conduct an informal adjudicatory hearing in the following proceeding.

**Randall L. Herring**

(Denial of Reactor Operator's License Application)

The hearing, if granted, will be conducted pursuant to 10 CFR Part 2 Subpart L of the Commission's Regulations, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' This proceeding concerns a denial by NRC Staff of Mr. Herring's reactor operator's license application and Mr. Herring's request for a hearing pursuant to 10 CFR Section 2.103.

The Presiding Officer in this proceeding is Administrative Judge Charles Bechhoefer. Pursuant to the provisions of 10 CFR § 2.722, the Presiding Officer has appointed Administrative Judge Richard F. Cole to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Bechhoefer and Judge Cole in accordance with § 2.701. Their addresses are:

Administrative Judge Charles Bechhoefer, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Richard F. Cole, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Rockville, Maryland, this 16th day of June 1998.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 98–16639 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–315]**

### Indiana Michigan Power Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Indiana Michigan Power Company (the licensee) to withdraw its August 4, 1995, application for proposed amendment to Facility Operating License No. DPR–58, for the Donald C. Cook Nuclear Plant, Unit Nos. 1, located in Berrien County, Michigan.

The proposed amendment would have revised the technical specifications to allow for repair of hybrid expansion joint sleeved steam generator tubes.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 29, 1997 (62 FR 4351). However, by letter dated January 6, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 4, 1995, and the licensee's letter dated January 6, 1998, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085.

Dated at Rockville, Maryland, this 15th day of June 1998.

For the Nuclear Regulatory Commission.

**John F. Stang,**

*Senior Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 98–16650 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–315 and 50–316]**

### Indiana Michigan Power Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Indiana Michigan Power Company (the licensee) to withdraw its November 16, 1994 application for proposed amendment to Facility Operating License Nos. DPR–58 and DPR–74, for the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, located in Berrien County, Michigan.

The proposed amendment would have revised the technical specifications to reduce the decay time required before refueling operations could begin.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 21, 1994 (59 FR 65816). However, by letter dated January 27, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 16, 1994, and the licensee's letter dated January 27, 1998, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085.

Dated at Rockville, Maryland, this 15th day of June 1998.

For the Nuclear Regulatory Commission.

**John F. Stang,**

*Senior Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 98–16651 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

**[Docket No. 030–31174, License No. 07–28386–01, EA NO. 98–061]**

### Koch Engineering Company, Inc., Newark, Delaware; Order Imposing a Civil Monetary Penalty

**I**

Koch Engineering Company, Inc. (Licensee) is the holder of Byproduct Materials License No. 07–28386–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) on July 24, 1989, and most recently renewed by the NRC on August 28, 1995. The License authorizes the Licensee to possess and use certain byproduct materials in accordance with the conditions specified therein at its facilities in Newark, Delaware, Canton, Michigan, and temporary job sites anywhere in the United States where the U.S. Nuclear Regulatory Commission maintains jurisdiction.

**II**

A special inspection of the Licensee's activities was conducted on September 15, 1997, to review the circumstances associated with an event involving the shipment of a package of radioactive material (3 cesium-137 sources) via Federal Express from the Licensee's facility in Newark, Delaware to Wilmington, North Carolina. The package was empty upon arrival in North Carolina, and the sources were later found at a Federal Express facility in Memphis, Tennessee. The NRC inspection was continued in the Region I office on January 20, 1998, to review evaluations of doses received by Federal Express workers as a result of the event. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated March 13, 1998. The Notice states the nature of the violations, the provisions of the NRC requirements that the Licensee violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in letters, dated April 8 and 9, 1998. In its responses, the Licensee admits the violations, but disputes the Severity Level of the violation that resulted in the issuance of the civil penalty and requests that the proposed penalty of $4,400 be reconsidered.

**III**

After consideration of the Licensee's response and the statements of fact, explanation, and argument contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the Licensee has not provided an adequate basis for reducing the Severity Level of the violation or for withdrawal of the civil penalty associated with this violation. Therefore, a civil penalty in the amount of $4,400 should be imposed.

## IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $4,400 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

## V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the Commission's Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Deputy Assistant General Counsel for Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

Whether on the basis of the violation admitted by the Licensee, this Order should be sustained.

Dated at Rockville, MD, this 12th day of June 1998.

For the Nuclear Regulatory Commission.

**Ashok C. Thadani,**

*Acting Deputy Executive Director for Regulatory Effectiveness.*

## Appendix—Evaluations and Conclusion

On March 13, 1998, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued to Koch Engineering Company, Inc. (Licensee) for violations identified during NRC review of the circumstances associated with an event involving the shipment of a package containing 3 cesium-137 sources from the Licensee's facility in Newark, Delaware to Wilmington, North Carolina. The package was empty upon arrival in North Carolina, and the sources were later found at a Federal Express facility in Memphis, Tennessee. The Licensee responded to the Notice in letters, dated April 8 and 9, 1998. In its responses, the Licensee admits the violations, but disputes the Severity Level of the violation for which a civil penalty was assessed and requests the NRC reconsider the proposed civil penalty of $4,400. The NRC's evaluation and conclusion regarding the Licensee's requests are as follows:

*Restatement of the Violation*

10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

49 CFR 173.475 requires, in part, that before each shipment of any radioactive materials package, the offeror must ensure, by examination or appropriate tests, that each closure device of the packaging, including any required gasket, is properly installed, secured, and free of defects.

Contrary to the above, prior to September 15, 1997, the licensee had failed to ensure, by examination or test, that each closure device was properly installed, secured, and free of defects before each shipment of packages containing radioactive material. Specifically, the licensee did not ensure that the Master Lock No. 175 padlock attached to the packages were examined or tested in that the individual responsible for installing the padlock did not pull on the lock after it was closed to ensure that it was secure.

This is a Severity Level II violation (Supplement VI). Civil Penalty—$4,400

*Summary of the Licensee's Response*

The Licensee admits the violation, but contends that the criteria used to classify the violation at Severity Level II are not applicable, because it believes that it is possible that the loss of control of radioactive material could have resulted from inappropriate handling by the carrier (Federal Express) and that the violation did not result in a clear potential for a member of the public to receive more than 100 mrem to the whole body.

The Licensee agrees that the violation may have been the probable cause for the ''loss of control of radioactive material via a breach in the package's integrity,'' but it believes that the inappropriate handling by the carrier's hazmat personnel may have also been a contributing factor. The Licensee contends that the package was offered to the carrier with the lock and two electrical tie wraps installed and that inappropriate handling by the carrier, such as a substantial drop from a height of greater than 4 feet, may have resulted in the initial lock failure and subsequent loss of the three sealed sources from the container. Additionally, the Licensee contends that the carrier's hazmat employee, who first noticed the opened empty container, did not follow proper procedures when he/she placed the lid back on the container and allowed the container to proceed, rather than immediately reporting the incident to his/her supervisor.

Based on the regulatory criteria specified in 49 CFR, the Licensee contends that regulations required that its package should have only been in the care of individuals classified as ''hazmat employees'' during all stages of the shipping process. The Licensee also states that the regulations require that hazmat employees be trained concerning ''methods and procedures for avoiding accidents, such as the proper procedures for handling packages of hazardous material.'' Therefore, the Licensee contends that, while the carrier is not regulated by the NRC, the carrier's actions should be considered when determining accountability.

The Licensee also contends that the violation did not result in a ''clear potential for a member of the public to receive more than 100 mrem to the whole body,'' noting that the regulations required that their radioactive material shipment only be handled by trained hazmat employees. The Licensee contends that the carrier's hazmat employees are not considered members of the public while performing hazmat duties because they receive

''occupational dose.'' Additionally, the Licensee notes that the incident occurred at the end of the film badge reporting period and there is no supportive evidence that all of the 90 mrem received by the worker was the direct result of the incident. Therefore, the Licensee maintains that there was no clear potential for a member of the public to receive more than 100 mrem to the whole body.

Finally, the Licensee notes that while the NRC's March 13, 1998 Notice stated that the Licensee's corrective actions were prompt and comprehensive, it was not clear whether credit for such actions was considered in assessing the amount of the civil penalty.

*NRC's Evaluation of the Licensee's Response*

The NRC does not dispute the Licensee's contention that inappropriate handling by the carrier's hazmat personnel may have contributed to the loss of control of radioactive material. At a minimum, proper action when the lid was found unattached could have minimized the amount of time that the radioactive material was uncontrolled. However, the carrier's actions do not relieve the Licensee of its responsibility to ensure that each closure device on the radioactive materials package is properly installed and secure. Regardless of events that occurred after the package left the Licensee's control, the Licensee's failure to assure that the hasp on the lock was secure prior to shipment was the most probable cause of the loss of control of the radioactive material, and is considered a significant violation of NRC requirements.

In addition, the NRC does not dispute the Licensee's position that hazmat employees are not considered members of the public. However, the NRC disagrees that there was no clear potential for a member of the public to receive more than 100 mrem to the whole body as a result of the Licensee's failure to ensure that the lock on the package containing the sealed sources was properly installed and secure. The sources could have been lost at any time during the shipping process, such as on the aircraft or in the vehicle that were used to transport the package, and so the clear possibility existed that members of the public could have come in contact with the sources. Considering the configuration of the sources (the sealed sources were contained in approximately 4 inch long bolts) and the quantity of radioactive material in the package (the 3 sources contained 1, 18, and 100 millicuries of cesium-137 respectively), the NRC continues to conclude that there was a clear potential for a member of the public to unknowingly come in contact with the sources and receive an exposure greater than 100 mrem to the whole body.

Example B.1 of Supplement V of the NRC's Enforcement Policy provides that a ''[f]ailure to meet transportation requirements that resulted in loss of control of radioactive material with a breach in package integrity such that there was a clear potential for the member of the public to receive more than .1 rem [100 mrem] to the whole body'' be considered as a Severity Level II violation. Therefore, the NRC maintains that the violation was appropriately classified at Severity Level II.

With regard to the Licensee's argument concerning its corrective actions, as stated in our March 13, 1998 letter, credit was warranted for your corrective actions in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Had the Licensee not taken prompt and comprehensive corrective actions, a civil penalty of $8,800 (twice the base amount) would have been proposed.

*NRC Conclusion*

The NRC has concluded that the Licensee did not provide a basis for reducing the Severity Level of the violation nor for reducing or withdrawing the civil penalty. Accordingly, a civil penalty in the amount of $4,400 should be issued.

[FR Doc. 98–16645 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–443–LA ASLBP No. 98–746–05–LA]**

## North Atlantic Energy Service Corporation; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

**North Atlantic Energy Service Corporation**

Seabrook Station Unit No. 1

This Board is being established pursuant to the request for hearing submitted by Robert A. Backus on behalf of the Seacoast Anti-Pollution League. The petition opposes the issuance of a license amendment to North Atlantic Energy Service Corporation for Seabrook Station Unit No. 1 that would revise Technical Specifications on the frequency of steam generator inspections to accommodate a 24 month fuel cycle. A notice of the proposed amendment was published in the **Federal Register** at 63 FR 25101, 25113 (May 6, 1998).

The Board is comprised of the following administrative judges:

B. Paul Cotter, Jr., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Charles N. Kelber, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Linda W. Little, 5000 Hermitage Drive, Raleigh, NC 27612

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 C.F.R. § 2.701.

Issued at Rockville, Maryland, this 16th day of June 1998.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 98–16638 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–388]**

## Pennsylvania Power and Light Company; 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 an amendment to Facility Operating License No. NPF–22 issued to Pennsylvania Power and Light Company for operation of the Susquehanna Steam Electric Station (SSES), Unit 2 located in Luzerne County, Pennsylvania.

The proposed amendment would amend the Susquehanna Steam Electric Station's Technical Specifications (TSs) to add notations to TSs 3.3.7.5, 4.3.7.5, 3.4.2, and 4.4.2 that the acoustic monitor for safety relief valve (SRV) ''J'' may be inoperable beginning June 15, 1998, until the next unit shutdown of sufficient duration to allow for containment entry, not to exceed the ninth refueling and inspection outage (spring 1999).

SSES Unit 2 is currently operating in Operation Condition 1 at 100% power. On June 13, 1998, at 1239 hours, the SSES Unit 2 control room personnel determined that the ''J'' SRV acoustic monitor was inoperable. They also determined that repair of this acoustic monitor would require unit shutdown and containment entry. The applicable TS action statements require this monitor to be restored to operable status or an initiation of a unit shutdown within 48 hours. The licensee sought and received, at 1145 hours on June 15, 1998, NRC's agreement to exercise its discretion to not enforce compliance with these TS shutdown requirements until this amendment could be processed. The licensee submitted this proposed license amendment on June 17, 1998. Therefore, the NRC staff has concluded that the licensee has made its best effort to make a timely application for this amendment and has not taken advantage of the exigent provisions of 10 CFR 50.91(a)(6).

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.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine 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:

1. This proposal does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposal does not involve a significant increase in the probability or consequences of an accident previously evaluated. The acoustic monitors do not affect the operation of the safety/relief valves. The SRV safety-valve function (TS 3.4.2), safety-related ADS [automatic depressurization system] function (six selected valves—TS 3.5.1) and non-safety related automatic and manual relief functions are independent of the acoustic monitoring function. No failure or misoperation of the acoustic monitoring system can affect the ability of these valves to perform their design functions.

Failure of the acoustic monitoring system to actuate in the event of an actual valve actuation does not affect the consequences of that action. The consequences of an undetected SRV failure to close or to remain closed when desired or required are unacceptable; the purpose of the monitoring system is to increase the probability that a failure of the valve actuation mechanism is detected.

Operation without this detection system will not significantly increase vulnerability to an undetected, open SRV event. Operation without this detection system would also not create any condition where the reliability of the valve is reduced.

The SSES IPE [Individual Plant Examination] assigns a conservative 1% probability to the stuck open safety relief valve event. Susquehanna utilizes Crosby SRVs. This valve is specifically designed and specified for the intended function, and is operated and maintained in accordance with the requirements of the design. It is not experienced reliability problems that have occurred with other SRV designs. The lack of position monitoring will not affect the valve's ability to perform its intended operational and safety function.

Operation without the SRV acoustic monitor will not affect the plant response to the stuck open relief valve at power or hot shutdown conditions. The stuck open SRV transient as analyzed in the Design Assessment Report (DAR) indicates that the maximum pool transient temperature (185°F) does not approach the NUREG 0783 accepted limit (208°F bulk pool temperature). This is assured by using temperature data from SPOTMOS in accordance with off-normal procedure ON–283–001.

SRV tail pipe temperature rise above the alarm setpoint is a true indication of SRV actuation and a reliable indication of closure. Alarms generated by this sensor will alert the operator to the open SRV. The Suppression Pool Temperature Elements located closest to the ''J'' SRV discharge quencher will also indicate heat input to the pool from that line. Other indications can be used to infer an open relief valve and to confirm a closed valve (i.e. by demonstrating pressure integrity).

The probability of a Stuck Open SRV Event is not affected by the lack of position indication for the SRV. The ability to detect the stuck open SRV condition is adequately covered by the tail pipe temperature indication and secondary reactor vessel and steam cycle parameter indications, and will not result in an increase in the probability or consequences of an accident previously evaluated.

2. This proposal does not create the possibility of a new or different type of accident from any previously evaluated.

This proposal does not create the possibility of a new or different type of accident from any previously evaluated. The SRV Acoustic Monitor performs no control or active protective function other than indication. Failure or misoperation of this device will not cause an unanalyzed failure or misoperation of an engineered safety feature. Because of the diverse and redundant indication system described above, misoperation of this system will not cause the operator to take unanalyzed actions, nor will it cause the operator to commit errors of commission or omission, and as such will not create the possibility of a new or different type of accident.

3. This change does not involve a significant reduction in a margin of safety.

This change does not involve a significant reduction in a margin of safety. Operating without the ''J'' SRV position indication does not reduce the design or operating basis margin of safety. Primary Containment controls are in place that can effectively deal with the operating condition. In the unlikely event that the ''J'' SRV should cycle open and fail to fully close, sufficient indication would be available to identify and mitigate the occurrence. Thus, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 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 14-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 14-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. 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 23, 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 Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701. 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 the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, 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 Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, 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 application for amendment dated June 17, 1998, 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 Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 18th day of June 1998.

For the Nuclear Regulatory Commission.

**Victor Nerses,**

*Senior Project Manager, Project Directorate I–2, Division of Reactor Projects, Office of Nuclear Reactor Regulation.*

[FR Doc. 98–16652 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–498/499; License Nos. NPF–76, 80 EA 97–341]**

## STP Nuclear Operating Company; STP Nuclear Generating Station; Confirmatory Order Modifying License (Effective Immediately)

### I

STP Nuclear Operating Company (STP or the Licensee) is an NRC Licensee and the holder of Facility Operating License Nos. NPF–76 and NPF–80, issued by the Nuclear Regulatory Commission (NRC or

Commission) pursuant to 10 CFR Part 50 on March 22, 1988 and March 28, 1989 respectfully . The licenses authorize operation of the STP Electric Generating Station (the Station or facility) in accordance with the conditions specified in the license. The facility is located on the Licensee's site in Wadsworth, Texas.

**II**

NRC Office of Investigations (OI) Report Nos. 4–96–035 and 4–96–059 concluded that STP had subjected four employees to a hostile work environment created by the former Electrical/Instrumentation & Controls (E/I&C) division manager in retaliation for the employees' having engaged in protected activities, and had thus violated the Employee Protection requirements, 10 CFR 50.7. The NRC staff, by letter dated January 8, 1998, invited the Licensee to a predecisional enforcement conference (PEC) to discuss the apparent violation, which was fully detailed in that letter. On February 26, 1998, a PEC was held at the NRC offices of NRC Region IV in Arlington, Texas. By letter dated March 12, 1998, the Licensee submitted additional data and information requested by the NRC staff during the PEC.

The Licensee maintains that no violation of 10 CFR 50.7 occurred, and that it took prompt and effective corrective action in response to concerns raised by its employees regarding the behavior of the E/I&C division manager, including discipline in accordance with the STP Constructive Discipline Policy, appropriate reflection in annual performance appraisals of the E/I&C division manager, the provision of peer and management counseling to the E/I&C division manager and assistance from industrial psychologists. The actions culminated in the resignation of the E/I&C division manager from STP in mid-1996. In addition, the Licensee states that it took a number of specific steps to address concerns which arose in the E/I&C Division in 1996. These included the STP President's meetings with division personnel, similar meetings conducted by the Vice President, Nuclear Engineering, and the Design Engineering Department Manager, as well as one-on-one meetings between the new division manager and all division personnel. In these meetings, and in station-wide communications, the Licensee advised employees that it had settled the claims filed by four facility employees with the United States Department of Labor (DOL), which claim alleged violations of the Employee Protection requirements of Section 211 of the Energy Reorganization Act, and the fact that the NRC was considering escalated enforcement action. The Licensee states that it intends to keep station personnel apprised of the results of the NRC's consideration of this matter.

The Licensee maintains that employees have not been deterred from reporting safety concerns as a result of events in the E/I&C division. Specifically, the Licensee states that a 1994 Climate Assessment of employee attitudes in the E/I&C division does not suggest that employees were subject to harassment or are reluctant to use the routine systems for reporting concerns. The Licensee also maintains that annual surveys conducted between 1993 and 1997, both facility-wide and by department, by Behavioral Consultant Services, Inc., do not suggest the existence of a hostile work environment in the E/I&C division. In addition, the Licensee states that implementation of its new Corrective Action Program was reviewed by a team of NRC inspectors in early 1996. Specifically, the NRC team reviewed a sample of Condition Reports and interviewed various engineers regarding their roles and responsibilities to determine whether significant issues were being identified and corrected in a timely fashion and how those problems were documented. The NRC team found that all the interviewed engineers were aware of when and how to document identified problems. See NRC Inspection Report 50–498/96–11; 50–499/96–11 (April 12, 1996).

**III**

The Licensee has planned additional actions to assess the station environment and to enhance safety-consciousness, as described in Attachment D to the March 12, 1998, submission. Specifically, the Licensee plans: (1) ''Comprehensive Cultural Assessments'' to be performed by an independent consultant at 18 to 24 month intervals, and intermediate ''mini'' surveys in selected areas; (2) annual ratings of supervisors and managers by employees via the Licensee's ''Leadership Assessment Tool'; and (3) a mandatory continuing training program for all supervisors and managers. The training program will have the objectives of reinforcing the importance of maintaining a safety-conscious work environment and of assisting managers and supervisors in dealing with conflicts in the work place in the context of a safety-conscious work environment. The training program will also include a specific course entitled ''Safety Speaking.'' During a telephone conversation with the NRC staff on May 29, 1998, the Licensee agreed to include in its mandatory training for all supervisors and managers training on the requirements of 10 CFR 50.7, including, but not limited to, what constitutes protected activity and what constitutes discrimination, and appropriate responses to the raising of safety concerns by employees.

**IV**

Since the Licensee settled the four employee protection complaints prior to an evidentiary hearing before, and prior to a finding that discrimination had occurred by, the United States Department of Labor; since the Licensee took corrective actions as outlined above; and since the Licensee has planned actions to monitor the safety environment and to promote an atmosphere conducive to the raising of safety concerns by employees without fear of retaliation, the NRC staff is satisfied that its concerns regarding employee protection at South Texas Project Electric Generating Station can be resolved by confirming the Licensee's plans for further corrective action by this Order. Accordingly, the staff is exercising its enforcement discretion pursuant to Section VII B.6 of the NRC Enforcement Policy and will not pursue a Notice of Violation or a civil penalty in this case.

By letter dated May 29, 1998, the Licensee consented to issuance of this Order with the commitments described in Section V, below, and to waive its right to a hearing on this Order. The Licensee further consented to the immediate effectiveness of this Order.

I find that the Licensee's commitments, as set forth in Section V, below, are acceptable and necessary and conclude that with these commitments, the Licensee's process for addressing employee protection and safety concerns will be enhanced. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

**V**

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It Is Hereby Ordered, Effective Immediately, That License Nos. NPF–76 and NPF–80 Are Modified As Follows:*

1. Beginning in 1998, the STP Nuclear Operating Company will integrate into

its overall program for enhancing the work environment and safety culture at the facility a ''Comprehensive Cultural Assessment'', as described in Attachment D to the Licensee's March 12, 1998, submission, to be performed by an independent contractor. The Cultural Assessment will include both a written survey of employees (including supervision and management) and baseline contractors, and confidential interviews of selected individuals. The first assessment is scheduled for the second quarter of 1998 and will be performed at least three more times at intervals of 18 to 24 months. Annual ''mini'' surveys will be conducted and shall include, but not be limited to, annual surveys through at least the year 2002. Before conducting each mini-survey, the Licensee will identify to the NRC Regional Administrator the departments and divisions to be surveyed. The Licensee will submit to the NRC for review all Cultural Assessment results, including all intermediate ''mini'' surveys. Within 60 days of receipt of the survey results, the Licensee will provide to the NRC Regional Administrator any plans necessary to address issues raised by the survey results.

2. The STP Nuclear Operating Company will conduct annual ratings of supervisors and managers by employees via the ''Leadership Assessment Tool'', as described in Attachment D to the Licensee's March 12, 1998, submission, through at least the year 2002.

3. The STP Nuclear Operating Company will conduct a mandatory continuing training program for all supervisors and managers. This program will include:

(a) Scheduled training on building positive relationships, as outlined in Attachment D to the Licensee's March 12, 1998, submission. The training program will have the objective of reinforcing the importance of maintaining a safety-conscious work environment and assisting managers and supervisors in dealing with conflicts in the work place in the context of a safety-conscious work environment. The training program also will include a course entitled ''Safely Speaking,'' as described in Attachment D to the Licensee's March 12, 1998, submission; and

(b) Annual training on the requirements of 10 CFR 50.7, through at least the year 2002, including, but not limited to, what constitutes protected activity and what constitutes discrimination, and appropriate responses to the raising of safety concerns by employees. Such training shall stress the freedom of employees in the nuclear industry to raise safety concerns without fear of retaliation by their supervisors or managers.

4. The licensee shall issue a site-wide publication to inform its employees and contractor employees of this Confirmatory Order as well as their rights to raise safety concerns to the NRC and their management without fear of retaliation.

The Regional Administrator, Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

**VI**

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 Enforcement, 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, ATTN: Chief, Rulemaking and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, 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 IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011–8064, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this 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 proceeding. If an extension of time 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 A HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland this 9th day of June 1998.

For the U.S. Nuclear Regulatory Commission.

**Ashok A. Thadani,**

*Deputy Executive Director for Regulatory Effectiveness.*

[FR Doc. 98–16649 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–338]**

## Virginia Electric and Power Company; North Anna Power Station, Unit 1; Confirmatory Order Modifying License Effective Immediately

**I**

Virginia Electric and Power Company (VEPCO, the licensee) is the holder of Facility Operating License No. NPF–4, which authorizes operation of North Anna Power Station (NAPS), Unit 1, located in Louisa County, Viginia.

**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 NAPS, Unit 1, that had corrective action scheduled beyond 1997, the NRC reviewed with VEPCO the schedule of Thermo-Lag corrective actions described in the VEPCO submittal to the NRC dated December 18,1997. Based on the information submitted by VEPCO, the NRC staff has concluded that the schedules presented are reasonable. This conclusion is based

on the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by VEPCO must be completed in accordance with current VEPCO schedules. By letter dated May 14, 1998, the NRC staff notified VEPCO of its plan to incorporate VEPCO's schedule commitment into a requirement by issuance of an order and requested consent from the Licensee. By letter dated May 22, 1998, VEPCO provided its consent to issuance of a Confirmatory Order.

**III**

The Licensee's commitment as set forth in its letter of December 19, 1997, 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 December 18, 1997, 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:

Virginia Electric and Power Company shall complete final implementation of Thermo-Lag 330–1 fire barrier corrective actions at North Anna Power Station, Unit 1, described in the VEPCO submittal to the NRC dated December 18, 1997. Overall work package closeout will be completed by the completion of the next refueling outage scheduled to begin in September 1998.

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, DC 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, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U. S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, SW., Suite 23T85, Atlanta, Georgia 30303, 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, Md., this 15th day of 1998.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 98–16648 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–333]**

## Power Authority of the State of New York; James A. FitzPatrick Nuclear Power Plant; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. DPR–59, issued to Power Authority of the State of New York (the licensee) also known as the New York Power Authority, for operation of the James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York.

### Environmental Assessment

*Identification of the Proposed Action*

The proposed action would exempt the licensee from the requirements of 10 CFR 70.24, which requires in each area in which special nuclear material is handled, used, or stored a monitoring system that will energize clear audible alarms if accidental criticality occurs. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, to designate responsible individuals for safety upon the sounding of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency. The proposed action is in accordance with the licensee's application for exemption dated April 24, 1998.

*The Need for the Proposed Action*

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant, the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored onsite in any given location is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight

percent uranium-235, and because commercial nuclear plant licensees have procedures and features that are designed to prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of special nuclear material at a commercial power reactor. Therefore, the requirements of 10 CFR 70.24 are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

*Environmental Impacts of the Proposed Action*

The Commission has completed its evaluation of the proposed action and concludes that inadvertent or accidental criticality will be precluded through compliance with the James A. FitzPatrick Technical Specifications, the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures.

The proposed exemption would not result in an increase in the probability or consequences of accidents, affect radiological plant effluents, or result in a change in occupational or offsite dose. Therefore, there are no radiological impacts associated with the proposed exemption.

The proposed exemption would not result in a change in nonradiological effluents and will have no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

*Alternatives to the Proposed Action*

Since the Commission has concluded that there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of the James A. FitzPatrick Nuclear Power Plant dated March 1973.

*Agencies and Persons Consulted*

In accordance with its stated policy, on June 4, 1998, the staff consulted with the New York State Official, Jack Spath, of the New York State Research and Development Authority regarding the environmental impact of the proposed action. The State official had no comments.

**Finding of no Significant Impact**

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated April 24, 1998, which is available for public inspection at the Commission's Public Document Room located at 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.

Dated at Rockville, Md., this 17th day of June 1998.

For the Nuclear Regulatory Commission.

**S. Singh Bajwa,**

*Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 98–16647 Filed 6–22–98; 8:45 am]

BILLING CODE 7590–01–P

## PENSION BENEFIT GUARANTY CORPORATION

### Proposed Submission of Information Collections for OMB Review; Comment Request; Multiemployer Plan Regulations

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intention to request extension of OMB approval.

**SUMMARY:** The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of collections of information in the PBGC's regulations on multiemployer plans under the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of the PBGC's intent and solicits public comment on the collections of information.

**DATES:** Comments must be submitted by August 24, 1998.

**ADDRESSES:** Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

**FOR FURTHER INFORMATION CONTACT:** Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY 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. OMB has approved and issued control numbers for the collections of information, described below, in the PBGC's regulations relating to multiemployer plans. (The regulations may be accessed on the PBGC's web site at http://www.pbgc.gov.) The PBGC intends to request that OMB extend its approval of these collections of information for three years.

The PBGC is soliciting public comments to—

- Evaluate whether the proposed collections of information are 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 collections of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments should identify the specific part number(s) of the regulation(s) they relate to.

The collections of information for which the PBGC intends to request extension of OMB approval are as follows:

**1. Termination of Multiemployer Plans (29 CFR Part 4041A) (OMB Control Number 1212–0020)**

Section 4041A(f)(2) of ERISA authorizes the PBGC to prescribe reporting requirements for and other ''rules and standards for the administration of'' terminated multiemployer plans. Section 4041A(c) and (f)(1) of ERISA prohibit the payment by a mass-withdrawal-terminated plan of lump sums greater than $1,750 or of nonvested plan benefits unless authorized by the PBGC.

The regulation requires the plan sponsor of a terminated plan to submit a notice of termination to the PBGC. It also requires the plan sponsor of a mass-withdrawal-terminated plan that is closing out to give notices to participants regarding the election of alternative forms of benefit distribution and to obtain PBGC approval to pay lump sums greater than $1,750 or to pay nonvested plan benefits.

The PBGC uses the information in a notice of termination to assess the likelihood that PBGC financial assistance will be needed. Plan participants and beneficiaries use the information on alternative forms of benefit to make personal financial decisions. The PBGC uses the information in an application for approval to pay lump sums greater than $1,750 or to pay nonvested plan benefits to determine whether such payments should be permitted.

This collection of information is being revised to include certain items that were previously covered under OMB control number 1212–0032 (because they were in a different part of the PBGC's regulations) but that were moved into Part 4041A when the PBGC reorganized its regulations in 1996. As revised, control number 1212–0020 will cover all collection of information requirements in Part 4041A.

The PBGC estimates that plan sponsors each year (1) submit notices of termination for 20 plans, (2) distribute election notices to participants in 15 of those plans, and (3) submit requests to pay benefits or benefit forms not otherwise permitted for 1 of those plans. The estimated annual burden of the collection of information is 48 hours and $13,481.

**2. Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) (OMB Control Number 1212–0023)**

Sections 4203(f) and 4208(e)(3) of ERISA allow the PBGC to permit a multiemployer plan to adopt special rules for determining whether a withdrawal from the plan has occurred, subject to PBGC approval.

The regulation specifies the information that a plan that adopts special rules must submit to the PBGC about the rules, the plan, and the industry in which the plan operates. The PBGC uses the information to determine whether the rules are appropriate for the industry in which the plan functions and do not pose a significant risk to the insurance system.

The PBGC estimates that at most 1 plan sponsor submits a request each year under this regulation. The estimated annual burden of the collection of information is 1 hour and $2,400.

**3. Variances for Sale of Assets (29 CFR Part 4204) (OMB Control Number 1212–0021)**

If an employer's covered operations or contribution obligation under a plan ceases, the employer must generally pay withdrawal liability to the plan. Section 4204 of ERISA provides an exception, under certain conditions, where the cessation results from a sale of assets. Among other things, the buyer must furnish a bond or escrow, and the sale contract must provide for secondary liability of the seller.

The regulation establishes general variances (rules for avoiding the bond/escrow and sale-contract requirements) and authorizes plans to determine whether the variances apply in particular cases. It also allows buyers and sellers to request individual variances from the PBGC. Plans and the PBGC use the information to determine whether employers qualify for variances.

The PBGC estimates that 11 employers submit variance requests to plans, and 2 employers submit variance requests to the PBGC, each year. The estimated annual burden of the collection of information is 1 hour and $2,663.

**4. Reduction or Waiver of Complete Withdrawal Liability (29 CFR Part 4207) (OMB Control Number 1212–0044)**

Section 4207 of ERISA allows the PBGC to provide for abatement of an employer's complete withdrawal liability, and for plan adoption of alternative abatement rules, where appropriate.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. The PBGC uses the information in such a request to determine whether the amendment should be approved.

The PBGC estimates that 100 employers apply to plans for abatement of complete withdrawal liability each year and that 1 plan sponsor requests approval of plan abatement rules each year from the PBGC. The estimated annual burden of the collection of information is 25.5 hours and $15,000.

**5. Reduction or Waiver of Partial Withdrawal Liability (29 CFR Part 4208) (OMB Control Number 1212–0039)**

Section 4208 of ERISA provides for abatement, in certain circumstances, of an employer's partial withdrawal liability and authorizes the PBGC to issue additional partial withdrawal liability abatement rules.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. The PBGC uses the information in such a request to determine whether the amendment should be approved.

The PBGC estimates that 1,000 employers apply to plans for abatement of partial withdrawal liability each year and that 1 plan sponsor requests approval of plan abatement rules each year from the PBGC. The estimated annual burden of the collection of information is 250.5 hours and $150,000.

**6. Allocating Unfunded Vested Benefits to Withdrawing Employers (29 CFR Part 4211) (OMB Control Number 1212–0035)**

Section 4211(c)(5)(A) of ERISA requires the PBGC to prescribe how plans can, with PBGC approval, change the way they allocate unfunded vested benefits to withdrawing employers for purposes of calculating withdrawal liability.

The regulation prescribes the information that must be submitted to the PBGC by a plan seeking such approval. The PBGC uses the information to determine how the amendment changes the way the plan allocates unfunded vested benefits and how it will affect the risk of loss to plan participants and the PBGC.

The PBGC estimates that 5 plan sponsors submit approval requests each year under this regulation. The estimated annual burden of the collection of information is 10 hours.

**7. Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR Part 4219) (OMB Control Number 1212–0034)**

Section 4219(c)(1)(D) of ERISA requires that the PBGC prescribe regulations for the allocation of a plan's total unfunded vested benefits in the event of a ''mass withdrawal.'' ERISA section 4209(c) deals with an employer's liability for *de minimis* amounts if the employer withdraws in a ''substantial withdrawal.''

The reporting requirements in the regulation give employers notice of a mass withdrawal or substantial withdrawal and advise them of their rights and liabilities. They also provide notice to the PBGC so that it can monitor the plan, and they help the PBGC assess the possible impact of a withdrawal event on participants and the multiemployer plan insurance program.

The PBGC estimates that there is at most 1 mass withdrawal and 1 substantial withdrawal per year. The plan sponsor of a plan subject to a withdrawal covered by the regulation provides notices of the withdrawal to the PBGC and to employers covered by the plan, liability assessments to the employers, and a certification to the PBGC that assessments have been made. (For a mass withdrawal, there are 2 assessments and 2 certifications that deal with 2 different types of liability. For a substantial withdrawal, there is 1 assessment and 1 certification (combined with the withdrawal notice to the PBGC).) The estimated annual burden of the collection of information is 4 hours and $3,939.

**8. Procedures for PBGC Approval of Plan Amendments (29 CFR Part 4220) (OMB Control Number 1212–0031)**

Under section 4220 of ERISA, a plan may within certain limits adopt special plan rules regarding when a withdrawal from the plan occurs and how the withdrawing employer's withdrawal liability is determined. Any such special rule is effective only if, within 90 days after receiving notice and a copy of the rule, the PBGC either approves or fails to disapprove the rule.

The regulation provides rules for requesting the PBGC's approval of an amendment. The PBGC needs the required information to identify the plan, evaluate the risk of loss, if any, posed by the plan amendment, and determine whether to approve or disapprove the amendment.

The PBGC estimates that 3 plan sponsors submit approval requests per year under this regulation. The estimated annual burden of the collection of information is 1.5 hours.

**9. Mergers and Transfers Between Multiemployer Plans (29 CFR Part 4231) (OMB Control Number 1212–0022)**

Section 4231(a) and (b) of ERISA requires plans that are involved in a merger or transfer to give the PBGC 120 days' notice of the transaction and provides that if the PBGC determines that specified requirements are satisfied, the transaction will be deemed not to be in violation of ERISA section 406(a) or (b)(2) (dealing with prohibited transactions).

This regulation sets forth the procedures for giving notice of a merger or transfer under section 4231 and for requesting a determination that a transaction complies with section 4231.

The PBGC uses information submitted by plan sponsors under the regulation to determine whether mergers and transfers conform to the requirements of ERISA section 4231 and the regulation.

The PBGC estimates that there are 20 transactions each year for which plan sponsors submit notices and approval requests under this regulation. The estimated annual burden of the collection of information is 5 hours and $2,500.

**10. Notice of Insolvency (29 CFR Part 4245) (OMB Control Number 1212–0033)**

If the plan sponsor of a plan in reorganization under ERISA section 4241 determines that the plan may become insolvent, ERISA section 4245(e) requires the plan sponsor to give a ''notice of insolvency'' to the PBGC, contributing employers, and plan participants and their unions in accordance with PBGC rules.

For each insolvency year under ERISA section 4245(b)(4), ERISA section 4245(e) also requires the plan sponsor to give a ''notice of insolvency benefit level'' to the same parties.

This regulation establishes the procedure for giving these notices. The PBGC uses the information submitted to estimate cash needs for financial assistance to troubled plans. Employers and unions use the information to decide whether additional plan contributions will be made to avoid the insolvency and consequent benefit suspensions. Plan participants and beneficiaries use the information in personal financial decisions.

The PBGC estimates that 9 plan sponsors give notices each year under this regulation. The estimated annual burden of the collection of information is 1 hour and $7,633.

**11. Duties of Plan Sponsor Following Mass Withdrawal (29 CFR Part 4281) (OMB Control Number 1212–0032)**

Section 4281 of ERISA provides rules for plans that have terminated by mass withdrawal. Under section 4281, if nonforfeitable benefits exceed plan assets, the plan sponsor must amend the plan to reduce benefits. If the plan nevertheless becomes insolvent, the plan sponsor must suspend certain benefits that cannot be paid. If available resources are inadequate to pay guaranteed benefits, the plan sponsor must request financial assistance from the PBGC.

The regulation requires a plan sponsor to give notices of benefit reduction, notices of insolvency and annual updates, and notices of insolvency benefit level to the PBGC and to participants and beneficiaries and, if necessary, to apply to the PBGC for financial assistance.

The PBGC uses the information it receives to make determinations required by ERISA, to identify and estimate the cash needed for financial assistance to terminated plans, and to verify the appropriateness of financial assistance payments. Plan participants and beneficiaries use the information to make personal financial decisions.

This collection of information is being revised to exclude certain items that were previously covered under OMB control number 1212–0032 but that were moved into Part 4041A when the PBGC reorganized its regulations in 1996. As revised, control number 1212–0032 will cover only collection of information requirements in Part 4281.

The PBGC estimates that plan sponsors each year (1) give benefit reduction notices for 1 plan, (2) give notices of insolvency for 2 plans, (3) give notices of insolvency benefit level and annual updates for 23 plans, and (4) submit requests for financial assistance for 18 plans. The estimated annual burden of the collection of information is 1 hour and $66,900.

Issued in Washington, DC, this 18th day of June 1998.

**Stuart A. Sirkin,**

*Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.*

[FR Doc. 98–16679 Filed 6–22–98; 8:45 am]

BILLING CODE 7708–01–P

## POSTAL RATE COMMISSION

### Facility Visit

**AGENCY:** Postal Rate Commission.

**ACTION:** Notice of visit.

**SUMMARY:** Arrangements have been made for members of the Commission and certain advisory staff members to visit the World Headquarters and Technology Center of Pitney Bowes in Stamford, Connecticut. The purpose is to gain a better understanding of new and evolving technologies and their potential impact on the nature of the mailstream and postal operations. Information obtained during the visit will assist Commissioners and staff in the execution of their duties.

**DATES:** The tour is scheduled for Monday, July 20, 1998.

**FOR FURTHER INFORMATION CONTACT:** Steven L. Sharfman, General Counsel, (202) 789–6820.

**SUPPLEMENTARY INFORMATION:** A report of the visit will be filed in the Commission's Docket Room.

(Authority: 39 U.S.C. 404(b), 3603, 3622–3624, 3661, 3662)

Dated: June 17, 1998.

**Margaret P. Crenshaw,**

*Secretary.*

[FR Doc. 98–16611 Filed 6–22–98; 8:45 am]

BILLING CODE 7710–FW–M

## UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

### Sunshine Act Meeting

**TIMES AND DATES:** 1:00 p.m., Monday, June 29, 1998; 8:30 a.m., Tuesday, June 30, 1998.

**PLACE:** Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room.

**STATUS:** June 29 (Closed); June 30 (Open).

**MATTERS TO BE CONSIDERED:**

Monday, June 29—1:00 p.m. (Closed)

1. Postal Rate Commission Opinion and Recommended Decision in Docket No. R97–1.
2. Post Office Online.
3. Compensation Issues.

Tuesday, June 30—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, June 1–2, 1998.
2. Remarks of the Postmaster General/ Chief Executive Officer.
3. Consideration of Board Resolution on Audit Committee Charter.
4. Capital Investments.
   a. Delivery Operations Information System (DOIS)—R&D.
   b. 546 Delivery Bar Code Sorter (DBCS) Output Subsystem Kits.
5. Tentative Agenda for the August 3–4, 1998, meeting in Harrisburg, Pennsylvania.

**CONTACT PERSON FOR MORE INFORMATION:** Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

**Thomas J. Koerber,**

*Secretary.*

[FR Doc. 98–16722 Filed 6–18–98; 4:19 pm]

BILLING CODE 7710–12–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–40096; File No. SR–CBOE–98–13]**

### Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change By the Chicago Board Options Exchange, Inc. Relating to the Automatic Execution of Small Retail Orders in Equity Options

June 16, 1998.

### I. Introduction

On April 6, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Interpretation and Policy .02 under CBOE Rule 6.8 governing the operations of the Exchange's Retail Automatic Execution System (''RAES''). On May 13, 1998, the CBOE filed with the Commission Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on May 21, 1998.[4] The Commission received no comments regarding the proposal. This order approves the proposal, as amended, on an accelerated basis.

### II. Description of the Proposal

Presently, under CBOE Rule 6.8(a)(ii), the execution price automatically attached to an equity option order executed in RAES is the prevailing market quote on the CBOE at the time the order is entered into the system. If at that same time another market is displaying a better quote for the option, under CBOE Rules the order is not automatically executed, but instead, pursuant to Interpretation and Policy .02 under CBOE Rule 6.8, is rerouted for non-automated handling. In most cases, especially where the market away from the CBOE is better by only one ''tick'' (*i.e.*, by one minimum quote interval), the order is usually manually executed on the CBOE at the better price.

The CBOE now proposes to amend Interpretation and Policy .02 to automate the process of filling equity option orders through RAES at any better price being quoted in another market, so long as the price is better by no more than one tick (''RAES Auto-Step-Up''). If the market away from the CBOE is better than the CBOE's quoted market by more than one tick, the existing procedure will continue to apply whereby the order is rerouted out of RAES to the Designated Primary Market Maker or Order Book Official for non-automated handling.

While the Exchange expects that eventually the Floor Procedure Committees will determine to apply the RAES Auto-Step-Up to all or nearly all option classes traded on the floor, the proposed rule change would permit the program to be initiated on a class by class or trading station by trading station basis.[5] To provide for the orderly introduction of this change to the Exchange's RAES procedures and to measure its effect before expanding it to equity options floor-wide, the Exchange intends to introduce the changed RAES procedure to selected classes of equity

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Timothy Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Ken Rosen, Attorney, Division of Market Regulation, Commission, dated May 11, 1998 (''Amendment No. 1'').

[4] Securities Exchange Act Release No. 39992 (May 14, 1998), 63 FR 28019.

[5] *See* Amendment No. 1.

options during an initial evaluation period, and then over time to expand the changed procedure to cover a larger number of equity options unless, upon evaluation, such expansion appears not to be warranted. Members will be given advance notice of each class of options to which these revised procedures apply.

In addition, the proposed rule change authorizes the Chairman of the appropriate Floor Procedure Committee or his or her designee to disable RAES Auto-Step-Up for specified classes or series of options or in respect of specified markets when ''quotes in such options or markets are deemed not to be reliable.'' This authority would be expected to be exercised in circumstances such as communication or system problems, fast markets, and similar situations that could make quotes unreliable. For instance, the Exchange is infrequently faced with delays in the dissemination of quotes because of queues on the Options Price Reporting Authority (''OPRA''). When the Exchange is made aware of OPRA delays, it knows that there is a delay in the dissemination of quotes from the other exchanges. As a result, those quotes likely would be stale. Under that circumstance, the Chairmen of the Floor Procedure Committees might decide to exercise their exemptive authority under the proposal. The Exchange has represented to the Commission that it expects such authority to be exercised infrequently.[6]

## III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act. In particular, the Commission believes the proposal is consistent with Section 3(f)[7] and Section 6(b)(5)[8] of the Act. Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest.

By automating the execution of eligible retail orders for equity options through the RAES Auto-Step-Up, the amended Interpretation and Policy .02 should help to insure that investors receive prompt, automatic execution of RAES orders at the best available prices, even if those prices are being quoted in a market other than the Exchange, when the better prices in other markets do not improve on the CBOE's market by more than one tick. This proposal should minimize the delay inherent in manually handling orders in this circumstance, and thereby reduce the risk to investors that, as a result of an adverse move in the market while their orders are being manually handled, they may receive an inferior execution.

Moreover, the amendment to Interpretation and Policy .02 is consistent with Section 3(f) of the Act. Among other things, that Section requires the Commission to consider whether proposed rule changes will promote competition. The RAES Auto-Step-Up feature, when activated, should enhance competition by requiring executions on the CBOE at better prices found on other exchanges.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. This will permit customers to receive the benefits of automatic price improvement under the proposed rule change more quickly. In addition, the Commission recognizes that orders are already eligible for manual price improvement when routed to the floor. This proposal merely automates that price improvement for those options to which the Auto-Step-Up feature applies. Moreover, the Commission notes that the full 21 day comment period has expired, and no adverse comments were received.

## IV. Conclusion

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–CBOE–98–13), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98–16583 Filed 6–22–98; 8:45 am]

BILLING CODE 8010–01–M

[6] *See* Amendment No. 1.

[7] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

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## DEPARTMENT OF TRANSPORTATION

### Office of The Secretary

### Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on (1) Incident and Annual Reports for Gas Pipeline Operators 2137–0522, was published on April 14, 1998 [63 FR 18251–18252]; (2) Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting 2137–0047, was published on April 14, 1998 [63 FR 18251–18252]; and (3) Reporting of Safety-Related Conditions on Gas, Hazardous Liquid, and Carbon Dioxide Pipelines and Liquefied Natural Gas Facilities 2137–0578, was published on April 14, 1998 [63 FR 18251–18252].

**DATES:** Comments on this notice must be received on or before July 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Marvin Fell, Office of Pipeline Safety Research and Special Programs Administration, U.S. Department of Transportation 400 Seventh Street, SW., Washington, D.C. 20590, (202) 366–6205, or fax (202) 36604566 or by electronic mail ''marvin.fell@rspa.dot.gov''.

**SUPPLEMENTARY INFORMATION:**

Research and Special Programs Administration (RSPA)

*(1). Title:* Incident and Annual Reports for Gas Pipeline Operators.

*OMB Control Number:* 2137–0522.

*Form(s):* 7100.1, 7100.2, 7100.1–1, 7100.2–1.

*Type of Request:* Extension of a currently approved collection.

*Affected Public:* Gas pipeline operators.

*Abstract:* 49 CFR 191 requires that gas pipeline operators report certain pipeline incidents that involve injuries, fatalities, fires, property damage or environmental damage. Additionally, gas pipeline operators must submit annual reports on their operations to the Department of Transportation.

*Estimated Annual Burden Hours:* 6717 hours.

*(2). Title:* Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.

*OMB Number:* 2137–0047.

*Form(s):* DOT 7000–1.

*Type of Request:* Extension of a currently approved collection.

*Affected Public:* Hazardous Liquid Pipeline Operators.

*Abstract:* Federal statute requires that hazardous liquid pipeline operators prepare and maintain written records

and reports and to make them available to the Department of Transportation on request. Additional 49 CFR 195 requires hazardous liquid operators report accidents to the Department of Transportation.

*Annual Estimate of Burden:* 49,210 hours.

*(3). Title:* Reporting of Safety-Related Conditions on Gas, Hazardous Liquid, and Carbon Dioxide Pipelines and Liquefied Natural Gas Facilities.

*OMB Number:* 2137–0578.

*Type of Request:* Extension of a currently approved collection.

*Form(s):* N/A.

*Affected Public:* Pipeline and Liquefied Natural Gas facility operators.

*Abstract:* 49 U.S.C. 60102 requires each operator of a pipeline facility (except master meter) to submit to the Department of Transportation a written report on any safety-related condition that causes or has caused a significant change or restriction in the operation of pipeline facility or a condition that is a hazard to life, property or the environment.

*Annual Estimated Burden Hours:* 282.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention RSPA Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on June 16, 1998.

**Phillip A. Leach,**

*Clearance Officer, United States Department of Transportation.*

[FR Doc. 98–16662 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF TRANSPORTATION

### Aviation Proceedings, Agreements Filed During the Week Ending June 12, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

*Docket Number:* OST–98–3951.

*Date Filed:* June 11, 1998.

*Parties:* Members of the International Air Transport Association.

*Subject:* PTC2 Telex Mail Vote 943, Algeria-Europe/Mideast/Western Africa, r1-Economy Class fares r2-Normal/First/Interm. Intended effective date: June 22, 1998

**Cynthia Hatten,**

*Federal Register Liaison.*

[FR Doc. 98–16602 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF TRANSPORTATION

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending June 12, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* OST–98–3946.

*Date Filed:* June 9, 1998.

*Due Date for Answers, Conforming Applications, or Motions to Modify Scope:* June 16, 1998.

*Description*

Application of United Parcel Service Co. pursuant to the Department's Notice served May 26, 1998, and Subpart Q, requests a certificate of public convenience and necessity authorizing it to engage in all-cargo foreign air transportation between any point or points in the United States via intermediate points to any point or points in Colombia and beyond.

*Docket Number:* OST–98–3955.

*Date Filed:* June 12, 1998.

*Due Date for Answers, Conforming Applications, or Motions to Modify Scope:* July 10, 1998.

*Description*

Application of United Parcel Service Co. pursuant to 49 U.S.C. Section 41102, and Subpart Q of the Regulations, requests an amendment to its certificate of public convenience and necessity for Route 557 so as to authorize it to engage in the scheduled foreign air transportation of property and mail between any point or points in the United States and any point or points in the following countries, in addition to the points currently contained in UPS's Certificate for Route 557: Albania, Armenia, Aruba, Azerbaijan, Belarus, Bosnia, Botswana, Bulgaria, Cote d' Ivoire, Costa Rica, Croatia, Czech Republic, Dominican Republic, El Salvador, Estonia, Ethiopia, Georgia, Ghana, Greece, Guatemala, Honduras, Hungary, Iceland, Jordan, Kuwait, Kyrgyz Republic, Latvia, Lithuania, Macao, Macedonia, Malawi, Malta, Moldova, Namibia, The Netherlands Antilles, Nicaragua, Poland, Peru, Qatar, Slovakia, Slovenia, Tajikistan, Tanzania, Trinidad and Tobago, Turkmenistan, Uganda, Uzbekistan, and Zaire.

**Cynthia Hatten,**

*Federal Register Liaison.*

[FR Doc. 98–16603 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activity Under OMB Review

**AGENCY:** Department of Transportation, Federal Aviation Administration (DOT/FAA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) this notice announces that the information collection request described below has been forwarded to the Office of Management and Budget (OMB) for review. The FAA is requesting an emergency clearance by July 14, 1998, in accordance with 5 CFR 1320.13. The following information describes the nature of the information collection and its expected burden.

**SUPPLEMENTARY INFORMATION:** .

*Title:* Inflight Medical Incident Report.

*Need:* The Aviation Medical Assistance Act of 1998 directs the Administrator of the Federal Aviation Administration to reevaluate the equipment in medical kits and emergency training requirements for flight attendants, and to determine whether automatic external defibrillators should be required equipment on air carriers and possibly at airports. To make this determination,

the Act directs, in part, that a major air carrier shall make a good faith effort to obtain, and submit quarterly reports to the Federal Aviation Administration on in-flight medical emergencies that result in death or the threat of death.

*Respondents:* Approximately 30 air carriers.

*Frequency:* On occasion over the course of one year.

*Burden:* 274 hours.

*For Further Information:* or to obtain a copy of the request for clearance submitted to OMB, you may contact Ms. Judi Citrenbaum at the: Federal Aviation Administration, Aeromedical Standards Branch, AAM–210, 800 Independence Avenue, SW, Washington, DC 20591.

Comments may be submitted to the agency at the address above.

Issued in Washington, DC on June 17, 1998.

**Patricia W. Carter,**

*Acting Manager, Corporate Information Division, ABC–100.*

[FR Doc. 98–16633 Filed 6–22–98; 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 Key Field Airport, Meridian, 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 Key Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comment must be received on or before July 23, 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 Tom Williams, Executive Director of the Meridian Airport Authority at the following address: Post Office Box 4351, Meridian, MS 39304–4351.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Meridian Airport Authority under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** David Shumate, Project Manager, 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 Key Field 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 June 15, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by Meridian Airport Authority 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 October 3, 1998.

The following is a brief overview of the application.

*PFC Application Number:* 98–05–C–00–MEI.

*Level of the proposed PFC:* $3.00.

*Proposed charge effective date:* 12–1–2000.

*Proposed charge expiration date:* 5–31–2000.

*Total estimated net PFC revenue:* $121,650.

*Estimated PFC revenues to be used on projects in this application:* $121,650.

*Brief description of proposed projects:* Airfield lighting rehabilitation; Taxiway A rehabilitation; Terminal canopy/rehabilitation design; Terminal canopy/rehabilitation; Construct equipment building.

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 office of the Meridian Airport Authority.

Issued in Jackson, Mississippi, on June 16, 1998.

**Wayne Atkinson,**

*Manager, Airports District Office, Southern Region, Jackson, Mississippi.*

[FR Doc. 98–16634 Filed 6–22–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 30186 (Sub–No. 3)]**

### Tongue River Railroad Company—Construction and Operation—in Rosebud and Big Horn Counties, MT

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of Construction and Operation Application and Adoption of Initial Procedural Schedule.

**SUMMARY:** The Board is publishing notice of an application filed by the Tongue River Railroad Company (TRRC) seeking authority to construct and operate 17.3 miles of track, called the Western Alignment, to be built between Decker, MT, and a point 17.3 miles north of Decker, to connect with the rail line previously approved for construction in *Tongue River Railroad Company—Rail Construction and Operation—Ashland to Decker, Montana,* Finance Docket No. 30186 (Sub-No. 2) (STB served Nov. 8, 1996) (*Tongue River II*). The Western Alignment is proposed as an alternative to a routing called the Four Mile Creek Alternative (herein, the Four Mile Creek Route) approved in *Tongue River II*. The routing of the Western Alignment separates from TRRC's approved Four Mile Creek routing approximately 20.8 miles south of the point at which the line connects with TRRC's approved line routing between Ashland and Miles City, MT, and extends southwest to the Spring Creek/Decker area of southeastern Montana, terminating near Decker where it will connect with The Burlington Northern and Santa Fe Railway Company's Kennecott Spur.

The Board is issuing a procedural schedule establishing filing dates for comments and replies on whether this application meets the criteria of 49 U.S.C. 10901. The Board may subsequently issue another notice setting forth a procedural schedule for the filing of any additional pleadings after completion of the necessary environmental analysis, if appropriate.

**DATES:** This notice is effective on June 23, 1998. Pleadings must be filed in accordance with the schedule set forth

in the Appendix to this notice. All filings, except notices of intent to participate, must be concurrently served on all parties of record and must be accompanied by a certificate of service.

**ADDRESSES:** Send an original and 10 copies of all pleadings referring to STB Finance Docket No. 30186 (Sub-No. 3) to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. A copy of each comment shall concurrently be served upon TRRC's representative: Betty Jo Christian, Esq., Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036, (202) 429–3000, FAX (202) 429–3902. One copy of each pleading must also be served upon: Peter Young, Federal Energy Regulatory Commission, 888 First St. N.E., Washington, DC 20426.[1]

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695].

**SUPPLEMENTARY INFORMATION:** The Board's review of construction applications is governed by 49 U.S.C. 10901 and by the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370d (NEPA), and related environmental laws. Along with its application, TRRC has submitted a renewed petition[2] to establish a procedural schedule for this proceeding.[3] The schedule proposed by TRRC would establish due dates for submissions and Board action, both in considering the transportation merits of the application and in carrying out the environmental review process. The Board is adopting only that portion of TRRC's procedural schedule that sets due dates for filing comments (including supporting or opposing evidence) on issues involving whether or not the application meets the statutory criteria of 49 U.S.C. 10901, and for filing replies to those comments. The Board will not, however, set a date for issuance of a final decision on the merits of the application. Nor will we establish a procedural schedule for our environmental review of the new application. Rather, as discussed below, we will initiate the environmental review process now, and establish a procedural schedule for submission of any additional pleadings and issuance of a final decision upon completion of that process.

We are not adopting TRRC's proposal that we set an environmental procedural schedule because the Board's environmental analysis depends on input from many sources, including Federal and state agencies, and at this point it is impossible to predict how long the environmental review process will take. Our experience has shown that the preparation of a NEPA document in a proceeding such as this, where a number of environmental issues may exist generally, does not lend itself to a structured time limit. Because we would be unable to assure compliance with TRRC's proposed schedule even if we adopted it, we see no point in seeking public comment on it. Rather, we will adopt a schedule for receiving comments and replies on whether the application meets the statutory criteria in 49 U.S.C. 10901. The schedule we are adopting here will accord all parties due process because it provides ample time for the submission of comments and replies. In short, the schedule we are adopting will allow for adequate public participation and the development of a sufficient record to allow the Board to determine whether the proposed construction meets the criteria of section 10901.

In this proceeding, we will not issue a decision determining whether the proposed construction meets the statutory criteria in 49 U.S.C. 10901 prior to completion of the environmental review process. TRRC has not requested this action. Our decision on the merits will follow completion of the environmental review process and we will address both transportation and environmental issues in that decision.

We are requiring TRRC to publish notices setting forth the schedule we are adopting here, and to certify to us that it has done so. In addition to setting forth the procedural schedule, the new notices must state that anyone who intends to participate as a party of record by filing comments must file with the Secretary of the Board an original and 10 copies of a notice of intent to participate in accordance with the attached schedule. In order to facilitate service of pleadings on parties of record, the Board will issue a list of those persons who have given notice of their intent to participate. Nonparties may obtain copies of pleadings through the Board's copy contractor, DC News & Data, Inc., 1925 K Street N.W., Suite 210, Washington DC 20006. Telephone (202) 289–4357.

Turning to the environmental review, the Board's Section of Environmental Analysis (SEA) shortly will issue a notice of intent to prepare a supplement to the Final Environmental Impact Statement issued in *Tongue River II* (herein, the Supplement) and in that document will seek comments regarding the environmental scope of, and potential environmental concerns and issues to be addressed in, this case. Under our rules implementing NEPA, and the rules of the Council on Environmental Quality, it appears that a Supplement is the appropriate means of reviewing TRRC's application for the Western Alignment. *See* 49 CFR 1105.10(a)(5); 40 CFR 1502.9(c). It is premature to determine the scope of the Supplement at this time. Before doing so, SEA will review any comments on the notice of intent, verify the information in TRRC's environmental report, and consult with the appropriate Federal and state agencies to identify the key environmental issues to be addressed in the Supplement.

Copies of the application, including the Environmental Report, are available for public inspection at the offices of either the Surface Transportation Board or the applicant, Tongue River Railroad Company, 550 North 31st Street, Suite 250, P.O. Box 1181, Billings, MT 59102.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: June 15, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

**Vernon A. Williams,**

*Secretary.*

## Appendix—Procedural Schedule

June 23, 1998—Publication of notice adopting procedural schedule.

June 30, 1998—Due date for publication by TRRC of newspaper notices announcing this procedural schedule.

July 13, 1998—Due date for notices of intent to participate as a party of record.

[1] Administrative Law Judge Young has been appointed to resolve all disputes on discovery issues.

[2] TRRC's initial request for establishment of a procedural schedule was denied by decision served March 24, 1998.

[3] Northern Cheyenne Tribe and Native Action, Inc., filed a reply to TRRC's request for a procedural schedule. Great Northern Properties Limited Partnership and Northern Plains Resource Council, Inc., also filed a reply to TRRC's petition. These replies are primarily directed to the environmental issues raised here and the schedule contemplated for their resolution. Since we are adopting a procedural schedule only for dealing with non-environmental issues, these petitions need not be addressed here. The United Transportation Union-General Committee of Adjustment and United Transportation Union-Montana State Legislative Board also replied jointly to TRRC's petition, raising concerns about technical compliance with our notification rules and the fairness or openness of our actions in this case. As discussed below, the procedural schedule we are adopting here provides adequate notice as well as ample opportunity for a full and thorough evaluation of all of the issues involved here.

September 16, 1998—Due date for comments in support of or opposition to the application.

November 2, 1998—Due date for replies to comments.

[FR Doc. 98–16530 Filed 6–22–98; 8:45 am]

BILLING CODE 4915–00–P

## UNITED STATES ENRICHMENT CORPORATION

### Sunshine Act Meeting

**AGENCY:** United States Enrichment Corporation.

**SUBJECT:** Board of Directors.

**TIME AND DATE:** 6:00 p.m., Friday, June 19, 1998.

**PLACE:** Telephonic meeting.

**STATUS:** The meeting will be closed to the public.

**MATTER TO BE CONSIDERED:** Privatization of the Corporation.

**CONTACT PERSON FOR MORE INFORMATION:** Elizabeth Stuckle at 301/564–3399.

Dated: June 18, 1998.

**William H. Timbers, Jr.,**

*President and Chief Executive Officer.*

[FR Doc. 98–16730 Filed 6–18–98; 4:55 pm]

BILLING CODE 8720–01–M

## UNITED STATES ENRICHMENT CORPORATION

### Sunshine Act Meeting (Revised Notice of Meeting)

**AGENCY:** United States Enrichment Corporation.

**SUBJECT:** Board of Directors.

**TIME AND DATE:** 9:30 a.m., Saturday, June 20, 1998 (previously scheduled for June 19, 1998).

**PLACE:** Telephonic meeting.

**STATUS:** The meeting will be closed to the public.

**MATTER TO BE CONSIDERED:** Privatization of the Corporation.

**CONTACT PERSON FOR MORE INFORMATION:** Elizabeth Stuckle at 301/564–3399.

Dated: June 19, 1998.

**William H. Timbers, Jr.,**

*President and Chief Executive Officer.*

[FR Doc. 98–16806 Filed 6–19–98; 2:41 pm]

BILLING CODE 8720–01–M

## UNITED STATES INFORMATION AGENCY

### Privacy Act of 1974; System of Records

**AGENCY:** United States Information Agency.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), the United States Information Agency (USIA) is issuing notice of our intent to amend the system of records entitled the Employee Payroll and Retirement System, USIA–20, to include a new routine use. The disclosure is required by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, Pub. L. 104–193). We invite public comment on this publication.

**DATE:** Persons wishing to comment on the proposed routine use must do so by July 23, 1998.

**EFFECTIVE DATES:** The proposed routine use will become effective as proposed without further notice on [insert date 30 days from date of publication] unless comments dictate otherwise.

**ADDRESSES:** Interested individuals may comment on this publication by writing to Lola L. Secora, FOIA/PA Officer, USIA, 301 4th Street, SW, Room M–29, Washington, DC 20547; fax number (202) 205–0374; or email address: lsecora@usia.gov. All comments received will be available for public inspection at that address.

**FOR FURTHER INFORMATION CONTACT:** Lola L. Secora, FOIA/PA Officer, USIA, 301 4th Street, SW, Washington, DC 20547; telephone (202) 619–5499; fax number (202) 205–0374; or email address: lsecora@usia.gov.

**SUPPLEMENTARY INFORMATION:** Pursuant to Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the United States Information Agency will disclose data from its Employee Payroll and Retirement System of records to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for use in the National Database of New Hires, part of the Federal Parent Locator Service (FPLS) and Federal Tax Offset System, DHHS/OCSE No. 09–90–0074. A description of the Federal Parent Locator Service may be found at 62 FR 51663 (October 2, 1997).

FPLS is a computerized network through which States may request location information from Federal and State agencies to find non-custodial parents and their employers for purposes of establishing paternity and security support. On October 1, 1997, the FPLS was expanded to include the National Directory of New Hires, a database containing employment information on employees recently hired, quarterly wage data on private and public sector employees, and information on unemployment compensation benefits. On October 1, 1998, the FPLS will be expanded further to include a Federal Case Registry. The Federal Case Registry will contain abstracts on all participants involved in child support enforcement cases. When the Federal Case Registry is instituted, its files will be matched on an ongoing basis against the files in the National Directory of New Hires to determine if an employee is a participant in a child support case anywhere in the country. If the FPLS identifies a person as being a participant in a State child support case, that State will be notified. State requests to the FPLS for location information will also continue to be processed after October 1, 1998.

When individuals are hired by the United States Information Agency, we may disclose to the FPLS their names, social security numbers, home addresses, dates of birth, dates of hire, and information identifying us as the employer. We also may disclose to FPLS names, social security numbers, and quarterly earnings of each United States Information Agency employee, within one month of the end of the quarterly reporting period.

Information submitted by the United States Information Agency to the FPLS will be disclosed by the Office of Child Support Enforcement to the Social Security Administration for verification to ensure that the social security number provided is correct. The data disclosed by the United States Information Agency to the FPLS will also be disclosed by the Office of Child Support Enforcement to the Secretary of the Treasury for use in verifying claims for the advance payment of the earned income tax credit or to verify a claim of employment on a tax return. We are also making other changes required to update the Agency's system of records. From page 10659, FR Vol. 62, No. 45, Friday, March 7, 1997, Notices, change USIA–34 to read: USIA–41, System Name: Office of Civil Rights Complaint Files—OCR. Accordingly, the USIA–20. Employee Payroll and Retirement System—M/CF, originally published in the FR's Privacy Act Issuances, 1995 Compilation, and most recently amended at FR, Vol. 62, No. 45, March 7, 1997 is further amended by addition of the following routine use:

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

* * * * *

The names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer

identifying information, and State of hire of employees may be disclosed as a routine use to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform law, Pub. L. 104–193).

Dated: June 17, 1998.

**Les Jin,**

*General Counsel.*

### Narrative Statement

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 requires Federal agencies and instrumentalities to transmit information about employees newly hired and quarterly earnings to a National Directory of New Hires (NDNH) at the Department of Health and Human Services (DHHS). Pub. L. 104–193, SS316(f), codified at 42 U.S.C. 653.

Agencies must publish a notice in the **Federal Register** announcing that a new ''routine use'' will be added to the agency's Privacy Act system of records covering payroll information.

[FR Doc. 98–16589 Filed 6–22–98; 8:45 am]

BILLING CODE 8230–01–?

## UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

### Notice of Availability of the Finding of No Significant Impact for the Construction of the New Fountain Green State Fish Hatchery

**AGENCY:** The Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission).

**ACTION:** Notice of Availability of the Finding of No Significant Impact (FONSI).

**SUMMARY:** On June 12, 1998, Michael C. Weland, Executive Director of the Utah Reclamation Mitigation and Conservation Commission signed the Finding of No Significant Impact (FONSI) which documents the decision to fund construction of the new Fountain Green State Fish Hatchery in Sanpete County, Utah. The hatchery will be reconstructed near the city of Fountain Green as a fish, wildlife and recreation feature of the Bonneville Unit of the Central Utah Project. The Mitigation Commission and the Utah Division of Wildlife Resources documented the environmental effects of constructing the new hatchery in an environmental assessment (EA). The Draft EA was developed with public input and the Final EA refined based upon public comment. The Commission has found the EA adequate for its decision to fund the new construction of the Proposed Action and has issued its FONSI in accordance with the Commission's NEPA Rule (43 CFR Part 10010.20).

The hatchery and associated features to be constructed are supported by the 1998 Revised Fish Hatchery Production Plan and its EA and FONSI, prepared in accordance with and in fulfillment of the Central Utah Project Completion Act of 1992 (Titles II through VI of Public Law 102–575).

Funding the Utah Division of Wildlife Resources to construct the new Fountain Green State Fish Hatchery continues the effort in meeting the sport fish recreation and native fish recovery and conservation needs identified in the Revised Fish Hatchery Production Plan. Of the alternatives analyzed under the EA, the Preferred Alternative, which this decision implements, increases fish production, reduces fish disease risks, increases educational opportunities, decreases effluent total suspended solids and increases employee and visitor safety.

The U.S. Fish and Wildlife Service's planning aid letter issued under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401; as amended, 16 U.S.C. 661 *et seq.*) stated that the Fish and Wildlife Service is supportive of the Preferred Alternative. Consultation with the U.S. Fish and Wildlife Service indicated that no threatened or endangered species will be impacted by the Preferred Alternative. No wetlands will be impacted by construction, and none of the environmental impacts of this action are considered significant or highly controversial.

The action is related to other potential future actions, specifically the improvement or construction of other State, Federal or Tribal fish hatcheries. The future construction projects will require separate NEPA compliance. The programmatic perspective has been considered in a separate NEPA document addressing fish hatchery improvement throughout the State.

**FOR FURTHER INFORMATION:** Copies of the FONSI, of the Final EA, or additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number below: Ms. Maureen Wilson, Project Coordinator, Utah Reclamation Mitigation and Conservation Commission, 102 West 500 South, Suite 315, Salt Lake City, UT 84101, Telephone: (801) 524–3146.

Dated: June 12, 1998.

**Michael C. Weland,**

*Executive Director, Utah Reclamation Mitigation and Conservation Commission.*

[FR Doc. 98–16580 Filed 6–22–98; 8:45 am]

BILLING CODE 4310–05–P

federal register

Tuesday
June 23, 1998

# Part II

# Department of Education

**34 CFR Part 379**

**Projects With Industry; Proposed Rule**

## DEPARTMENT OF EDUCATION

### 34 CFR Part 379

**RIN 1820–AB45**

## Projects With Industry

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations governing the performance indicators for the Projects With Industry (PWI) program (34 CFR Part 379). The PWI program is authorized by section 621 of the Rehabilitation Act of 1973, as amended (the Act). The purpose of the PWI program is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform those jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement. The Secretary is proposing to change the performance indicators for this program in order to improve project performance, enhance project accountability, better reflect statutory intent, and reduce grantee burden.

**DATES:** Comments must be received by the Department on or before August 24, 1998.

**ADDRESSES:** All comments concerning these proposed regulations should be addressed to Fredric K. Schroeder, Commissioner, Rehabilitation Services Administration, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3028, Mary E. Switzer Building, Washington, D.C. 20202–2531. Comments may also be sent through the Internet to: Comments@ed.gov. You must include the term ''PWI'' in the subject line of the electronic comment.

To ensure that public comments have maximum effect in developing the final regulations, the Department urges commenters to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange comments in the same order as the proposed regulations.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named in this section.

**FOR FURTHER INFORMATION CONTACT:** Thomas E. Finch, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3038, Mary E. Switzer Building, Washington, D.C. 20202–2575. Telephone: (202) 205–8292. 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.

**SUPPLEMENTARY INFORMATION:**

### Overview of Proposed Changes

The Secretary proposes to amend the regulations governing the application content requirements and performance indicators for the PWI program in order to clarify statutory intent, enhance project accountability, and reduce grantee burden.

In a notice of proposed rulemaking (NPRM) published in the **Federal Register** on January 22, 1996 (61 FR 1672), the Secretary invited comments on changes needed to improve the compliance indicators. The comments received in response to this solicitation, as well as comments provided by participants in focus group meetings held by the Rehabilitation Services Administration (RSA), were used to develop these proposed changes. In addition, the Secretary used a June 1994 report on the PWI program entitled ''Assessment of Performance Indicators for the Projects With Industry Program,'' prepared for the Department by Research Triangle Institute (RTI), which identifies needed changes in the PWI performance indicators and scoring system. To assist in revising the compliance indicators and determining the proposed minimum performance levels, the Secretary also analyzed grantee performance on the current PWI compliance indicators.

Based on information from public comments, the 1994 report prepared by RTI, and experience in the implementation of the program, the Secretary is proposing one addition to the application content requirements and a number of changes in the compliance indicators. The Secretary believes that the additional application content requirement regarding the proposed cost per placement is needed in light of the proposed changes to the compliance indicators and to ensure that cost-effective projects are selected for funding. The Secretary proposes to reduce the number of indicators from nine to five, with an additional indicator to be established at a later date. These compliance indicators establish minimum performance levels in areas that the Secretary believes are the most critical and most closely related to the program's purpose and evaluation standards. To be eligible for continued funding under the proposed system, projects must meet or exceed the minimum performance level for each compliance indicator. However, projects have two opportunities to meet these criteria before funding is terminated. If, based upon the end-of-year data submission, a project fails any compliance indicator, the project may request that funding be continued for the first six months of the subsequent project year and agree to submit additional data. At the end of the six-month period the project must submit the data collected for those six months to demonstrate that it has passed *all* the compliance indicators. If the project passes all the indicators, funding will continue for the remainder of the project year.

In this NPRM, the Secretary proposes minimum performance levels for five indicators. The proposed compliance indicators measure a project's (a) placement rate; (b) average change in weekly earnings; (c) percentage of individuals placed who have severe disabilities; (d) percentage of individuals placed who were unemployed at least six months at project entry; and (e) variation between projected and actual average cost per placement. In addition, the Secretary proposes to collect data from projects on change in earnings and job retention. The Secretary will use these data to determine the need, and appropriate performance levels, for new indicators on change in earnings and job retention.

### Section-by-Section Summary of the Proposed Changes

The following is a summary of the proposed changes contained in this NPRM.

- In § 379.21(a)(4), the Secretary proposes to add an application content requirement that would require a description of the factors that justify a project's projected cost per placement. These factors may include the objectives of the project, the types of services that will be provided, the population that is being targeted, and the proposed geographicservice area. This is the only proposed addition to the current application content requirements.

• In § 379.50, the Secretary proposes to remove the reference to minimum composite score and replace it with a reference to minimum performance levels on all compliance indicators. Under the proposed system, grantees must attain a minimum performance level on each of the indicators rather than achieve an overall composite score. Grantees must pass every indicator in order to receive continuation funding.

• In §§ 379.51 and 379.52, the Secretary proposes to delete all references to performance ranges in accordance with the proposed change to a system in which grantees must pass all compliance indicators. The proposed change deletes the reference to composite scores and requires grantees to pass each indicator by demonstrating performance at or above the established minimum levels.

• In § 379.53, the Secretary proposes to replace the current nine performance indicators with five compliance indicators. The major areas of change are outlined in the following sections entitled ''Compliance Indicators to be Eliminated'' and ''Proposed Compliance Indicators and Performance Levels.''

• In § 379.54, the Secretary proposes to make conforming changes to reflect the change from composite scoring to a pass/fail system. As under the current regulations, projects must submit data from the most recent complete project year to demonstrate compliance, but (if project performance during the most recent complete year does not meet minimum performance levels) may opt to submit data from the first six months of the current project year. In either case, projects must submit data to demonstrate compliance with minimum performance levels on all of the indicators.

**Compliance Indicators To Be Eliminated**

The Secretary proposes to replace the current nine indicators with five compliance indicators. In addition, the Secretary proposes to collect data that may lead to a modified indicator on change in earnings and data that may form the basis of a future indicator on job retention. Four compliance indicators would be eliminated, including cost per placement, projected placement rate, percent of persons served whose disabilities are severe, and percent of persons served who have been unemployed at least six months prior to project entry. The Secretary believes the proposed indicators better reflect the goals of the PWI program, place a greater emphasis on project outcomes, and reduce grantee information collection and reporting burden.

The Secretary proposes to eliminate the cost per placement indicator and modify the projected cost per placement indicator. The Secretary maintains the importance of serving and placing individuals at the lowest possible cost to the Federal Government, but believes it is not feasible to establish a cost per placement standard that is reasonable for all projects supported under the PWI program. The Secretary recognizes that some projects may not be able to achieve a low cost per placement, particularly projects that serve a high percentage of individuals with severe disabilities, provide extensive services, or serve rural areas. In addition, the Secretary is concerned that a uniform cost per placement standard may discourage projects from serving individuals who require extensive support services, job training, and other resources. Therefore, the Secretary believes it is more appropriate for grantees to determine an appropriate cost per placement and justify the proposed cost, based on the proposed project design and objectives, service population, and services to be provided. The proposed indicator would require that a project's actual cost per placement not exceed the projected cost per placement, as specified in the approved grant application, by more than 10 percent.

The Secretary also proposes to eliminate the indicator on projected placement rate. The Secretary believes it is more appropriate to focus on a project's actual, rather than projected, success in placing individuals in competitive employment.

Finally, the Secretary proposes to eliminate the two indicators that measure the extent to which projects serve individuals with severe disabilities and individuals who have been unemployed at least six months prior to project entry. While the Secretary believes that it is important to preserve the program's focus on individuals with severe disabilities and individuals who are unemployed, the Secretary believes it is more appropriate to judge projects based on the extent to which they are successful in assisting these individuals to achieve competitive employment. The Secretary therefore proposes to retain the two compliance indicators that measure the percentage of these individuals who are placed into competitive employment.

**Proposed Compliance Indicators and Performance Levels**

The proposed compliance indicators would measure grantee performance in five areas. The Secretary believes that the proposed indicators represent the most critical quantifiable aspects of project performance. In establishing minimum performance levels on each indicator, the Secretary reviewed project performance data, public comment in response to the NPRM published in the **Federal Register** on January 22, 1996, focus group discussions, and the RTI report.

*Placement rate.* The Secretary proposes to retain the current placement rate indicator and raise the minimum performance level. The primary goal of the PWI program is to place individuals into competitive employment. Therefore, the Secretary views placement rate as a critical indicator of project success. Under the proposed indicator, projects would be required to place a minimum of 55 percent of individuals served into competitive employment.

While higher than the current minimum placement rate of 40 percent, the Secretary believes the proposed performance level is both appropriate and realistic. Between 1990 and 1995, PWI projects reported an average placement rate of 61.2 percent. In comparison, in 1996 approximately 60.7 percent of individuals served by The State Vocational Rehabilitation Services Program achieved an employment outcome. The Secretary believes the partnerships with private industry and collaboration with State vocational rehabilitation agencies will enable every PWI project to achieve, at a minimum, the proposed placement rate of 55 percent. In addition, given the proposal to give more flexibility to projects on cost per placement (discussed in the following sections), the Secretary believes it is appropriate to raise performance expectations, particularly on this critical indicator.

*Average change in earnings.* The Secretary proposes to modify the current indicator that measures average change in earnings by raising the minimum performance level. The current minimum performance level requires an average increase of $75 per week. The proposed regulations would change the required minimum performance level to $150 per week for projects that do not use a school-to-work or supported employment service delivery model. That is, the earnings of individuals who are placed into competitive employment by the project must increase by an average of at least $150 a week over earnings at the time of project entry. Concurrently, the Secretary proposes to collect data to determine the need for additional changes to this indicator.

The Secretary believes that the proposed increase in the minimum performance level is appropriate given both inflation and increases in the minimum wage since the original performance level for this indicator was set in 1989. In addition, the Secretary believes this proposed performance level is realistic based on project performance data that demonstrate an overall average change in earnings of $183 and $195 per week in fiscal years 1993 and 1994, respectively.

The Secretary proposes to establish a lower performance level on this indicator for PWI projects that primarily serve secondary school students transitioning to work or that use a supported employment model. Based on a review of these types of projects, the Secretary has concluded that, by virtue of the individuals they serve and place, these projects might have difficulty meeting the change in earnings standard. The Secretary does not want to exclude these types of projects from the PWI program and, therefore, proposes a lower minimum performance level of $100 per week for these projects. Specifically, the Secretary proposes this lower standard for projects in which 75 percent or more of the individuals placed into competitive employment are students who are enrolled in secondary schools and who are working fewer than 30 hours per week and for projects in which at least 75 percent of individuals are placed into supported employment, as defined in 34 CFR 361(b)(45) and (46). All other projects will be subject to the higher standard.

In addition to these changes, the Secretary is proposing to collect data to assess the need to modify the change in earnings indicator to measure change in earnings for two groups: (1) individuals who entered a project without earnings and (2) individuals who entered a project with earnings. The Secretary believes such a two-tiered indicator may be a more accurate means of measuring a project's impact on individual earnings. This proposed data collection is discussed in more detail in the section entitled ''Proposed Data Collection on Change in Earnings and Job Retention.''

*Percent of individuals placed who are individuals with severe disabilities and percent of persons placed who have been unemployed for six months prior to project entry.* The Secretary proposes to retain these two indicators at the current minimum performance level, which requires that 50 percent of those placed into competitive employment are individuals with severe disabilities and 50 percent are individuals who have been unemployed continuously for six months prior to project entry. The Secretary believes that it is appropriate to preserve the program's emphasis on placing into competitive employment individuals with severe disabilities and individuals who are unemployed for at least six months prior to program entry.

*Actual versus projected cost per placement.* The Secretary proposes to revise the current indicator on projected cost per placement. The proposed indicator would require that a project's actual cost per placement not exceed the projected cost per placement, as specified in the approved grant application, by more than 10 percent. That is, the actual average cost per placement does not exceed 110 percent of the projected cost per placement.

The Secretary proposes to allow each project to determine what is a reasonable cost per placement, based on factors such as project objectives, population and geographic area to be served, and services to be provided. As part of its grant application, a project would be required to provide a description of those factors that justify its projected cost per placement, including, but not limited to, the project's objectives, types of services, target population, and service area. A project chosen for funding would not be permitted to exceed by more than 10 percent, the projected cost per placement in its approved grant application. The Secretary believes that this revised approach to cost per placement allows flexibility in project design while encouraging each project to consider cost effectiveness in the development of its grant application.

**Proposed Data Collection on Change in Earnings and Job Retention**

In addition to the five compliance indicators, the Secretary is concurrently proposing to collect data to determine the need to modify the change in earnings indicator and to add an additional indicator on job retention.

*Change in earnings.* While the current change in earnings indicator may demonstrate the average economic benefit of a project, the Secretary believes it does not measure the true extent to which the project improved the earnings of individual participants. The change in earnings as a result of project participation is likely to be significantly different for individuals who were unemployed at the time of project entry and who came to the project for job training and placement services than it is for individuals who held a wage-earning job at the time of project entry and who required career advancement services. The Secretary is considering the establishment of a two-tiered indicator to measure more adequately the effect of project services on the earnings of these two populations. However, the Secretary does not have sufficient data on which to base such a decision.

Concurrent with the proposed application content and compliance indicator changes, the Secretary proposes to collect data to determine the need for a modification to the change in earnings indicator to measure project performance for two groups: individuals who entered the project without earnings and individuals who entered with earnings. The Secretary proposes to require projects to report the following data for the next three years:

(1) For individuals with no earnings at the time of project entry, average hourly wage and average hours worked per week at placement.

(2) For individuals with earnings at the time of project entry, the average hourly wage and average hours worked per week, both at the time of project entry and at placement.

The Secretary plans to use these data to decide whether a two-tiered indicator would be a more accurate means of gauging the earnings impact of the job training and career advancement services provided through the PWI program, and what performance levels would be appropriate for such an indicator.

*Job retention.* The Secretary is concurrently proposing to collect data to determine the need to modify the change in earnings indicator and whether to add an additional indicator on job retention. The Secretary believes job retention is a critical indicator of project success because it demonstrates the *quality* of placements achieved by projects. A high job retention rate may indicate consumer satisfaction with the placement, appropriate job matching, and effective follow-up services.

In order to sample projects' job retention rates, the Secretary proposes that projects report the number of individuals who become unemployed within three months after placement, within six months after placement, and within nine months after placement.

In accordance with § 379.5(b)(7), placement occurs after the individual has held the job for 90 days. The intent of the 90-day period is to ensure that an individual is at least initially stabilized on a job. The proposed data collection would require projects to track each individual for up to nine months after placement or up to one year after the individual's initial job entry. At the end of the year, the project must report three separate figures:

• The number of individuals who were unable to maintain employment during the first three-month period after placement (the fourth through sixth months of employment).

• The number of individuals who were unable to maintain employment during the second three-month period after placement (the seventh through ninth month of employment).

• The number of individuals who were unable to maintain employment during the third three-month period after placement (the tenth through twelfth month of employment).

For the purpose of this data collection, an individual can change jobs and still be considered to be employed as long as there is no gap in employment.

In order to include all placements, projects may have to include individuals who were unable to maintain employment during the reporting year but who obtained placements in the previous reporting year. For example, if the reporting year is from October 1997 to September 1998, an individual who was placed in August 1997 but left the job in December 1997 would be reported as someone who was unable to maintain employment during the second three-month period after placement.

The Secretary does not believe this will be a significant burden to projects, since under section 621(a)(2)(E) projects are required to provide, as necessary, support and career advancement services to individuals after they are placed. In addition, as part of the annual evaluation plan, projects must provide information on the number of project participants who were terminated from project placements and the duration of those placements. The Secretary thus believes projects already track individuals after they are placed.

The job retention indicator would be established after the Secretary has collected and evaluated data for at least three years. Once collection and analysis of the data are completed, the Secretary would determine whether to establish a new indicator to measure job retention.

**Goals 2000: Educate America Act**

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These proposed regulations would address the National Education Goals that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The proposed regulations would further the objectives of this Goal by ensuring that only those projects that are successful in making persons with disabilities part of the global economy and in allowing them to exercise their rights as citizens to participate in the national labor market continue to receive Federal funding.

**Executive Order 12866**

*1. Potential Costs and Benefits*

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements are identified and explained elsewhere in this preamble under the heading *Paperwork Reduction Act of 1995*.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the program.

**Summary of Potential Costs and Benefits**

The potential costs and benefits of these proposed regulations are discussed elsewhere in this preamble under the following headings: Overview of proposed changes, and Potential costs and benefits.

The Secretary believes the changes proposed in this NPRM would improve the PWI program regulations and would yield substantial benefits in terms of improved accountability and performance and reduced burden. As stated in the supplementary information section of this preamble, the Secretary believes the proposed regulations reduce grantee burden by reducing the number and complexity of the compliance indicators and improve accountability by focusing on the most critical areas of project performance. The Secretary has determined that the potential benefits of these proposed changes justify the potential costs to grantees.

*2. Clarity of the Regulations*

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the proposed regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the proposed regulations be easier to understand if they were divided into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§'' and a numbered heading; for example, § 379.51 *What are program compliance indicators?*). (4) Is the description of the proposed regulations in the ''Supplementary Information'' section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the proposed regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 5121, FB–10B), Washington, D.C. 20202–2241.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are government, nonprofit, and for-profit organizations that receive Federal

funds under this program. However, the regulations would not have a significant economic impact on these entities because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. These regulations would impose minimal requirements to ensure the proper expenditure of program funds.

**Paperwork Reduction Act of 1995**

Sections 379.21 and 379.54 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

**Collection of Information: Projects With Industry**

These proposed regulations would affect entities eligible to apply for and receive grants under the PWI program, including for-profit and nonprofit agencies or organizations with the capacity to create and expand job and career opportunities for individuals with disabilities, designated State units, labor unions, employers, community rehabilitation program providers, trade associations, and Indian tribes and tribal organizations. These information collection requirements would affect applicants for new awards and organizations and entities already receiving assistance under the PWI program.

The Department needs to collect this information in order to fulfill statutory requirements regarding the compliance indicators (in section 621(f) of the Act). All information is to be collected and reported once a year, with the exception of that which is required of all applicants for new awards in § 379.21(a). This section requires responses from every organization or entity that applies for a new award under the PWI program. Annual reporting and recordkeeping burden for these collections of information is estimated to average 30 hours for each response for 105 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and recordkeeping burden for these collections is estimated to be 3,150 hours.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for the U.S. Department of Education.

The Department considers comments by the public on these proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

**Intergovernmental Review**

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3330, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request, the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

*Assessment of Educational Impact*

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

*Electronic Access to This Document*

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

**Note:** The official version of this document is the document published in the **Federal Register**.

**List of Subjects in 34 CFR Part 379**

Education, Grant programs—education, Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

Dated: February 5, 1998.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

(Catalog of Federal Domestic Assistance Number 84.234 Projects With Industry)

The Secretary proposes to amend Part 379 of Title 34 of the Code of Federal Regulations as follows:

## PART 379—PROJECTS WITH INDUSTRY

1. The authority citation for part 379 continues to read as follows:

**Authority:** Sections 12(c) and 621 of the Act; 29 U.S.C. 711(c) and 795(g), unless otherwise noted.

2. Section 379.21 is revised to read as follows:

### § 379.21 What is the content of an application for an award?

(a) The grant application must include a description of—

(1) The proposed job training to prepare project participants for specific jobs in the competitive labor market for which there is a need in the geographic area to be served by the project, as identified by an existing current labor market analysis or other needs assessment or one conducted by the applicant in collaboration with private industry;

(2) The involvement of private industry in the design of the proposed project and the manner in which the project will collaborate with private industry in planning, implementing, and evaluating job training, job placement, and career advancement activities;

(3) The responsibilities of the BAC and how it will interact with the project in carrying out grant activities;

(4) The justification of the project's proposed cost per placement, including factors such as the project's objectives, types of services, target population, and service area;

(5) The geographic area to be served by the project, including an explanation of how the area is currently unserved or underserved by the PWI program;

(6) A plan for evaluating annually the operation of the proposed project, which, at a minimum, provides for collecting and submitting to the Secretary the following information and any additional data needed to determine compliance with the program compliance indicators established in subpart F:

(i) The numbers and types of individuals with disabilities served.

(ii) The types of services provided.

(iii) The sources of funding.

(iv) The percentage of resources committed to each type of service provided.

(v) The extent to which the employment status and earning power of individuals with disabilities changed following services.

(vi) The extent of capacity building activities, including collaboration with business and industry and other organizations, institutions, and agencies, including the State vocational rehabilitation unit.

(vii) A comparison, if appropriate, of activities in prior years with activities in the most recent year.

(viii) The number of project participants who were terminated from project placements and the duration of those placements;

(7) A description of the manner in which the project will address the needs of individuals with disabilities from minority backgrounds, as required by 34 CFR 369.21; and

(8) A description of how career advancement services will be provided to project participants.

(b) The grant application also must include assurances from the applicant that—

(1) The project will carry out all activities required by § 379.10;

(2) Individuals with disabilities who are placed by the project will receive compensation at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled;

(3) Individuals with disabilities who are placed by the project will be given terms and benefits of employment equal to those that are given to similarly situated co-workers and will not be segregated from their co-workers; and

(4) The project will maintain any records required by the Secretary and make those records available for monitoring and audit purposes.

(Authority: Sections 621(a)(4), 621(a)(5), 621(b), and 621(e)(1)(B) of the Act; 29 U.S.C. 795g(a)(4), 795g(a)(5), 795g(b), and 795g(e)(1)(B))

3. Subpart F of Part 379 is revised to read as follows:

### Subpart F—What Compliance Indicator Requirements Must a Grantee Meet to Receive Continuation Funding?

379.50 What are the requirements for continuation funding?
379.51 What are the program compliance indicators?
379.52 How is grantee performance measured using the compliance indicators?
379.53 What are the minimum performance levels for each compliance indicator?
379.54 What are the reporting requirements for the compliance indicators?

## Subpart F—What Compliance Indicator Requirements Must a Grantee Meet to Receive Continuation Funding?

### § 379.50 What are the requirements for continuation funding?

Beginning with fiscal year 1998, in order to receive a continuation award for the third or any subsequent year of a PWI grant, a grantee must adhere to the provisions of its approved application and must meet the minimum performance levels on the program compliance indicators contained in § 379.53.

(Authority: Section 621(f)(1)of the Act; 29 U.S.C. 795g(f)(1))

### § 379.51 What are the program compliance indicators?

The program compliance indicators implement program evaluation standards, which are contained in an appendix to this part, by establishing minimum performance levels in essential project areas to measure the effectiveness of individual grantees.

(Authority: Sections 621(d)(1) and 621(f)(1) of the Act; 29 U.S.C. 795g(d)(1) and 795g(f)(1))

### § 379.52 How is grantee performance measured using the compliance indicators?

(a) Each compliance indicator establishes a minimum performance level.

(b) If a grantee does not achieve the minimum performance level for a compliance indicator, the grantee does not pass the compliance indicator.

(c) A grantee must pass all the compliance indicators to meet the evaluation standards and qualify for continuation funding.

(Authority: Section 621(f)(1) of the Act; 29 U.S.C. 795g(f)(1))

### § 379.53 What are the minimum performance levels for each compliance indicator?

(a) *Placement rate.* A minimum of 55 percent of individuals served by the project are placed into competitive employment.

(b) *Change in earnings.* (1) For projects in which at least 75 percent of individuals placed are placed into supported employment, as defined in 34 CFR 361.5(b)(45) and (46), the earnings of individuals placed by the project increase by an average of at least $100.00 a week over earnings at the time of project entry.

(2) For projects in which at least 75 percent of individuals placed into competitive employment are students enrolled in secondary schools working fewer than 30 hours per week, the earnings of individuals placed by the project increase by an average of at least $100.00 a week over earnings at the time of project entry.

(3) For all projects not covered under § 379.53(b)(1) or (2), the earnings of individuals who are placed into competitive employment by the project increase by an average of at least $150.00 a week over earnings at the time of project entry.

(c) *Percent placed who have severe disabilities.* At least 50 percent of individuals who are placed into competitive employment are individuals with severe disabilities.

(d) *Percent placed who were previously unemployed.* At least 50 percent of individuals who are placed into competitive employment are individuals who were continuously unemployed for at least six months at the time of project entry.

(e) *Cost per placement.* The actual average cost per placement does not exceed 110 percent of the projected average cost per placement in the grantee's application.

(Authority: Section 621(f)(1) of the Act; 29 U.S.C. 795g(f)(1))

**§ 379.54 What are the reporting requirements for the compliance indicators?**

(a) In order to receive continuation funding for the third or any subsequent year of a PWI grant, each grantee must submit data for the most recent complete project year no later than 60 days after the end of that project year, unless the Secretary authorizes a later submission date, in order for the Secretary to determine if the grantee has met the program compliance indicators established in this Subpart F.

(b) If the data for the most recent complete project year provided under paragraph (a) of this section shows that a grantee has failed to achieve the minimum performance required in § 379.53 to meet the program compliance indicators, the grantee may, at its option, submit data from the first 6 months of the current project year no later than 60 days after the end of that 6-month period, unless the Secretary authorizes a later submission date, to demonstrate that its project performance has improved sufficiently to meet the minimum performance levels for all compliance indicators.

(Authority: Section 621(f)(2) of the Act; 29 U.S.C. 795g(f)(2))

**Note:** A grantee receives its second year of funding (or the first continuation award) under this program before data from the first complete project year is available. Data from the first project year, however, must be submitted and is used (unless the grantee exercises the option in paragraph (b) of this section) to determine eligibility for the third year of funding (or the second continuation award).

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## Part III

# Department of Education

**National Institute on Disability and Rehabilitation Research; Applications for New Rehabilitation Research and Training Centers for Fiscal Year (FY) 1998; Notices**

## DEPARTMENT OF EDUCATION

### National Institute on Disability and Rehabilitation Research

**AGENCY:** Department of Education.

**ACTION:** Notice of Final Funding Priorities for Fiscal Years 1998–1999 for Certain Centers and Projects.

**SUMMARY:** The Secretary announces final funding priorities for five Rehabilitation Research and Training Centers (RRTCs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1998–1999. The Secretary takes this action to focus research attention on areas of national need. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

**EFFECTIVE DATE:** These priorities take effect on July 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: Donna__Nangle@ed.gov

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.

**SUPPLEMENTARY INFORMATION:** This notice contains final priorities under the Disability and Rehabilitation Research Projects and Centers Program for five RRTCs related to disability and employment policy, State service systems, community rehabilitation programs (CRPs), workplace supports, and educational supports.

These final priorities support the National Education Goal that calls for every adult American to possess the skills necessary to compete in a global economy.

The authority for the Secretary to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 761a(g) and 762).

**Note:** This notice of final priorities does *not* solicit applications. A notice inviting applications is published in this issue of the **Federal Register**.

### Analysis of Comments and Changes

On April 14, 1998, the Secretary published a notice of proposed priorities in the **Federal Register** (62 FR 40422–40425). The Department of Education received five letters commenting on the notice of proposed priorities by the deadline date. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under statutory authority—are not addressed.

### General

*Comment:* NIDRR should identify a significant role for persons with disabilities in the RRTCs both from an employment and an advisory perspective.

*Discussion:* Involvement of individuals with disabilities is one of the general requirements that apply to all RRTCs. All RRTCs must ''involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, training, and dissemination activities, and in evaluating the Center. Applications for RRTCs are evaluated, in part, on the extent to which the applicant encourages individuals with disabilities to apply for employment.

*Changes:* None.

*Comment:* The priorities should place more emphasis on the development of studies measuring change or developing strategies for change.

*Discussion:* NIDRR provides applicants with the discretion to propose studies and methodologies to measure the impact of new strategies or interventions. An applicant could propose to place a special emphasis on the development of studies measuring change or developing strategies for change. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis for requiring all applicants to place a special emphasis on the development of studies measuring change or developing strategies for change.

*Change:* None.

*Comment:* The role that culture plays in the development of employment opportunities for persons with disabilities should be part of the overall focus of the centers.

*Discussion:* NIDRR agrees that cultural variations may be an important contributing variable related to employment outcomes for persons with disabilities. An applicant for any of the centers could propose to include cultural factors in one or more activities. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis for requiring all applicants to include cultural factors in their investigations.

*Changes:* None.

*Comment:* The priorities do not include a sufficient focus on training. This may inadvertently limit the transition from research to practice.

*Discussion:* The minimum training requirements for an RRTC training are stated in the RRTC program description and general RRTC requirements section of the notice of final priorities. NIDRR believes that these requirements are sufficient to ensure that the research findings of the RRTC will be utilized by appropriate service providers. Having met these requirements, an applicant could propose to carry out additional training activities. The peer review process will evaluate the merits of the additional training activities. However, NIDRR has no basis for requiring all applicants to carry out additional training activities.

*Changes:* None.

*Comment:* One commenter suggested a number of specific studies that the RRTCs should carry out. These suggestions included investigating: how industry could be solicited to manage supplemental housing for employees with disabilities; modified voucher systems for parents or guardians of individuals with disabilities to serve as negotiators for service providers, job coaches, and transporters; enticing skilled crafts people to serve as mentors in their trades and provide persons with disabilities with opportunities to learn specific trade skills; creating alternate vocational opportunities, as opposed to the lock step endorsement placed on production and service type nonskilled work; and standardizing curricula for vocational training and trainers in community workshops and adult activity centers.

*Discussion:* An applicant could propose to carry out these suggested projects under the authority of one of the five employment RRTCs. The peer review process will evaluate the merits of the proposal. However, NIDRR prefers to provide applicants with the discretion to propose specific investigations and has no basis to determine that all applicants should be required to carry out these projects.

*Changes:* None.

*Priority 1: Disability and Employment Policy*

*Comment:* Civil rights issues are not well integrated into the overall policy direction of this center.

*Discussion:* In part, the sixth activity requires the RRTC to identify and analyze the effect of civil rights protections on significantly promoting or depressing the employment status of persons with disabilities. Applicants have the discretion to propose how this required activity, or any required activity, is integrated with the other activities of the RRTC.

*Changes:* None.

*Comment:* The RRTC should carry out the following projects: investigate broad workforce trends with an emphasis on benefits, worklife needs and issues, and the impact of national legislation such as the Family Medical Leave Act on the workforce and particularly the employee with a disability; investigate the relationship between health benefits and the needs of SSI and SSI beneficiaries who are candidates for returning to work; and coordinate the RRTC's data analysis activities with the analysis carried out in the RRTC on Improving the Effectiveness of State Service Systems, including data from State employment and support agencies as part of the analysis.

*Discussion:* An applicant could propose to carry out these suggested projects. The peer review process will evaluate the merits of the proposal. However, NIDRR prefers to provide applicants with the discretion to propose specific investigations and has no basis to determine that all applicants should be required to carry out these projects.

*Changes:* None.

*Priority 2: State Service Systems*

*Comment:* The definition of State systems should be revised to include: mental retardation/developmental disabilities programs, mental health programs, Workmen's Compensation programs, One Stop Career Centers, community rehabilitation providers, and local schools.

*Discussion:* The priority does not prescribe the entities that could be considered part of State service systems. An applicant could propose to include the entities listed in the comment as part of the State service system. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis for requiring all applicants to consider all of these entities as part of the State service system.

*Changes:* None.

*Comment:* The RRTC should carry out the following projects: analyze emerging practices in reimbursement, including cash payments to individuals, employers, and others; and study the use and impact of natural and employer supports.

*Discussion:* An applicant could propose to carry out these suggested projects. The peer review process will evaluate the merits of the proposal. However, NIDRR prefers to provide applicants with the discretion to propose specific investigations and has no basis to determine that all applicants should be required to carry out these projects.

*Changes:* None.

*Priority 3: Community Rehabilitation Programs (CRPs)*

*Comment:* The RRTC should carry out the following projects: investigate the impact of consumer control on services and service delivery in the CRP system; and investigate the impact of choice on CRP system structurally, including the range of services offered and consumer outcomes realized.

*Discussion:* An applicant could propose to carry out these suggested projects. The peer review process will evaluate the merits of the proposal. However, NIDRR prefers to provide applicants with the discretion to propose specific investigations and has no basis to determine that all applicants should be required to carry out these projects.

*Changes:* None.

*Priority 4: Workplace Supports*

*Comment:* The RRTC should be required to address the relationship between quality of life and employment for persons with disabilities.

*Discussion:* The fourth and fifth activities require the RRTC to address quality of life issues related to employment. No further requirements are necessary.

*Changes:* None.

*Comment:* The priority should be expanded to require the RRTC to determine the extent to which workplace supports provided by human service agencies, such as supported employment job coaches or personal assistants, enhance or hinder employer productivity and the ability of employers to provide workplace accommodations.

*Discussion:* The sixth activity of the priority addresses employer perspectives and needs in order to facilitate the employment of persons with disabilities. Under the authority of the sixth activity, an applicant could propose to investigate the extent to which workplace supports provided by human service agencies enhance or hinder employer productivity and the ability of employers to provide workplace accommodations. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis for requiring all applicants to investigate the extent to which workplace supports provided by human service agencies enhance or hinder employer productivity and the ability of employers to provide workplace accommodations.

*Changes:* None.

*Priority 5: Educational Supports*

*Comment:* The RRTC should address the needs of persons with cognitive disabilities.

*Discussion:* Unless noted otherwise in a priority, any NIDRR-funded project or center must address the needs of all persons with disabilities, including those with cognitive disabilities.

*Changes:* None.

*Comment:* The RRTC should address the impact of culture on outcomes of individuals entering or exiting postsecondary settings.

*Discussion:* NIDRR agrees that cultural variations may be an important contributing variable related to the use of educational supports and educational outcomes for persons with disabilities. An applicant for any of the centers could propose to include cultural factors in one or more activities. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis for requiring all applicants to include cultural factors in their investigations.

*Changes:* None.

**Rehabilitation Research and Training Centers**

Authority for the RRTC program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations for coordinated research and training activities. These entities must be of sufficient size, scope, and quality to effectively carry out the activities of the Center in an efficient manner consistent with appropriate State and Federal laws. They must demonstrate the ability to carry out the training activities either directly or through another entity that can provide that training.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

**Description of Rehabilitation Research and Training Centers**

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. RRTCs serve

as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates or authorized representatives of the individuals.

RRTCs conduct coordinated, integrated, and advanced programs of research in rehabilitation targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, to alleviate or stabilize disabling conditions, and to promote maximum social and economic independence of individuals with disabilities.

RRTCs provide training, including graduate, pre-service, and in-service training, to assist individuals to more effectively provide rehabilitation services. They also provide training including graduate, pre-service, and in-service training, for rehabilitation research personnel and other rehabilitation personnel.

RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of these individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

RRTCs disseminate materials in alternate formats to ensure that they are accessible to individuals with a range of disabling conditions.

NIDRR encourages all Centers to involve individuals with disabilities and individuals from minority backgrounds as recipients of research training, as well as clinical training.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

**General Requirements**

The following requirements apply to these RRTCs pursuant to these absolute priorities unless noted otherwise. An applicant's proposal to fulfill these proposed requirements will be assessed using applicable selection criteria in the peer review process.

The RRTC must provide: (1) training on research methodology and applied research experience; and (2) training on knowledge gained from the Center's research activities to persons with disabilities and their families, service providers, and other appropriate parties.

The RRTC must develop and disseminate informational materials based on knowledge gained from the Center's research activities, and disseminate the materials to persons with disabilities, their representatives, service providers, and other interested parties.

The RRTC must involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, training, and dissemination activities, and in evaluating the Center.

The RRTC must conduct a state-of-the-science conference and publish a comprehensive report on the final outcomes of the conference. The report must be published in the fourth year of the grant.

*Priorities*

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priorities. The Secretary will fund under this competition only applications that meet one of these absolute priorities.

**Research Priorities in Employment of Persons with Disabilities**

*Issues in the Employment of Persons With Disabilities*

Unemployment and underemployment among working-age Americans with disabilities are ongoing problems. Data from the U.S. Census Bureau on the labor force status of persons ages 16 to 64 in fiscal year 1996 highlight the magnitude of this problem (see Table 1). While four-fifths of working-age Americans were in the labor force and over three-fourths were working, less than one-third of persons with disabilities were in the labor force, and only one-quarter of them were working. Fully two-thirds of working-age persons with disabilities were not in the labor force, a statistic suggesting that many who may want to work have given up looking for a job. Finally, among those in the labor force, the unemployment rate for persons with disabilities is more than double that of nondisabled workers (12.6 percent versus 5.7 percent).

TABLE 1.—LABOR FORCE PARTICIPATION OF WORKING-AGE ADULTS WITH DISABILITIES

| Working-age Americans | In labor force (percent) | Employed | | Not in labor force (percent) |
|---|---|---|---|---|
| | | Total (percent | Full time (percent) | |
| All working-age persons | 81.3 | 76.7 | 62.6 | 18.7 |
| Working-age persons with disabilities | 31.8 | 27.8 | 17.7 | 68.2 |

Recent analyses of data from the Survey of Income and Program Participation (SIPP) (McNeil, J., Americans with Disabilities: 1994–99, Current Population Reports, P70–61, U.S. Census Bureau, 1997) describe earnings discrepancies among working adults based on disability status. As shown in Table 2, median monthly earnings of working males without a disability ($2,190) are nearly $1,000 higher than those of workers with a severe disability ($1,262). Working females without a disability earn $500 more in median monthly earnings than do females with a severe disability ($1,470 versus $1,000).

Recent trends in the nation's labor market exacerbate the difficulties experienced by persons with disabilities in their attempts to gain employment and even in their motivation to seek employment. Downsizing, for example, has led to a reduction in the percentage of individuals in the labor force with stable, long-term jobs that offer employee benefits. There has been an increase in the use of contingent labor as business and industry move to other configurations that fill labor needs without requiring a long-term commitment to workers. This contingent workforce takes many forms, including on-call workers, temporary help agency workers, workers provided by contract firms, and independent contractors paid wages or salaries directly from the company (Uchitelle, L., ''More Downsized Workers Are

Returning as Rentals, *New York Times*, December 8, 1996; Clark, R., ''Planning for the Future Environmental Scanning Forum: Final Report,'' Office of Special Education and Rehabilitative Services (OSERS), Washington, DC, 1997). Many of these types of jobs lack the security and benefits, particularly health insurance, that most persons with disabilities require in order to participate in the labor force. Further, some individuals believe that the nation's political climate is such that government supports for underemployed persons are likely to decline in the future (Clark, R., ibid.; Conlan, T., Planning for the Future Environmental Scanning Forum: Final Report, OSERS, Washington, DC, 1997).

TABLE 2.—MONTHLY EARNINGS OF NONDISABLED AND DISABLED WORKING ADULTS, 1994–95

| Gender | Median monthly earnings | | |
|---|---|---|---|
| | No disability | Nonsevere disability | Severe disability |
| Male | $2,190 | $1,857 | $1,262 |
| Female | 1,470 | 1,200 | 1,000 |

In addition, while many of the nation's business and education communities point to the need for highly educated, highly skilled workers if the nation is to succeed in the increasingly competitive global economy, the reality is more complex. On the one hand, availability of high-skilled jobs combined with rapid advances in technology may in fact improve the employment prospects of persons with disabilities as well as other workers, through such work arrangements as telecommuting and expanding the market for self-employment or small business. On the other hand, a sizable segment of the labor market includes low-skilled, low-paying jobs, in which persons with disabilities are disproportionally represented (Hayward, B., and Tashjian, M., ''A Longitudinal Study of the Vocational Rehabilitation Service Program: Second Interim Report, ''*Characteristics and Perspectives of Vocational Rehabilitation Consumers,*'' Research Triangle Institute, 1996).

Researchers have suspected a relationship between changes in the configuration of the nation's labor market and growth in the number of persons with disabilities who are recipients of disability benefits, but such a relationship is hard to demonstrate empirically (Rupp, K. and Stapleton, D., ''Economic and Noneconomic Determinants of the Growth in the Social Security Administration's (SSA's) Disability Programs—Overview of Theories and Evidence,'' Social Security Bulletin, 58(4), pgs. 43–70, 1995). In the past ten years, the number of persons who receive cash benefits through Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) has increased by two-thirds, with SSA paying out approximately $72 billion annually to eight million recipients. Including Medicare and Medicaid benefits, the annual Federal expenditure exceeds $110 billion, and policymakers expect the costs of cash benefits alone will exceed $110 billion annually by the end of the current administration (Coelho, T., ''Keynote Speech: Employment Post the Americans with Disabilities Act,'' Conference sponsored by the SSA, Washington, DC, 1997).

In addition to the changing macroeconomic work world, there are important changes in the conceptualization of disability. In this ''new'' disability paradigm, there is increased emphasis on the environment's role in creating barriers to an individual's with disability participation in society. NIDRR will support research that focuses on how the individual interacts with society. In terms of employment, this interaction may focus on environmental barriers to employment, including transportation, accommodations, attitudes, or programmatic barriers such as health insurance.

Recent investigations into the explosive growth of the disability benefit rolls and the inability of the existing service delivery system to return greater numbers of beneficiaries to employment have identified a wide variety of issues that merit further research. For example, data available from the Longitudinal Study of the Title I Vocational Rehabilitation Program indicate that the current structure of SSA benefits and work incentives is not adequate to address consumer concerns about income security (Hayward, B. and Tashjian, M., op. cit.). As shown in Table 3, when asked to identify reasons for not working, a substantially higher percentage of beneficiaries identified concern about a loss of total income or medical coverage than did nonbeneficiaries.

Addressing the issue of medical coverage is especially critical, since less than half (43.7 percent) of all persons aged 22 to 64 years old with a severe disability have private health insurance (McNeil, J., op. cit.). Under the current benefit structure, availability of medical benefits is tied to eligibility for cash benefits. Loss of medical coverage associated with a return to work is the major concern for many beneficiaries contemplating employment. As the data also suggest, many beneficiaries, who have little to no work history, are concerned that the income they might receive from available employment will not match the combined value of cash benefits and medical coverage they receive through SSA.

A number of public and private initiatives target employment for persons with disabilities. These include the State-Federal Vocational Rehabilitation Program, community rehabilitation program services, school-to-work programs, and employer sponsored programs primarily targeted at individuals already in the work force. For the past 75 years, the chief avenue of publicly

TABLE 3.—SELF-REPORTED REASONS FOR NOT WORKING

| Issues preventing consumers from obtaining employment or working regularly | SSI/DI beneficiaries (percent) | Nonbeneficiaries with severe disabilities (percent) |
|---|---|---|
| I am afraid I would lose my medical insurance | 48.3 | 26.5 |
| I am afraid I could not get back on benefits if I lost the job | 50.8 | 26.1 |
| I do not think I could earn as much working as I get from my benefits | 42.1 | 19.8 |

funded employment-related services to improve the employment status of persons with disabilities has been the State-Federal Vocational Rehabilitation Program, currently authorized under the Rehabilitation Act of 1973, as amended. Funded at $2.3 billion in Federal funds for fiscal year 1998 and a 22 percent State match for a total of an estimated $3 billion annually, the State-Federal Vocational Rehabilitation Program is designed to assist States in providing state-of-the-art, comprehensive and coordinated vocational rehabilitation services. State Vocational Rehabilitation agency staff assist persons with disabilities to establish vocational goals that are consistent with their strengths, resources, priorities, concerns, abilities, and capabilities in order that they may prepare for and engage in gainful employment. The program is authorized to provide an array of services that are intended to facilitate the employment of persons with disabilities, such as assessment, counseling and guidance, vocational or other training, physical and mental restoration, maintenance, and other necessary services and supports.

Reform of the current rehabilitation service delivery system is underway, and the possible effects of changes in the system require investigation. The State-Federal Vocational Rehabilitation Program is increasing consumers' control and expanding their role in policy development, implementing program performance standards, and streamlining the vocational rehabilitation process. In addition to these and other changes in the State-Federal Vocational Rehabilitation Program, a host of other ongoing reforms in the broader service delivery environment are occurring. In particular, the recent growth in the number of SSI/SSDI beneficiaries has sparked considerable Congressional interest in reforming the system of employment services that target persons with disabilities. Congressional interest includes revising existing SSA work incentives and expanding consumer choice in the selection of a vocational rehabilitation service provider through return-to-work tickets or vouchers for some or all recipients of disability benefits. Implementation of a return-to-work ticket program may have significant implications for current and future SSI/SSDI beneficiaries, including the level of control they will have over decisions about whether to participate in such a program, the selection of an employment goal and specific rehabilitation services, and changes in service providers or employers over time.

There are nearly 7,000 CRPs serving approximately 800,000 individuals with disabilities each day with funding from State vocational rehabilitation agencies, Job Training Partnership Act (JTPA) programs, Workman's Compensation, Medicaid, private insurance, and other sources (Menz, F., ''Vocational Rehabilitation Research in the United States of America,'' *Vocational Rehabilitation in Europe*, p. 107, 1997). The role of CRPs in the overall service delivery environment may increase even further if Federal employment programs devolve to States and communities. CRPs may need to be prepared to offer a full range of vocational-related services, or highly specialized services to an increasingly heterogeneous consumer population. If return-to-work programs in which provider payments are based on successful consumer outcomes are among the new service delivery models implemented, new relationships between service providers and funding sources may emerge over the next few years. These new relationships are likely to require CRPs to adapt their current structure and operations in significant ways.

A number of questions about how these changes may potentially influence and affect CRPs remain unanswered. For instance, more needs to be known about the impact of consumer choice on different service delivery models and the efficacy of different models to maximize competitive employment outcomes for persons with severe disabilities or with specific types of disabilities. Finally, whether new funding mechanisms will promote increased competition and innovation in service delivery by CRPs is a major question. Knowledge about these and related areas is essential to validating assumptions around which pending reforms are predicated and to help shape the future direction of initiatives designed to increase the numbers of persons with severe disabilities who obtain and retain meaningful employment.

Workplace supports are programs or interventions provided in the workplace to enable persons with disabilities to be successful in securing and maintaining employment. Some workplace supports may be provided through formal mechanisms established by vocational rehabilitation programs, such as supported employment. Supported employment programs usually provide onsite assistance, provided by a job coach who works with the person with the disability as well as with co-workers and supervisors to ease the transition to the competitive employment setting (''Evaluating the Effectiveness and Efficiency of Supported Employment Programs,'' Policy Research Brief, Volume 5, No. 2, Center on Residential Services and Community Living, College of Education, University of Minnesota, 1993).

In addition, employers have developed a number of support mechanisms in the form of return-to-work programs and related disability management programs. These programs use case management strategies to ensure communication among medical providers, supervisors, and employees to prevent disability; or, when accidents or disease occur, to foster early return-to-work. Particularly important to these programs is the establishment of a framework that sends a clear message that the employer wants the employee to continue working or to return to work as quickly as appropriate. Workplace supports also include employer willingness to implement accommodations and to encourage supervisors to work to integrate the person with disability back into the workforce. Often the reintegration process requires that treatment personnel understand job requirements

and essential job functions in order to assess the ability of the employee to perform the job adequately. Finally, incentives embedded in employee benefit plans must be used to encourage the worker to maintain employment.

In addition to workplace supports, employees are protected under Title I of the Americans with Disabilities Act (ADA) which prohibits discrimination on the basis of disability in employment. This law requires that employers with 15 or more employees provide qualified persons with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others. The ADA prohibits employers from discriminating against workers with disabilities and applies to individuals with disabilities who are seeking employment, as well as to those who are employed. Employers must provide reasonable accommodations to workers to overcome disability-related barriers to performing essential job functions. In addition, various government programs have experimented with strategies to improve employer receptivity to workers with disabilities, including tax credits and partial support of health benefits to encourage employers to hire persons with disabilities. Given the role that workplace supports can play in assisting employers to expand and improve employment opportunities for persons with disabilities, investigation of issues related to the development and implementation of innovative workplace supports is essential.

Over the past 20 years, changes in the nation's labor market have increased the importance of post-high school education in terms of employment success. Gingerich reported unemployment rates of persons with disabilities by level of education as follows: 12 percent among individuals with less than a high school diploma, 6.3 percent among those with a diploma, 4.2 percent among persons with some postsecondary education, and 2.5 percent among persons with at least four years of college. In 1992, earnings of college graduates were 50 percent higher than those of persons with only a high school diploma (Gingerich, J., ''Vast Spaces and Stone Walls: Overcoming Barriers to Postsecondary Education for Rural Students with Disabilities,'' American Council on Rural Special Education Conference, 1996).

Concurrently, the percentage of postsecondary students reporting a disability has tripled, from less than 3 percent in 1978 to over 9 percent (about 140,000) in 1994. The largest growth has been students reporting a learning disability, representing about one-third of all postsecondary students reporting a disability, double the 1988 figure of 15 percent (Henderson, C., ''College Freshmen with Disabilities: A Statistical Profile,'' American Council on Education, Washington, DC, 1995). Ongoing research sponsored by the Office of Special Education Programs (OSEP), U.S. Department of Education, is testing a methodology to determine the types of services youth exiting secondary school can be expected to require in their transition to adulthood (''Services Anticipated to Be Needed by Exiting Students with Disabilities: Results of the Second PASS Field Test,'' OSEP, 1996). While case management is the most frequently needed service (up to 80 percent of exiting youth require this service), over half will reportedly require services to support their participation in postsecondary education, including two- and four-year colleges and various forms of adult literacy programs (e.g., General Equivalency Diploma preparation, adult high schools, and adult basic education) (OSEP, ibid.).

Most of the nation's 3,000 postsecondary institutions offer support services to students with disabilities. Such services vary widely and may include: (1) individual academic accommodations (e.g., note taking, library and typing assistance, alternative testing arrangements, books on tape, readers, interpreters, tutors, and waivers of course requirements); (2) adaptive equipment (portable wheelchair-accessible desks, voice-activated computers, speech synthesizer-equipped computers); (3) case management and coordination (liaison with vocational rehabilitation, independent living, and other community resources); (4) advocacy; and (5) personal counseling, academic and career advising.

Given that such disability-related services are a relatively new addition to the postsecondary environment, a number of issues associated with their provision merit investigation, including: (1) whether the requirement that a person disclose his disability in order to obtain services is a deterrent to postsecondary enrollment and completion; (2) accessibility of vocational rehabilitation or other funding sources of funds for services not covered under ADA or Section 504 of the Rehabilitation Act of 1973, as amended, but necessary for a student's continued enrollment; (3) the impact of such services on students' completion of postsecondary education; and (4) the extent to which the institution provides transitional support to graduates as they attempt to enter the labor force.

To accommodate the changing nature of the nation's employment environment, along with anticipated policy changes that will affect all segments of the employment and training delivery system, NIDRR intends to apply new approaches and rigorous methods to research about the employment of persons with disabilities. Fundamental to these approaches and methods is NIDRR's intent to support research that is outcome based and has a high likelihood of making significant contributions to the advancement of knowledge and improved service delivery. NIDRR proposes a research agenda that emphasizes collaborative, interdisciplinary studies that contribute to knowledge about problems and issues related to the employment of persons with disabilities.

**Priority 1: Disability and Employment Policy**

*Background*

The effect of macroeconomic trends on the employment of persons with disabilities and public policy responses to these trends merit increased investigation. A coordinated research effort must examine issues, (e.g., the changing structure of the workforce, economic trends, labor market changes, new skill requirements, incentives and disincentives to work, devolution of responsibility for employment training to State and local levels, and new service delivery patterns that necessitate changes in Vocational Rehabilitation Program configurations) to improve employment and economic self-sufficiency for persons with disabilities. Of particular interest are implications of cross-agency and multiple agency developments and initiatives, including welfare reform, workforce development, changes in Social Security benefits and disability determination policies, Medicare and Medicaid changes, and the U.S. Department of Education—U.S. Department of Labor school-to-work program. Investigative studies that are national in scope and test alternative models for financing services, and infrastructure changes that may yield increased opportunities for persons with disabilities are essential.

Priority 1

The Secretary will establish an RRTC on disability and employment policy for the purpose of improving our understanding of public policy and its relationship to improving employment

outcomes for persons with disabilities. The RRTC shall:

(1) Develop predictive models for national macroeconomic trends affecting employment of persons with disabilities;

(2) Identify and analyze the relationship between select Federal and State policies including, but not limited to, welfare reform and innovations in Social Security programs affecting persons with disabilities, the Executive order on ''Increasing Employment for Adults with Disabilities'', and issues of contingent workforce and accompanying changes (e.g., part-time benefits and demands for new and flexible skills), upon the employment of persons with disabilities;

(3) Using existing data, conduct a comprehensive analysis of the employment status of persons with disabilities, identifying gaps in current data availability and collection methodologies;

(4) Identify and analyze the factors, such as pre- and post-disability earnings, education, type of job, personal assistance service, and benefit design, that predict return-to-work;

(5) Analyze the policy implications of outcome-based reimbursement on the delivery of employment and rehabilitation services to persons with disabilities;

(6) Identify and analyze the effect of civil rights protections and environmental factors (e.g., barriers to transportation and employer attitudes) on significantly promoting or depressing the employment status of persons with disabilities; and

(7) Identify and analyze policies and resource availability issues that foster or impede the participation of transitioning students in rehabilitation training or employment services programs.

**Priority 2: State Service Systems**

*Background*

The public vocational rehabilitation service system is in the midst of major reform. The 1992 amendments to the Rehabilitation Act mandated: (1) expanded consumer choice in the selection of goals, services, and providers; (2) implementation of program performance standards for State vocational rehabilitation agencies; and (3) an expanded consumer role in policy developed through the Rehabilitation Advisory Councils. The influence of these and other changes, such as a streamlined vocational rehabilitation process, on employment outcomes for persons with disabilities is unknown. Moreover, the current and future impact of recent reforms in the broader service delivery system, such as workforce development consolidation and return-to-work programs employing vouchers or ''tickets,'' merit investigation.

Priority 2

The Secretary will establish an RRTC for the purpose of improving the effectiveness of State service systems on promoting employment outcomes for persons with disabilities. The RRTC shall:

(1) Describe the State systems that deliver employment services to persons with disabilities, including transitioning students. Identify how and to what extent the different components of the system, such as State vocational rehabilitation agencies, disability determination services, JTPA's Private Industry Councils, one-stop shops, and schools, coordinate their efforts;

(2) Analyze existing State and Federal data sets, including client and service provider characteristics, to determine different employment outcomes for persons with disabilities;

(3) Describe how State vocational rehabilitation agencies and other agencies within the State service delivery system overcome environmental barriers (e.g., using assistive technology, jobsite modifications, and personal assistance services) in order to improve employment outcomes;

(4) Evaluate the success of State service system efforts to address the unique employment-related needs of SSDI and SSI beneficiaries and identify State systems that have implemented demonstrably effective employment programs in assisting recipients of disability benefits to achieve a successful return-to-work; and

(5) Describe the progress of State and Federal initiatives to consolidate workforce development programs and identify policies and procedures that have been successful in ensuring the availability and provision of services to persons with the most severe disabilities.

**Priority 3: Community Rehabilitation Programs**

*Background*

Proposed restructuring of the financing of employment-related services for persons with disabilities assumes a major role for CRPs. The capacity and potential contributions of an estimated 7,000 CRPs across the nation require thorough investigation. Further, the potential of this system to assume greater responsibility for service delivery under contractual or other agreements (e.g., return-to-work ''ticket'' systems for SSDI and SSI recipients) merits study.

Priority 3

The Secretary will establish an RRTC on CRPs to improve their role in promoting employment outcomes for persons with disabilities. The RRTC shall:

(1) Describe the CRPs service delivery system, including the characteristics of providers, funding sources, nature and extent of the services provided, and individuals served, and identify the relative contributions of the programs to providing rehabilitation and employment services.

(2) Identify how services delivered by CRPs to State vocational rehabilitation agency consumers differ in quality, timeliness, quantity, costs, or outcomes from those delivered to consumers through other payor sources;

(3) Investigate the extent to which CRPs provide consumers with choices in the selection of employment goals and specific rehabilitation services;

(4) Analyze the impact of Federal and State policies on the structure and operation of CRPs, including management approaches, staffing configurations and staff training, outreach to underserved populations, and emerging service configurations; and

(5) Evaluate the nature and success of employment outcomes of persons who obtain services from CRPs.

**Priority 4: Workplace Supports**

*Background*

The work environment for persons with disabilities, including both the physical environment (as represented by job requirements, job site accommodations, and technological aids), and the roles of employers, supervisors, and co-workers, has received insufficient attention in past research. An improved understanding of the work environment and employer needs and preferences is necessary to improve employment outcomes. Employer disability management and return-to-work programs are one potential source of information on effective employer accommodation strategies for employees with disabilities. NIDRR will support research that investigates employer roles, collaboration between education and rehabilitation professionals and employers, strategies to improve employer receptivity to workers with disabilities, and the impact of incentives, such as tax credits and

partial support of health benefits, to encourage employers to hire persons with disabilities. In addition, this research will examine the viability of new work structures, including telecommuting, flexible work hours and self-employment, for persons with disabilities.

Priority 4

The Secretary will establish an RRTC on workplace supports for the purpose of identifying and evaluating effective workplace supports that improve employment outcomes for persons with disabilities. The RRTC shall:

(1) Analyze the potential of existing or new employer incentives, such as tax credits or Medicare buydowns to improve labor force participation of persons with disabilities;

(2) Develop and test financial analysis methodologies, such as return on investment or economic value added to measure effectiveness of employer workplace supports and their contribution to employer profitability;

(3) Identify and evaluate effective employer disability management, return-to-work, or other strategies that affect hiring, retention, and advancement of workers with disabilities;

(4) Evaluate the impact of workplace support on changes in the employment status of persons with disabilities in terms of job types, career advancement, and other outcomes important to meaningful employment of persons with disabilities;

(5) Conduct research to determine how changes in work structure will affect hiring, retention, advancement, and job satisfaction for persons with disability; and

(6) Examine perspectives of employers to determine their needs (e.g., for information, training, and resources) that will facilitate the employment of individuals with disabilities with necessary work support.

**Priority 5: Educational Supports**

*Background*

The U.S. Department of Education Strategic Plan, 1998–2002, describes postsecondary education as ''America's traditional gateway to the professions, more challenging jobs, and higher wages.'' Insufficient information exists about the use and impact of educational supports for persons with disabilities in postsecondary environments. Of particular interest are the types of educational and transition assistance that postsecondary institutions make available to improve the educational and subsequent labor market success of students with disabilities. Systemic and environmental barriers to full participation in postsecondary programs by individuals with disabilities must be studied as well. In addition, promising postsecondary educational practices important to the career mobility and success of individuals with disabilities must be investigated, at a minimum, to determine whether educational supports are available as needed, and whether they are effective in improving the educational performance of individuals with disabilities.

Priority 5

The Secretary will establish an RRTC on educational supports to increase access and improve outcomes for individuals with disabilities in postsecondary education programs. The RRTC shall:

(1) Identify the nature and range of educational supports that are available to students with disabilities in postsecondary educational programs by type of program (e.g., colleges, vocational and technical institutes, adult educational programs) and type of disability;

(2) Examine the contributions of technological advances to the effectiveness of student support systems at the postsecondary level;

(3) Investigate the effectiveness of educational supports in terms of educational outcomes and labor force participation; and

(4) Investigate the extent to which institutional supports extend to the employment environment, with particular emphasis on the special needs of persons with severe disabilities.

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**Note:** The official version of this document is the document published in the **Federal Register**.

*Applicable Program Regulations:* 34 CFR Part 350.

**Program Authority:** 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Centers)

Dated: June 17, 1998.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 98–16593 Filed 6–22–98; 8:45 am]

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## DEPARTMENT OF EDUCATION

**[CFDA No.: 84.133B]**

## Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Rehabilitation Research and Training Centers for Fiscal Year (FY) 1998

*Note to Applicants:* This notice is a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

This program supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

*Applicable Regulations:* The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86; and Disability and Rehabilitation Research Projects and Centers—34 CFR Part 350, particularly *Rehabilitation Research and Training Centers* in Subpart C.

*Program Title:* Rehabilitation Research and Training Centers (RRTCs).

*CFDA Number:* 84.133B.

*Purpose of Program:* RRTCs conduct coordinated and advanced programs or

research on disability and rehabilitation that will produce new knowledge that will improve rehabilitation methods and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence for individuals with disabilities. RRTCs provide training to service providers at the pre-service, in-service training, undergraduate, and graduate levels, to improve the quality and effectiveness of rehabilitation services. They also provide advanced research training to individuals with disabilities and those from minority backgrounds engaged in research on disability and rehabilitation. RRTCs serve as national and regional technical assistance resources and provide training for service providers, individuals with disabilities and their families and representatives, and rehabilitation researchers.

*Eligible Applicants:* Parties eligible to apply for grants under this program are States, public or private agencies, including for-profit agencies, public or private organizations, including for-profit organizations, institutions of higher education, and Indian tribes and tribal organizations.

**Program Authority:** 29 U.S.C. 762.

APPLICATION NOTICE FOR FISCAL YEAR 1998 REHABILITATION RESEARCH AND TRAINING CENTERS, CFDA NO. 84–133B

| Funding priority | Deadline for transmittal of applications | Estimated number of awards | Maximum award amount (per year)* | Project period (months) |
|---|---|---|---|---|
| Disability and Employment Policy | August 21, 1998 | 1 | $800,000 | 60 |
| State Service Systems | August 21, 1998 | 1 | 650,000 | 60 |
| Community Rehabilitation Programs | August 21, 1998 | 1 | 700,000 | 60 |
| Workplace Supports | August 21, 1998 | 1 | 800,000 | 60 |
| Educational Supports | August 21, 1998 | 1 | 600,000 | 60 |

*Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

*RRTC Selection Criteria:* The Secretary uses the following selection criteria to evaluate applications for RRTCs on disability and employment policy, State service systems, community rehabilitation programs (CRPs), workplace supports, and educational supports under the Disability and Rehabilitation Research Project and Centers Program.

(a) *Importance of the problem* (9 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of those who provide services to individuals with disabilities (3 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (4 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (2 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (2 points).

(c) *Design of research activities* (35 points total).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art (5 points).

(ii) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(A) The proposed design includes a comprehensive and informed review of the current literature, demonstrating knowledge of the state-of-the-art (5 points);

(B) Each research hypothesis is theoretically sound and based on current knowledge (5 points);

(C) Each sample population is appropriate and of sufficient size (5 points);

(D) The data collection and measurement techniques are appropriate and likely to be effective (5 points); and

(E) The data analysis methods are appropriate (5 points).

(iii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable (5 points).

(d) *Design of training activities* (11 points total).

(1) The Secretary considers the extent to which the design of training activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the proposed training materials are likely to be effective, including consideration of their quality, clarity, and variety (2 points).

(ii) The extent to which the proposed training methods are of sufficient quality, intensity, and duration (2 points).

(iii) The extent to which the proposed training content—

(A) Covers all of the relevant aspects of the subject matter (1 point); and

(B) If relevant, is based on new knowledge derived from research activities of the proposed project (1 point).

(iv) The extent to which the proposed training materials, methods, and content are appropriate to the trainees, including consideration of the skill level of the trainees and the subject matter of the materials (2 points).

(v) The extent to which the proposed training materials and methods are

accessible to individuals with disabilities (1 point).

(vi) The extent to which the applicant is able to carry out the training activities, either directly or through another entity (2 points).

(e) *Design of dissemination activities* (8 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the content of the information to be disseminated—

(A) Covers all of the relevant aspects of the subject matter (1 point); and

(B) If appropriate, is based on new knowledge derived from research activities of the project (1 point).

(ii) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (2 points).

(iii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration (2 points).

(iv) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (1 point).

(v) The extent to which the information to be disseminated will be accessible to individuals with disabilities (1 point).

(f) *Design of technical assistance activities* (4 points total).

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (1 point).

(ii) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter (1 point).

(iii) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information (1 point).

(iv) The extent to which the technical assistance is accessible to individuals with disabilities (1 point).

(g) *Plan of operation* (4 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (2 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (2 points).

(f) *Collaboration* (2 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (1 point).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (1 point).

(g) *Adequacy and reasonableness of the budget* (3 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (1 point).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(h) *Plan of evaluation* (7 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (1 point); and

(B) Achieving the project's intended outcomes and expected impacts (1 point).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (1 point).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(i) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (1 point).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which the project staff includes outstanding scientists in the field (2 points).

(j) *Adequacy and accessibility of resources* (4 points).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (1 point).

(ii) The extent to which the applicant has appropriate access to clinical populations and organizations representing individuals with disabilities to support advanced clinical rehabilitation research (2 points).

(iii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals

with disabilities who may use the facilities, equipment, and other resources of the project (1 point).

**Instructions for Application Narrative**

The Secretary strongly recommends that applicants:

(1) Include a one-page abstract in their application;

(2) Limit Part III—Application Narrative to no more than 125 double-spaced 8½ x 11'' pages (on one side only) with one inch margins (top, bottom, and sides);

(3) Double-space (no more than 3 lines per vertical inch) all sections of text in the application narrative; and

(4) Use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch.

The recommended application narrative page limit does not apply to: Part I—the electronically scannable form; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resume(s), bibliography, or letters of support, while considered part of the application, are not subject to the recommended page limitation. Applicants should note that reviewers are not required to review any information provided in addition to the application information listed above.

The recommendations for double-spacing and font do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable.

**Instructions for Transmittal of Applications**

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, D.C. 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, D.C. time] on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

**Notes:** (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

**Application Forms and Instructions**

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Form—Non-Construction Programs (Standard Form 524A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free Work-Place Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and instructions. (NOTE: ED Form GCS–014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

*For Applications Contact:* The Grants and Contracts Service Team (GCST), Department of Education, 600 Independence Avenue S.W., Switzer Building, 3317, Washington, D.C. 20202, or call (202) 205–8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9860. The preferred method for requesting information is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

*For Further Information Contact:* Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, S.W., room 3418, Switzer Building, Washington, D.C. 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5516. Internet: Donna__Nangle@ed.gov

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.

**Electronic Access to This Document**

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

**Note:** The official version of this document is the document published in the **Federal Register**.

**Program Authority:** 29 U.S.C. 760–762.

Dated: June 17, 1998.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

**Appendix—Application Forms and Instructions**

Applicants are advised to reproduce and complete the application forms in this section. Applicants are required to submit an original and two copies of each application as provided in this section. However, applicants are encouraged to submit an original and seven copies of each application in order to facilitate the peer review process and minimize copying errors.

**Frequent Questions**

*1. Can I Get an Extension of the Due Date?*

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

*2. What Should be Included in the Application?*

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

*3. What Format Should be Used for the Application?*

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

*4. May I Submit Applications to More than One NIDRR Program Competition or More than One Application to a Program?*

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

*5. What is the Allowable Indirect Cost Rate?*

The limits on indirect costs vary according to the program and the type of application.

An applicant for an RRTC is limited to an indirect cost rate of 15%.

*6. Can Profitmaking Businesses Apply for Grants?*

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

*7. Can Individuals Apply for Grants?*

No. Only organizations are eligible to apply for *grants* under NIDRR programs. However, individuals are the only entities eligible to apply for fellowships.

*8. Can NIDRR Staff Advise me Whether my Project is of Interest to NIDRR or Likely to be Funded?*

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

*9. How do I Assure That my Application Will be Referred to the Most Appropriate Panel for Review?*

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

*10. How Soon After Submitting my Application Can I Find Out if It Will be Funded?*

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

*11. Can I Call NIDRR To Find Out if my Application is Being Funded?*

No. When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

*12. If my Application is Successful, Can I Assume I Will get the Requested Budget Amount in Subsequent Years?*

No. Funding in subsequent years is subject to availability of funds and project performance.

*13. Will all Approved Applications be Funded?*

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000–01–P

# APPLICATION FOR FEDERAL ASSISTANCE

| | | | |
|---|---|---|---|
| 1. TYPE OF SUBMISSION<br>❑ Construction<br>❑ Non-Construction | Preapplication:<br>❑ Construction<br>❑ Nonconstruction | 2. DATE SUBMITTED | Application Identifier |
| | | 3. DATE RECEIVED BY STATE | State Application Identifier |
| | | 4. DATE RECEIVED BY FEDERAL AGENCY | Federal Identifier |

5. APPLICANT INFORMATION

| | |
|---|---|
| Legal Name: | Organizational Unit: |
| Address (Give city, county, state, and zip code): | Name and telephone number of the person to be contacted on matters involving this application (give area code) |

6. Employer Identification Number:

7. TYPE OF APPLICATION:
(enter appropriate letter here) ❑

| | | |
|---|---|---|
| A. State | F. Intermunicipal | K. Indian tribe |
| B. County | G. Special District | L. Individual |
| C. Municipal | H. Independent School Dist. | M. Profit Org. |
| D. Township | I. State Cont. I of HL | N. Other (Specify) |
| E. Interstate | J. Private University | |

8. TYPE OF APPLICATION
❑ New ❑ Continuation ❑ Revision
If Revision, enter appropriate letter(s) here: ❑ ❑
A. Increase Award B. Decrease Award
C. Increase Duration D. Decrease Duration
Other (specify)

9. NAME OF FEDERAL AGENCY

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 84.
Title:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

| | | | |
|---|---|---|---|
| 13. PROPOSED PROJECT: | | 14. CONGRESSIONAL DISTRICTS OF: | |
| Start Date: | Ending Date: | a. Applicant: | b. Project: |

15. ESTIMATED FUNDING

| | | |
|---|---|---|
| a. Federal | $ | .00 |
| b. Applicant | $ | .00 |
| c. State | $ | .00 |
| d. Local | $ | .00 |
| e. Other | $ | .00 |
| f. Program Income | $ | .00 |
| g. TOTAL | $ | .00 |

16. IS APPLICANT SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES ❑ THIS PREAPPLICATION /APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____

b. NO ❑ PROGRAM IS NOT COVERED BY E.O. 12372

❑ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
❑ Yes If "Yes" attach an explanation
❑ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

| | | |
|---|---|---|
| a. Typed Name of Authorized Representative | b. Title: | c. Telephone Number: |
| d. Signature of Authorized Representative | | e. Date Signed |

Previous Editions Not Usable
Authorized for Local Reproduction

Standard Form 424 REV 4-88)
Prescribed by OMB Circular A-102

# INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

| Item: | Entry: |
|---|---|
| 1. | Self-explanatory. |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicants control number (if applicable). |
| 3. | State use only (if applicable). |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matter related to this application. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. |
| 7. | Enter the appropriate letter in the space provided. |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:<br>- "New" means a new assistance award.<br>- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |
| 9. | Name of Federal agency from which assistance is being requested with this application. |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. |
| 11. | Enter a brief descriptive title of the project, if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications use a separate sheet to provide a summary description of this project. |
| 12. | List the State and area (county, city, etc.) the applicant is applying to serve **with this application.** |
| 13. | Self-explanatory. |
| 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application). |

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

| Budget Categories | Project Year 1 (a) | Project Year 2 (b) | Project Year 3 (c) | Project Year 4 (d) | Project Year 5 (e) | **Total (f)** |
|---|---|---|---|---|---|---|
| 1. Personnel | | | | | | |
| 2. Fringe Benefits | | | | | | |
| 3. Travel | | | | | | |
| 4. Equipment | | | | | | |
| 5. Supplies | | | | | | |
| 6. Contractual | | | | | | |
| 7. Construction | | | | | | |
| 8. Other | | | | | | |
| 9. Total Direct Costs (lines 1-8) | | | | | | |
| 10. Indirect Costs | | | | | | |
| 11. Training Stipends | | | | | | |
| **12. Total Costs (lines 9-11)** | | | | | | |

ED FORM NO. 524

| Name of Institution/Organization | Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form. |
|---|---|

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

| Budget Categories | Project Year 1 (a) | Project Year 2 (b) | Project Year 3 (c) | Project Year 4 (d) | Project Year 5 (e) | **Total (f)** |
|---|---|---|---|---|---|---|
| 1. Personnel | | | | | | |
| 2. Fringe Benefits | | | | | | |
| 3. Travel | | | | | | |
| 4. Equipment | | | | | | |
| 5. Supplies | | | | | | |
| 6. Contractual | | | | | | |
| 7. Construction | | | | | | |
| 8. Other | | | | | | |
| 9. Total Direct Costs (lines 1-8) | | | | | | |
| 10. Indirect Costs | | | | | | |
| 11. Training Stipends | | | | | | |
| **12. Total Costs (lines 9-11)** | | | | | | |

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

# INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

**Lines 1-11, columns (a)-(e):** For each project year for which funding is requested, show the total amount requested for each applicable budget category.

**Lines 1-11, column (f):** Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

**Line 12, columns (a)-(e):** Show the total budget request for each project year for which funding is requested.

**Line 12, column (f):** Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

**Lines 1-11, columns (a)-(e):** For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

**Lines 1-11, column (f):** Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

**Line 12, columns (a)-(e):** Show the total matching or other contribution for each project year.

**Line 12, column (f):** Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

Public reporting burden for these collections of information is estimated to average 30 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.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820-0027, Washington, D.C. 20503.

Rehabilitation Research and Training Center (CFDA No. 84.133B) 34 CFR Part 350 Subpart C.

NOTICE TO ALL APPLICANTS

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its federally assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and

succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1801-0004 (Exp. 8/31/98). The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651.

*OMB Approval No. 0348-0040*

## ASSURANCES- NON-CONSTRUCTION PROGRAMS

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to

EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

| Signature of Authorized Certifying Official | Title | |
|---|---|---|
| Applicant Organization | | Date Submitted |

*SF 424 (4-88) Back*

## CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

### 1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

### 2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c )Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

### 3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

**DRUG-FREE WORKPLACE**
**(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

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As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

| NAME OF APP LICANT | PR/AWARD NUMBER AND / OR PROJECT NAME |
|---|---|
| PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE | |
| SIGNATURE | DATE |

ED 80-0013

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions**

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

**Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant,' " person," "primary covered transaction," " principal," proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

| NAME OF APPLICANT | PR/AWARD NUMBER AND/OR PROJECT NAME |
|---|---|
| PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE | |
| SIGNATURE | DATE |

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

# DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

| | | |
|---|---|---|
| 1. **Type of Federal Action:**<br>☐ a. contract<br>b. grant<br>c. cooperative agreement<br>d. loan<br>e. loan guarantee<br>f. loan insurance | 2. **Status of Federal Action:**<br>☐ a. bid/offer/application<br>b. initial award<br>c. post-award | 3. **Report Type:**<br>☐ a. initial filing<br>b. material change<br>**For Material Change Only:**<br>year _____ quarter ____<br>date of last report |
| 4. **Name and Address of Reporting Entity:**<br>☐ Prime ☐ Subawardee<br>Tier _____, *if known:*<br>**Congressional District,** *if known:* | 5. **If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:**<br>**Congressional District,** *if known:* | |
| 6. **Federal Department/Agency:** | 7. **Federal Program Name/Description:**<br>CFDA Number, *if applicable*: | |
| 8. **Federal Action Number,** *if known:* | 9. **Award Amount,** *if known:*<br>$ | |
| 10. a. **Name and Address of Lobbying ~~Entity~~ Registrant** *(if individual, last name, first name, MI):* | b. **Individuals Performing Services** *(including address if different from No. 10a) (last name, first name, MI):* | |
| ~~11. **Amount of Payment** *(check all that apply):*~~<br>~~$ _____ ☐ actual ☐ planned~~ | ~~13. **Type of Payment** *(Check all that apply):*~~<br>~~☐ a. retainer~~<br>~~☐ b. one-time fee~~<br>~~☐ c. commission~~<br>~~☐ d. contingent fee~~<br>~~○ e. deferred~~<br>~~☐ f. other; specify: _____~~ | |
| ~~12. **Form of Payment** *(check all that apply):*~~<br>~~☐ a. cash~~<br>~~☐ b. in-kind; specify: nature _____ value _____~~ | | |
| ~~14. **Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:**~~<br>~~*(attach Continuation Sheet(s) SF-LLL-A, if necessary)*~~ | | |
| ~~15. **Continuation Sheet(s) SF-LLL attached:** ☐ Yes ☐ No~~ | | |
| 16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure. | **Signature:** _____<br>**Print Name:** _____<br>**Title:** _____<br>**Telephone No.:** _____ **Date:** | |
| **Federal Use Only** | **Authorized for Local Reproduction**<br>**Standard Form - LLL** | |

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and conract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions

## DUNS Number Instructions

D-U-N-S No.: Please provide the applicant's D-U-N-S Number. You can obtain your D-U-N-S Number at no charge by calling **1-800-333-0505** or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL:

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Uniform forms and procedures for registration; recommendations; report availability; comments due by 6-29-98; published 3-31-98

**VETERANS AFFAIRS DEPARTMENT**

Vocational rehabilitation and education:

Veterans education—

Educational assistance and benefits; claims and effective dates; comments due by 6-29-98; published 4-29-98

## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

**H.R. 824/P.L. 105–179**

To redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the ''Howard T. Markey National Courts Building''. (June 16, 1998; 112 Stat. 510)

**H.R. 3565/P.L. 105–180**

Care for Police Survivors Act of 1998 (June 16, 1998; 112 Stat. 511)

**S. 1605/P.L. 105–181**

Bulletproof Vest Partnership Grant Act of 1998 (June 16, 1998; 112 Stat. 512)

**Last List June 11, 1998**

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