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Monday
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Presidential Documents

Title 3—

The President

Executive Order 13116 of March 31, 1999

Identification of Trade Expansion Priorities and Discriminatory Procurement Practices

By the authority vested in me as President by the Constitution and the laws of the United States of America, including title III of the Act of March 3, 1993, as amended (41 U.S.C. 10d), sections 141 and 301–310 of the Trade Act of 1974, as amended (the Act) (19 U.S.C. 2171, 2411–2420), title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–2518), and section 301 of title 3, United States Code, and to ensure that the trade policies of the United States advance, to the greatest extent possible, the export of the products and services of the United States and that trade policy resources are used efficiently, it is hereby ordered as follows:

PART I: IDENTIFICATION OF TRADE EXPANSION PRIORITIES

Section 1. *Identification and Annual Report.* (a) Within 30 days of the submission of the National Trade Estimate Report required by section 181(b) of the Act (19 U.S.C. 2241(b)) for 1999, 2000, and 2001, the United States Trade Representative (Trade Representative) shall review United States trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent. The Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and shall publish in the **Federal Register**, a report on the priority foreign country practices identified.

(b) In identifying priority foreign country practices under paragraph (a) of this section, the Trade Representative shall take into account all relevant factors, including:

(1) the major barriers and trade distorting practices described in the National Trade Estimate Report;
(2) the trade agreements to which a foreign country is a party and its compliance with those agreements;
(3) the medium-term and long-term implications of foreign government procurement plans; and
(4) the international competitive position and export potential of United States products and services.

(c) The Trade Representative may include in the report, if appropriate, a description of the foreign country practices that may in the future warrant identification as priority foreign country practices. The Trade Representative also may include a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, existing bilateral trade agreements, or in trade negotiations with other countries and progress is being made toward their elimination.

Sec. 2. *Resolution.* Upon submission of the report required by paragraph (a) of section 1 of this part, the Trade Representative shall, with respect to any priority foreign country practice identified therein, engage the country concerned for the purpose of seeking a satisfactory resolution, for example, by obtaining compliance with a trade agreement or the elimination of the practice as quickly as possible, or, if this is not feasible, by providing for compensatory trade benefits.

Sec. 3. *Initiation of Investigations.* Within 90 days of the submission of the report required by paragraph (a) of section 1 of this part, the Trade Representative shall initiate under section 302(b)(1) of the Act (19 U.S.C. 2412(b)(1)) investigations with respect to all of the priority foreign country practices identified, unless during the 90-day period the Trade Representative determines that a satisfactory resolution of the matter to be investigated has been achieved.

PART II: IDENTIFICATION OF DISCRIMINATORY GOVERNMENT PROCUREMENT PRACTICES

Section 1. *Identification and Annual Report.* (a) Within 30 days of the submission of the National Trade Estimate Report for 1999, 2000, and 2001, the Trade Representative shall submit to the Committees on Finance and on Governmental Affairs of the Senate and the Committees on Ways and Means and Government Reform and Oversight of the House of Representatives, and shall publish in the **Federal Register**, a report on the extent to which foreign countries discriminate against U.S. products or services in making government procurements.

(b) In the report, the Trade Representative shall identify countries that:

(1) are not in compliance with their obligations under the World Trade Organization Agreement on Government Procurement (the GPA), Chapter 10 of the North American Free Trade Agreement (NAFTA), or other agreements relating to government procurement (procurement agreements) to which that country and the United States are parties; or

(2) maintain, in government procurement, a significant and persistent pattern or practice of discrimination against U.S. products or services that results in identifiable harm to U.S. businesses and whose products or services are acquired in significant amounts by the United States Government.

Sec. 2. *Considerations in Making Identifications.* In making the identifications required by section 1 of this part, the Trade Representative shall: (a) consider the requirements of the GPA, NAFTA, or other procurement agreements, government procurement practices, and the effects of such practices on U.S. businesses as a basis for evaluating whether the procurement practices of foreign governments do not provide fair market opportunities for U.S. products or services;

(b) take into account, among other factors, whether and to what extent countries that are parties to the GPA, NAFTA, or other procurement agreements, and other countries described in section 1 of this part:

(1) use sole-sourcing or otherwise noncompetitive procedures for procurement that could have been conducted using competitive procedures;

(2) conduct what normally would have been one procurement as two or more procurements, to decrease the anticipated contract values below the value threshold of the GPA, NAFTA, or other procurement agreements, or to make the procurement less attractive to U.S. businesses;

(3) announce procurement opportunities with inadequate time intervals for U.S. businesses to submit bids; and

(4) use specifications in such a way as to limit the ability of U.S. suppliers to participate in procurements; and

(c) consider information included in the National Trade Estimate Report, and any other additional criteria deemed appropriate, including, to the extent such information is available, the failure to apply transparent and competitive procedures or maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement.

Sec. 3. *Impact of Noncompliance and Denial of Comparable Treatment.* The Trade Representative shall take into account, in identifying countries in the annual report and in any action required by this part, the relative impact of any noncompliance with the GPA, NAFTA, or other procurement agreements, or of other discrimination on U.S. commerce, and the extent

to which such noncompliance or discrimination has impeded the ability of U.S. suppliers to participate in procurements on terms comparable to those available to suppliers of the country in question when seeking to sell goods or services to the United States Government.

Sec. 4. *Resolution.* Upon submission of the report required by section 1 of this part, the Trade Representative shall engage any country identified therein for the purpose of seeking a satisfactory resolution, for example, by obtaining compliance with the GPA, NAFTA, or other procurement agreements or the elimination of the discriminatory procurement practices as quickly as possible, or, if this is not feasible, by providing for compensatory trade benefits.

Sec. 5. *Initiation of Investigations.* (a) Within 90 days of the submission of the report required by section 1 of this part, the Trade Representative shall initiate under section 302(b)(1) of the Act (19 U.S.C. 2412(b)(1)) investigations with respect to any practice that:

(1) was the basis for the identification of a country under section 1; and
(2) is not at that time the subject of any other investigation or action under title III, chapter 1, of the Act,

unless during the 90-day period the Trade Representative determines that a satisfactory resolution of the matter to be investigated has been achieved.

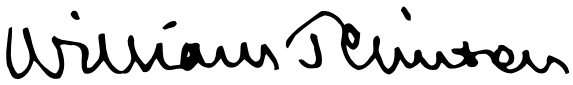
(b) For investigations initiated under paragraph (a) of this section (other than an investigation involving the GPA or NAFTA), the Trade Representative shall apply the time limits and procedures in section 304(a)(3) of the Act (19 U.S.C. 2414(a)(3)). The time limits in subsection 304(a)(3)(B) of the Act (19 U.S.C. 2414(a)(3)(B)) shall apply if the Trade Representative determines that:

(1) complex or complicated issues are involved in the investigation that require additional time;
(2) the foreign country involved in the investigation is making substantial progress in drafting or implementing legislative or administrative measures that will end the discriminatory procurement practice; or
(3) such foreign country is undertaking enforcement measures to end the discriminatory procurement practice.

PART III: DIRECTION

Section 1. *Presidential Direction.* The authorities delegated pursuant to this order shall be exercised subject to any subsequent direction by the President in a particular matter.

Sec. 2. *Consultations and Advice.* In developing the annual reports required by part I and part II of this order, the Trade Representative shall consult with executive agencies and seek information and advice from U.S. businesses in the United States and in the countries involved in the practices under consideration.



THE WHITE HOUSE,
March 31, 1999.

[FR Doc. 99–8433
Filed 4–2–99; 8:45 am]
Billing code 3195–01–P

Presidential Documents

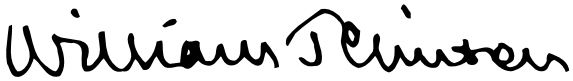
Presidential Determination No. 99–18 of March 25, 1999

Military Drawdown for Jordan

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by the Constitution and laws of the United States, including Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, as enacted in Public Law 105–277 (''Title III''), I hereby direct the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training of an aggregate value of $25 million for Jordan consistent with the authority provided under the heading ''Foreign Military Financing Program'' in Title III for the purposes of part II of the Foreign Assistance Act of 1961, as amended.

The Secretary of State is authorized and directed to report this determination to the Congress and to publish it in the **Federal Register.**



THE WHITE HOUSE,
Washington, March 25, 1999.

[FR Doc. 99–8446
Filed 4–2–99; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 64, No. 64
Monday, April 5, 1999

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–01–AD; Amendment 39–11108; AD 99–02–51]

RIN 2120–AA64

Airworthiness Directives; Allison Engine Company, Inc. AE 3007A and AE 3007C Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 99–02–51 that was sent previously to all known U.S. owners and operators of Allison Engine Company, Inc. AE 3007A and AE 3007C series turbofan engines by individual telegrams. This AD prohibits, prior to further flight, all engine ground starts at oil temperatures below 32°F (0°C) unless preflight operational procedures ensure that engine oil temperature is maintained at or above 32°F (0°C). This amendment is prompted by reports of in-flight engine shutdowns. The in-flight engine shutdowns have been attributed to loss of engine oil from the starter shaft seal. The actions specified by this AD are intended to prevent an in-flight engine shutdown due to loss of engine oil from the starter shaft seal.

DATES: Effective April 20, 1999, to all persons except those persons to whom it was made immediately effective by telegraphic AD 99–02–51, issued on January 8, 1999, that contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before June 4, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–01–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Des Plaines, IL 60018; telephone (847) 294–8180, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: On January 8, 1999, the Federal Aviation Administration (FAA) issued telegraphic airworthiness directive (TAD) 99–02–51, applicable to Allison Engine Company, Inc. AE 3007A and AE 3007C series turbofan engines that prohibits, prior to further flight, all engine ground starts at oil temperatures below 32°F (0°C), unless preflight operational procedures ensure that engine oil temperature is maintained at or above 32°F (0°C). That action was prompted by reports of three in-flight engine shutdowns since January 4, 1999. The FAA has determined that engine starting in cold temperatures can cause the starter shaft seal to become unseated, allowing oil to exit the accessory gearbox. This condition, if not corrected, could result in an in-flight engine shutdown due to loss of engine oil from the starter shaft seal.

Since the unsafe condition described is likely to exist or develop on other engines of the same type design, the FAA issued telegraphic AD 99–02–51 to prevent an in-flight engine shutdown due to loss of engine oil from the starter shaft seal. This AD prohibits all engine ground starts at oil temperatures below 32°F (0°C) unless preflight operational procedures ensure that engine oil temperature is maintained at or above 32°F (0°C). This AD is considered an interim action, and as the investigation continues, further rulemaking may be necessary. The actions are required to be accomplished in accordance with the compliance section of this AD.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on January 8, 1999, to all known U.S. owners and operators of Allison Engine Company, Inc. AE 3007A and AE 3007C series turbofan engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to Section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR part 39) to make it effective to all persons.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NE–01–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–02–51 Allison Engine Company, Inc.: Amendment 39–11108: Docket 99–NE–01–AD.

Applicability: Allison Engine Company, Inc. AE 3007A and AE 3007C series turbofan engines, installed on but not limited to Embraer EMB–145 and Cessna 750 series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an in-flight engine shutdown due to loss of engine oil from the starter shaft seal, accomplish the following:

(a) Prior to further flight, all ground engine starts at engine oil temperatures below 32°F (0°C) are prohibited except as provided in paragraphs (a)(1) and (a)(2) of this AD.

(1) For Allison Engine Company engine models AE 3007A, AE 3007A1, AE 3007A1/1, and AE 3007A1/2, if the engine oil temperature has dropped below 32°F (0°C) prior to flight, perform a highpower leak check on each engine (at least three minutes at takeoff power, reference Allison Engine Company AE 3007A series maintenance manual, section 72–00–00, page 505, subtask 72–00–00–790–002). No leaks above serviceable limits are permitted (0.21 quarts/hour, 200 cc/hour per Allison Engine Company AE 3007A, Fault Isolation Manual, section 79–37–00, page 212, allowable leakage).

(2) For Allison Engine Company engine model AE 3007C, if the engine oil temperature has dropped below 32°F (0°C) prior to flight, monitor the engine oil level using the following procedures:

(i) Operate engine at maximum continuous power for 10 minutes. Monitor the engine oil level.

(ii) If an oil level decrease of greater than 1.0 quarts occurs, maintenance is required before further flight.

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

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

(c) This amendment becomes effective April 20, 1999, to all persons except those persons to whom it was made immediately effective by telegraphic AD 99–02–51, issued January 8, 1999, which contained the requirements of this amendment.

Issued in Burlington, Massachusetts, on March 29, 1999.

David A. Downey,

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

[FR Doc. 99–8308 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–5]

Amendment of Class D and E Airspace; Orlando Executive Airport, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment modifies the Class D and Class E2 surface area airspace descriptions and establishes a Class E4 surface area airspace extension for the Orlando Executive Airport. This amendment is necessary as a result of the forthcoming amendment to the Orlando International Airport Class B airspace area. The establishment of the Class E4 airspace area is a technical change only, as this airspace extension is currently included in the Class D surface area airspace.

DATES: *Effective Date:* 0901 UTC, July 15, 1999.

Comments Date: Comments must be received on or before May 5, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99–ASO–5, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is a final rule, which involves a technical change to the Orlando Executive Airport surface area airspace, and was not preceded by notice and public procedure, comments are invited on the rule. This rule will become effective on the date specified in the **DATES** section. However, after the review of any comments and, if the FAA finds that further changes are appropriate, it will initiate rulemaking procedures to extend the effective date or to amend the regulation.

Comments that provide the factual basis supporting the views and

suggestions presented are particularly helpful in evaluating the effects of the rule, and in determining whether additional rulemaking is required. Comments are specifically invited on the overall regulatory, aeronautical, environmental, and energy-related aspects of the rule which might suggest the need to modify the rule.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) changes the description of the Class D airspace and Class E2 surface area airspace and establishes Class E4 airspace area designated as an extension to a Class D or Class E surface area for the Orlando Executive Airport.

Class D airspace designations are published in paragraph 5000, Class E2 airspace designations for surface areas are published in paragraph 6002 and Class E4 airspace areas designated as an extension to a Class D or Class E surface area are published in paragraph 6004 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Since this action only makes a technical amendment to the Class D and Class E airspace descriptions and should have no impact on the users of the airspace in the vicinity of the Orlando Executive Airport, the notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1—[Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Orlando, FL [Revised]

Orlando Executive Airport, FL
(Lat 28°32′44″ N., long. 81°19′58″ W.)

That airspace extending upward from the surface, to but not including 1,600 feet MSL, within a 4.2-mile radius of Orlando Executive Airport, excluding that portion within the Orlando, FL, Class B airspace area. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ASO FL E2 Orlando, FL [Revised]

Orlando Executive Airport, FL
(Lat. 28°32′44″ N., long. 81°19′58″ W.)

Within a 4.2-mile radius of Orlando Executive Airport excluding that portion within the Orlando, FL Class B airspace area. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ASO FL E4 Orlando, FL [New]

Orlando Executive Airport, FL
(Lat. 28°32′44″ N., long. 81°19′58″ W.)
Orlando VORTAC
(Lat. 28°32′34″ N., long. 81°20′06″ W.)

That airspace extending upward from the surface within 3.6 miles each side of the Orlando VORTAC 254 degree radial extending from the 4.2-mile radius to 8.1 miles west of the Orlando VORTAC; excluding that portion within the Orlando, FL, Class B airspace area. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on March 24, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–8248 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–3]

Modification of Class E Airspace; Auburn, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies Class E airspace at Auburn, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 09, and a GPS SIAP to Rwy 27, have been developed for De Kalb County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action increases the radius of the existing controlled airspace for this airport.

DATES: 0901 UTC, July 15, 1999.

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:

History

On Monday, February 1, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Auburn, IN (64 FR 4796). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written

comments on the proposal to the FAA. No comments objecting to the proposal were received. Class 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 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Auburn, IN, to accommodate aircraft executing the proposed GPS Rwy 09 SIAP and GPS Rwy 27 SIAP at De Kalb County Airport by increasing the radius of the existing controlled airspace at the airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 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 7400.9F, Airspace Designation and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

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

* * * * *

AGL IN E5 Auburn, IN [Revised]

Auburn, De Kalb County Airport, IN
(Lat. 41°18′26″ N., long. 85°03′52″ W.)

That airspace extending upward from 700 feet above the surface within an 6.5-mile radius of the De Kalb County Airport, excluding the airspace within the Ft. Wayne, IN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 18, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–8251 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–2]

Modification of Class E Airspace; Watertown, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies the Class E airspace at Watertown, WI. A Transponder Landing System (TLS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 05 has been developed for Watertown 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 increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

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:

History

On Monday, February 1, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Watertown, WI (64 FR 4797). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment strongly supporting the proposal was received from the Wisconsin Department of Transportation. 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 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Watertown, WI, to accommodate aircraft executing the proposed TLS Rwy 05 SIAP at Watertown Municipal Airport by increasing the radius of the existing controlled airspace at the airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

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

* * * * *

AGL WI E5 Watertown, WI [Revised]

Watertown Municipal Airport, WI
(Lat. 43°10′11″ N., long. 88°43′24″ W.)

That airspace extending upward from 700 feet above the surface within an 8.4-mile radius of the Watertown Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on March 18, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–8250 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–3]

Amendment of Class E Airspace; Toccoa, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Class E airspace at Toccoa, GA. The VHF Omnidirectional Range (VOR) or Global Positioning System (GPS) Runway (RWY) 20 Standard Instrument Approach Procedure (SIAP) has been amended to the Toccoa RG Letourneau Field Airport. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Toccoa RG Letourneau Field Airport. An extension via the 023 degree radial of the Foothills (ODF) VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) for the VOR or GPS RWY 20 SIAP is necessary. The length of the Class E airspace extension northeast of the VORTAC is 7 miles, and the width of the airspace extension is 6.8 miles. This amendment also reflects the correct geographical position coordinates for the Toccoa RG Letourneau Field Airport and the Habersham County Airport; which are minor technical changes as the position of the airports is unchanged.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On February 16, 1999, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class E airspace at Toccoa, GA, (64 FR 7558). This action provides adequate Class E airspace for IFR operations at Toccoa RG Letourneau Field Airport. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR part 71.1. The class E designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E airspace at Toccoa, GA, for the Toccoa RG Letourneau Field Airport. This amendment also corrects the geographical position coordinates for the Toccoa RG Letourneau Field Airport and the Habersham County Airport; which are minor technical changes as the position of the airports is unchanged.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 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 Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More above the Surface of the Earth.

* * * * *

ASO GA E5 Toccoca, GA [Revised]

Toccoa RG Letourneau Field Airport
(Lat. 34°35′38″ N., long. 83°17′45″ W.)
Foothills VORTAC
(Lat. 34°41′45″ N., long. 83°17′52″ W.)
Habersham County Airport
(Lat. 34°30′03″ N., long. 83°33′18″ W.)

That airspace extending upward from 700 feet or more above the surface of the earth within a 10-mile radius of Toccoa RG Letourneau Field Airport and within 3.4 miles each side of the 023 degree radial from the Foothills VORTAC, extending 7 miles northeast of the VOR and within an 8.2-mile radius of Habersham County Airport.

* * * * *

Issued in College Park, Georgia, on March 24, 1994.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–8249 Filed 4–2–99; 8:45 am]

BILLING CODE 1910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–81]

Modification of Class E Airspace; Pontiac, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class airspace at Pontiac, IL. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 24 has been developed for Pontiac Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

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:

History

On Monday, February 1, 1999, the FAA proposed to amend 14 CFR part 71 to modify E airspace at Pontiac, IL (64 FR 4795). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class 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 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Pontiac, IL to accommodate aircraft executing the proposed GPS Rwy 24 SIAP at Pontiac Municipal Airport by increasing the radius of the existing controlled airspace at the airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

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

* * * * *

AGL IL E5 Pontiac, IL [Revised]

Pontiac Municipal Airport, IL
(Lat. 40°55′25″ N., long. 88°37′32″ W.)

That airspace extending upward from 700 feet above the surface within an 7.2-mile radius of the Pontiac Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on March 18, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–8245 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–1]

Modification of the legal description of the Class E Airspace; Sault Ste Marie, ON

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies the legal description Class E airspace at Sault Ste Marie, ON. The airspace description for the Sault Ste Marie Airport, ON, Canada, incorrectly describes the northwest extension of the controlled airspace as the northeast extension. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument approach procedures. This action corrects the legal description of the existing controlled airspace for this airport in order to eliminate confusion regarding the actual configuration of the airspace.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

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:

History

On Monday, February 1, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Sault Ste Marie, ON (64 FR 4794). The proposal was to correct the legal description of the existing controlled airspace to reflect the actual configuration of that controlled airspace.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Sault Ste Marie, ON, to correctly identify the northwest extension of the existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporations by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

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

* * * * *

AGL ON E4 Sault Ste Marie, ON [Revised]

Sault Ste Marie Airport, ON, Canada
(Lat. 46°29′06″N., long. 84°30′34″W.)

That airspace in the United States extending upward from the surface within 1.6 miles north of the 108° bearing from the airport extending from the 4.4-mile radius of Sault Ste Marie Airport to 4.8 miles southeast of the airport, and within 1.6 miles each side of the 118° bearing from the airport extending from the 4.4-mile radius to 9.6 miles southeast of the airport, and within 1.6 miles each side of the 293° bearing from the airport extending from the 4.4-mile radius to 4.8 miles northwest of the airport.

* * * * *

Issued in Des Plaines, Illinois on March 18, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–8244 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18, 113 and 178

[T.D. 99–33]

RIN 1515–AB67

Warehouse Withdrawals; Aircraft Fuel Supplies; Pipeline Transportation of Merchandise in Bond

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, the interim rule amending the Customs Regulations that was published in the **Federal Register** on February 22, 1996, as T.D. 96–18. The interim rule implemented certain statutory changes to the Customs laws contained in the Customs modernization portion of the North American Free Trade Agreement Implementation Act regarding recordkeeping for merchandise transported by pipeline and duty-free withdrawals from Customs bonded warehouses of aircraft turbine fuel. The interim rule also clarified the procedures applicable to aircraft turbine fuel withdrawn from a bonded warehouse for certain duty-free use and then commingled with other lots of fuel before being so used.

EFFECTIVE DATE: April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Jerry C. Laderberg, Office of Regulations and Rulings, 202–927–2320.

SUPPLEMENTARY INFORMATION:

Background

Title VI of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182 (December 8, 1993), popularly known as the Customs Modernization Act (Mod Act), significantly amended certain Customs laws. This document concerns sections 664 and 665 of the Mod Act. Section 664 added a new section 553a to the Tariff Act of 1930 (19 U.S.C. 1553a), to account for bonded merchandise transported by pipeline. Section 665 amended section 557(a) of the Tariff Act of 1930 (19 U.S.C. 1557(a)), to provide for the duty-free withdrawal of turbine fuel from a Customs bonded warehouse under a 30-day accounting period.

Under section 553a, bonded merchandise transported by pipeline may be accounted for on a quantitative basis. For this purpose, the bill of lading or equivalent document of receipt, issued by the pipeline carrier to the shipper and accepted by the consignee, may be used to account for the quantity of merchandise so transported and to maintain the identity of that merchandise. This facilitates the commingling of bonded merchandise with non-bonded merchandise being transported by pipeline. Commingling previously was not permitted under Customs law, which required that the physical identity of the bonded merchandise be maintained. However, since most merchandise transported by pipeline is commingled and is susceptible to quantitative accounting, section 553a is intended both to enable the effective use of modern fuel transportation systems and to reduce the administrative costs and paperwork for the industry and the Government.

Under amended section 1557(a), aircraft turbine fuel may be withdrawn from a Customs bonded warehouse for use as provided under section 309 of the Tariff Act of 1930 (19 U.S.C. 1309) without the payment of duty if an amount equal to the quantity of fuel withdrawn is shown to be used as provided for in section 1309 within 30 days of its withdrawal. Duties must be deposited on turbine fuel that was withdrawn in excess of the quantity

shown to have been used under section 1309 during the 30-day period following withdrawal of the fuel. Previously, Customs required daily accounting for such fuel, which resulted in great administrative expense and excessive paperwork for industry. The amended procedure allows for the commingling of different lots of fuel, whether bonded, imported, or domestic, in a modern hydrant system, with accounting for the bonded fuel in a manner which is cost-effective and which substantially reduces paperwork.

Accordingly, by a document published in the **Federal Register** (61 FR 6772) on February 22, 1996, as T.D. 96–18, Customs issued interim regulations to implement the foregoing statutory enactments.

The interim regulations added a new § 18.31 to its regulations (19 CFR 18.31) to allow bonded merchandise being transported by pipeline to be accounted for on a quantitative basis, and a new § 10.62b to permit accounting on a monthly basis for the duty-free withdrawal of aircraft turbine fuel from a bonded warehouse for use as provided in 19 U.S.C. 1309. In connection with new §§ 10.62b and 18.31, the interim regulations also made conforming changes to existing §§ 10.60(d), 10.62(a), 18.1(a)(1), and 113.62(b) of the Customs Regulations (19 CFR 10.60(d), 10.62(a), 18.1(a)(1), and 113.62(b)).

Discussion of Comments

One commenter responded to the request for comments on the interim regulations contained in T.D. 96–18. This commenter agreed with the substance of the interim regulations, but made a number of suggestions in an effort to clarify the meaning of the regulations or to further simplify their administration. The suggestions made by the commenter, together with the responses by Customs, are set forth below.

Comment: The reference in § 10.62(a) to Customs Form (CF) 7506 should be changed to Customs Form 7501 because Customs has since adopted the use of CF 7501 in place of CF 7506.

Customs Response: Customs agrees. Section 10.62(a) is changed accordingly.

Comment: The last sentence in § 10.62b(b) should be changed to require that the withdrawal of turbine fuel be made using CF 7512 unless the blanket withdrawal procedure is used.

Customs Response: Customs disagrees. Under § 144.37, Customs Regulations (19 CFR 144.37), either a CF 7512 or a CF 7501 may be used to document the withdrawal.

Comment: The commenter stated that the use of the phrase, ''the fuel withdrawn which is not entered and upon which duties have not been paid'', in § 10.62b(c)(1) and its subordinate paragraphs, is superfluous and should be deleted from these provisions. The commenter asserts that, as used in paragraph (c)(1)(ii)(C) of § 10.62b, the phrase appears misplaced because this paragraph deals with fuel being loaded onto an aircraft, as opposed to being withdrawn without entry or payment of duty from a bonded warehouse.

Customs Response: Customs disagrees that the phrase should be entirely deleted from § 10.62b(c). It serves to remind Customs and the party withdrawing the fuel that the fuel must be entered if not timely laden under 19 U.S.C. 1309. Customs agrees, however, that the phrase is inappropriate as used in § 10.62b(c)(1)(ii)(C). Section 10.62b(c)(1)(ii)(C) is revised consistent with the request made by the commenter.

Comment: The commenter believes that it would be helpful to both Customs and importers to indicate in § 10.62b(c)(1) that the referenced documents should be submitted to Customs at the port where the bonded entry was filed.

Customs Response: Customs agrees and the provision is modified.

Comment: The commenter states, with reference to § 10.62b(g)(5), that blanket withdrawals of fuel from a bonded warehouse eliminate the need to file a CF 7512. The commenter advocates that the provision be revised to provide that a withdrawal document meeting the requirements of § 10.62b can be submitted instead of CF 7512. The commenter also suggests that the withdrawal document, which is issued by the warehouse proprietor under § 10.62b(g)(5), could also be issued by a pipeline operator, barge or vessel operator, or other party acceptable to Customs.

In addition, the commenter wants to delete the requirement in § 10.62b(g)(5)(ii) that the withdrawal document identify the specific tank from which the bonded fuel is withdrawn. The commenter is of the opinion that because fuel may be withdrawn from several tanks in frequent batches at multi-tank terminals, the precise tank or tanks from which a particular batch of fuel is withdrawn cannot readily be known. Moreover, the commenter declares that precise tank identification is not currently maintained for commercial or Customs purposes.

Customs Response: Customs disagrees with the suggested changes. As already mentioned, under § 144.37, Customs Regulations (19 CFR 144.37), a CF 7512, or a CF 7501, may be used to document withdrawals for export.

Because the warehouse proprietor is the party obligated under bond for the proper withdrawal of fuel supplies from the warehouse, the proprietor is the appropriate party to issue the withdrawal document. Customs believes that permitting another party, such as a pipeline, vessel, or barge operator, to issue a withdrawal document would impose an administrative burden on the agency as well as on the trade.

Furthermore, Customs believes that the withdrawal document must include the specific tank from which fuel is withdrawn in order to enable the agency to audit the withdrawal of the fuel accurately and effectively.

Conclusion

For these reasons, and after careful consideration of the comments and further review of the matter, Customs concludes that the interim rule published in the **Federal Register** (61 FR 6772) on February 22, 1996, as T.D. 96–18, should be adopted as a final rule with the changes explained above.

Regulatory Flexibility Act and Executive Order 12866

As discussed in the interim rule, since the amendments are not subject to the notice and public procedure requirements of the Administrative Procedure Act (5 U.S.C. 553), they are not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Nor do the amendments constitute a ''significant regulatory action'' under E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1515–0209. Part 178, Customs Regulations (19 CFR part 178) is amended to make provision for this information collection. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collection of information in this final rule is in § 10.62b. This information is required and will be used to verify that turbine fuel withdrawn from a Customs bonded warehouse is used on aircraft qualifying for duty-free withdrawal of fuel supplies, in accordance with statutory law. The likely respondents are businesses.

The estimated average annual burden associated with the collection of information in this final rule is 12 hours per respondent/recordkeeper.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Shipments.

19 CFR Part 18

Bonded transportation, Common carriers, Customs duties and inspection, Exports, Imports.

19 CFR Part 113

Common carriers, Customs duties and inspection, Exports, Freight, Laboratories, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 178

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

Amendments to the Regulations

Accordingly, the interim rule amending parts 10, 18 and 113, Customs Regulations (19 CFR parts 10, 18 and 113), which was published at 61 FR 6772 on February 22, 1996, is adopted as a final rule with the changes set forth below. In addition, part 178 is amended to add a new listing to Customs approved information collection requirements.

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

1. The general authority citation for part 10, and the relevant specific authority citations, continue to read as follows:

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

* * * * *

Sections 10.61, 10.62, 10.63, 10.64, 10.64a also issued under 19 U.S.C. 1309;

* * * * *

Section 10.62b also issued under 19 U.S.C. 1557;

* * * * *

§ 10.62 [Amended]

2. In § 10.62(a), the first sentence is amended by removing the reference to ''Customs Form 7506'' and by adding, in its place, ''Customs Form 7501''.

3. Section 10.62b is amended by revising paragraphs (c)(1) and (c)(1)(ii)(C) to read as follows:

§ 10.62b Aircraft turbine fuel.

* * * * *

(c) *Establishment of use of fuel by qualifying aircraft.* * * *

(1) The person withdrawing aircraft turbine fuel under paragraph (b) of this section must establish that an aircraft qualifying for the privileges provided for in section 309, Tariff Act of 1930, as amended, used fuel in an amount equal to or exceeding the quantity of the fuel withdrawn that is not entered and upon which duties are not paid by submitting to Customs, at the port where the bonded warehouse entry was filed, within the time provided in paragraph (d) of this section, either—

* * * * *

(ii) * * *

(C) All of the aircraft into which fuel is loaded hereunder were used in a trade provided for in section 309; and

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding a new listing to the table in appropriate numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB Control No.
*	*	*
§ 10.62b	Certificate of compliance for turbine fuel withdrawals	1515–0209
*	*	*

Approved: March 8, 1999.

Raymond W. Kelly,

Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 99–8333 Filed 4–2–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 26

[Docket No. 98N–0185]

RIN 0910–ZA11

Mutual Recognition of Pharmaceutical Good Manufacturing Practice Inspection Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports Between the United States and the European Community; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of November 6, 1998 (63 FR 60122). The document amended FDA's regulations under an international agreement between the United States and the European Community. FDA took this action to enhance its ability to ensure the safety and effectiveness of pharmaceuticals and medical devices through more efficient utilization of its regulatory resources. The document was published with some inadvertent errors. This document corrects those errors.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Merton V. Smith, Office of International

Affairs (HFG–1), Office of External Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0910, or e-mail ''MSmith@oc.fda.gov''.

SUPPLEMENTARY INFORMATION: In FR Doc. 98–29609, appearing on page 60122, in the **Federal Register** of Friday, November 6, 1998, the following corrections are made:

1. In the preamble, on page 60137, in the third column, in the fifth paragraph, in the third line, after ''to the following:'', ''that only'' is removed.

§ 26.1 [Corrected]

2. On page 60142, in the first column, in § 26.1(c), in the fourth line, ''that only'' is removed.

§ 26.50 [Corrected]

3. On page 60153, in Appendix B of subpart B in § 26.50, in Table 2, in the first column, under the subheading ''Clinical Thermometers:'', the third entry beginning with ''AN 868.5925 * * *'' is removed; in that same table, under the subheading ''Hypodermic Needles and Syringes (except anti-stick and self-destruct):'', the third entry beginning with ''OR 888.3020 * * * is removed; and in that same table, the subheading ''External Fixators (except devices with no external components):'' and the two entries that follow are removed.

Dated: March 30, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–8199 Filed 3–31–99; 11:57 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[USCG–1999–5402]

Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules adopted by the Coast Guard and temporarily effective between October 1, 1998 and December 31, 1998, which were not published in the **Federal Register**. This quarterly notice lists temporary local regulations, security zones, and safety zones of limited duration and for which timely publication in the **Federal Register** may not have been possible.

DATES: This notice lists temporary Coast Guard regulations that became effective and were terminated between October 1, 1998 and December 31, 1998.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20593–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You may electronically access the public docket for this notice on the Internet at *http://dms.dot.gov*, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Lieutenant Junior Grade Mark Cunningham Office of Regulations and Administrative Law, telephone (202) 267–6233. For questions on viewing, or on submitting material to The docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation (202) 866–9329.

SUPPLEMENTARY INFORMATION: District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to vessels, ports, or waterfront facilities to prevent injury or damage. Special local regulations are issued to enhance the safety of participants and spectators at regattas and other marine events. Timely publication of these regulations in the **Federal Register** is often precluded when a regulation responds to an emergency, or when an event occurs without sufficient advance notice. However, the affected public is informed of these regulations through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the regulation.

Because mariners are notified by Coast Guard officials on-scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must published in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary special local regulations, security zones, and safety zones. Permanent regulations are not included in this list because they are published in their entirety in the **Federal Register**. Temporary regulations may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The safety zones, special local regulations and security zones listed in this notice have been exempted from review under Executive Order 12866 because of their emergency nature, or limited scope and temporary effectiveness.

The following regulations were placed in effect temporarily during the period October 1, 1998 and December 31, 1998, unless otherwise indicated.

Dated: March 30, 1999.

Pamela M. Pelcovits,

Chief, Office of Regulations and Administrative Law.

QUARTERLY REPORT

District docket	Location	Type	Effective date
01–98–134	Hudson River, Manhattan, NY	Safety Zone	10/13/98
01–98–152	Hudson River, Manhattan, NY	Safety Zone	10/8/98
01–98–159	Hudson River, Manhattan, NY	Safety Zone	10/16/98
01–98–160	Hudson River, Albany, NY	Safety Zone	10/22/98
01–98–164	Hudson River, Manhattan, NY	Safety Zone	11/21/98
01–98–166	Boston Harbor, Boston, MA	Safety Zone	11/7/98
01–98–167	Bath Iron Works, Bath, ME	Safety Zone	11/14/98
01–98–169	Hudson River, Manhattan, NY	Safety Zone	11/11/98
01–98–176	Newport, RI	Security Zone	12/3/98
01–98–177	Newport, RI	Security Zone	12/3/98

QUARTERLY REPORT—Continued

District docket	Location	Type	Effective date
01–98–180	Marblehead Harbor, Marblehead, MA	Safety Zone	12/31/98
01–98–181	Gloucester Harbor, Gloucester, MA	Safety Zone	12/31/98
01–98–182	Newport, RI	Safety Zone	12/31/98
05–98–080	James River, Williamsburg, VA	Safety Zone	10/6/98
05–98–085	Mattoponi River, West Point, VA	Safety Zone	10/3/98
05–98–088	Atlantic Ocean, Ocean City, MD	Special Local	10/10/98
05–98–089	Sunset Lake, Wildwood Crest, NJ	Special Local	10/10/98
05–98–091	Camp Lejeune, NC	Safety Zone	10/08/98
05–98–094	Spa Creek, Annapolis Harbor, Maryland	Special Local	11/14/98
05–98–099	Wrightsville Beach, North Carolina	Special Local	11/28/98
05–98–104	Cape Fear River, North Carolina	Safety Zone	11/25/98
05–98–105	Cape Fear River, North Carolina	Safety Zone	12/2/98
05–98–107	Cape Fear River, North Carolina	Safety Zone	12/5/98
05–98–108	Cape Fear River, North Carolina	Safety Zone	12/9/98
05–98–109	Cape Fear River, North Carolina	Safety Zone	12/15/98
05–98–109	Cape Fear River, North Carolina	Safety Zone	12/12/98
05–98–110	Cape Fear River, North Carolina	Safety Zone	12/18/98
05–98–112	Cape Fear River, North Carolina	Safety Zone	12/21/98
07–98–058	Islamorada, FL	Special Local	10/10/98
07–98–070	North of Old San Juan, Puerto Rico	Special Local	11/15/98
07–98–078	Bay View, Catano, PR	Special Local	11/29/98
07–98–081	East of Villa Marina, Fajardo, PR	Special Local	12/20/98
08–96–067	Tennessee River, M. 333.5 to 336.5	Special Local	10/17/98
08–98–074	Clear Lake, Clear Lake, TX	Special Local	12/12/98
13–98–036	Freedom Fireworks Display, Fort Vancouver	Safety Zone	10/30/98
13–98–037	Fireworks Display, St. Helens, OR	Safety	12/31/98

QUARTERLY REPORT

COTP docket	Location	Type	Effective date
Corpus Christi 98–005	Victoria Barge Canal	Safety Zone	10/21/98
Guam 98–003	Orote Point, Guam	Safety Zone	11/21/98
Guam 98–004	Agana Bay, Guam	Safety Zone	12/31/98
Houston-Galveston 98–011	Houston Ship Channel, Houston, TX	Safety Zone	12/16/98
LA/Long Beach 98–006	Long Beach Harbor, CA	Safety Zone	10/3/98
LA/Long Beach 98–007	Pierpont Bay, Ventura, CA	Safety Zone	10/4/98
LA/Long Beach 98–008	Long Beach Harbor, CA	Safety Zone	10/21/98
LA/Long Beach 98–009	Long Beach Harbor, CA	Safety Zone	10/22/98
LA/Long Beach 98–011	Santa Barbara, CA	Safety Zone	12/9/98
Louisville 98–003	Licking River, Compell County, KY	Safety Zone	11/2/98
Miami 98–064	West Palm Beach, FL	Safety Zone	10/2/98
Miami 98–066	West Palm Beach, FL	Safety Zone	10/15/98
Miami 98–067	Bal Harbor, Florida	Security Zone	10/13/98
Miami 98–069	Palm Beach County, FL	Safety Zone	10/30/98
Miami 98–071	Palm Beach County, FL	Safety Zone	11/4/98
Miami 98–074	Miami, FL	Safety Zone	11/13/98
New Orleans 98–021	Lwr Mississippi River, M. 94 to 95	Safety Zone	10/29/98
New Orleans 98–024	Lwr Mississippi River, M. 94 to 95	Safety Zone	12/5/98
New Orleans 98–025	Lwr Mississippi River, M. 229.5 to 230.5	Safety Zone	12/12/98
New Orleans 98–026	Lwr Mississippi River, M. 94 to 96	Safety Zone	12/16/98
New Orleans 98–027	Lwr Mississippi River, M. 94 to 96	Safety Zone	12/14/98
Paducah 98–006	Tennessee Tombigbee Waterway, M. 429 to 431.	Safety Zone	10/18/98
Paducah 98–007	Tennessee River, M. 304.5 to 306	Safety Zone	12/2/98
Paducah 98–001	Ohio River, M. 919 to 920	Safety Zone	12/29/98
San Francisco Bay 98–023	San Francisco Bay, San Francisco, CA	Safety Zone	10/8/98
San Francisco Bay 98–024	San Francisco Bay, San Francisco, CA	Safety Zone	10/10/98
San Francisco Bay 98–025	San Francisco Bay, San Francisco, CA	Safety Zone	10/10/98
San Juan 98–072	San Juan, PR	Safety Zone	12/1/98
San Juan 98–073	Port of San Juan, Puerto Rico	Safety Zone	11/13/98

[FR Doc. 99–8203 Filed 4–2–99; 8:45 am]
BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–98–083]

RIN 2115AE 47

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule with request for comments.

SUMMARY: The Coast Guards is temporarily changing the regulations governing the operation of the Boca Grande Bridge, mile 34.3 at Placida. This change is being made because of concerns expressed by the bridgeowner about vehicle traffic congestion at the tollbooth near the bridge. The toll collection facilities are expected to be improved prior to the year 2000 winter season, therefore this rule will only be in effect for the remainder of the 1999 winter season. This proposal will accommodate the needs of vehicle traffic and still provide for the reasonable needs of navigation.

DATES: This temporary rule will be in effect from March 5, 1999, until May 31, 1999. Comments must be received on or before June 4, 1999.

ADDRESSES: Comments must be mailed to Commander (oan) Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131–3050, or may be delivered to room 406 at the above address between 7:30 a.m. and 4 p.m. Monday through Friday, except federal holidays. The comments received will be available for inspection and copying at room 406 at the same address and times.

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

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify the rulemaking [CGD07–98–083] and the specific section of this rule to which each comment applies, and give the reason for each comment.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments received. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

The existing regulation 33 CFR 117.287(a–1) requires the bridge to open on signal except that from January 1 to May 31, from 10 a.m. to 5 p.m., the draw need open only on the hour, quarter-hour, half-hour, and three quarter-hour. The Coast Guard is temporarily changing the time the bridge is on scheduled openings because of vehicle congestion at the bridge tollbooth during the winter season. Because the toll facilities are expected to be improved prior to the year 2000 winter season, the Coast Guard is temporarily adding three additional hours of scheduled opening times for the winter 1999 season. This temporary rule will allow the 15 minutes schedule start at 7 a.m. vice 10 a.m. until 5 p.m. This action should improve the flow of highway traffic through the tollbooth during the morning commuter periods without unreasonably impacting navigation.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to public interests as the Coast Guard was just advised of the problems at the bridge by the bridgeowner, and immediate action is needed to alleviate the congestion at the bridge prior to the new tollbooths being constructed.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of the order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The regulations will only increase waiting times for vessels by a maximum of 15 minutes.

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'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) that this rule will not have a significant effect upon a substantial number of small entities as the vessels involved will only have to wait a maximum of an additional 15 minutes.

Federalism

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

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and has concluded under Figure 2–1, paragraph 32 of Commandant Instruction M16475.1C, that the promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection and copying.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations: In consideration of the foregoing, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—[AMENDED]

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g), 33 CFR 117.43

2. From March 5, 1999, through May 31, 1999, in § 117.287, paragraph (a–1) is suspended and a new paragraph (a–3) is added to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(a–3) The Draw of the Gasparilla Island drawbridge, mile 34.3 at Placida,

shall open on signal, except that from March 5 to May 31, 1999, from 7 a.m. to 5 p.m. the draw need open only on the hour, quarter-hour, half-hour, and three quarter-hour.

* * * * *

Dated: March 5, 1999.

Norman T. Saunders,

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

[FR Doc. 99–8202 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6317–5]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of partial deletion of the Treasure Island Naval Station—Hunters Point Annex Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA), Region 9, announces the deletion of operable unit (OU) No. 1, also known as Parcel A, of Treasure Island Naval Station—Hunters Point Annex, also known as Hunters Point Naval Shipyard (HPS), Superfund Site (EPA ID # CA1170090087) from the NPL. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA and the State of California have determined that all appropriate responses under CERCLA have been implemented on Parcel A of HPS, and that no further cleanup is appropriate for Parcel A of HPS. Moreover, EPA and the State of California have determined that the remedial actions conducted on Parcel A to date remain protective of public health, welfare, and the environment. This partial deletion is in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55466 (November 1, 1995). The other parcels of HPS, Parcels B, C, D, E, and F, are still undergoing remedial actions, and are not to be removed from the NPL.

EFFECTIVE DATE: April 5, 1999.

ADDRESSES: *Information Repositories:* Information on this Site is available for viewing at the following locations:

U.S. EPA, Region 9, Superfund Records Center, 4th floor, 95 Hawthorne St., San Francisco, CA 94105, 415–536–2000. Anna E. Waden Branch Library, 5075 Third St., San Francisco, CA 94124, 415–715–4100.

San Francisco Main Public Library, Civic Center, San Francisco, CA 94102, 415–557–4400.

FOR FURTHER INFORMATION CONTACT: Claire Trombadore (SFD–8–2), RPM, U.S. EPA, Region 9, 75 Hawthorne St., San Francisco, CA 94105, 415–744–2409, Fax 415–744–1916, e-mail TROMBADORE.CLAIRE@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: The site to be partially deleted from the NPL is: Parcel A, of Treasure Island Naval Station—Hunters Point Annex, San Francisco, California. After performing a Preliminary Assessment and Site Inspection (PA/SI) and a Remedial Investigation (RI) of Parcel A the Navy determined that Parcel A posed no significant threat to public health or the environment. Therefore, the Navy, which owns HPS, issued a ''no action'' Record of Decision (ROD) for Parcel A of HPS in November of 1995. The U.S. EPA concurred with this ROD.

The Navy has implemented all appropriate response actions required under CERCLA on Parcel A. Since the ROD for Parcel A specified ''no action,'' a five year review is not necessary for this parcel. The other parcels of HPS, Parcels B, C, D, E, and F, are still undergoing remedial actions, and are not to be removed from the NPL.

A Notice of Intent for Partial Deletion for this Site was published on December 15, 1998 in the **Federal Register** (63 FR 69032–69034). The closing date for comments on the Notice of Intent for Partial Deletion was January 14, 1999. EPA received only one comment letter. This letter, from the San Francisco Redevelopment Agency, expressed support for the partial deletion of Parcel A. This letter is available for review in the HPS site file at the U.S. EPA, Region 9, Superfund Records Center, 4th floor, 95 Hawthorne St., San Francisco, CA 94105, 415–536–2000 and also in the repositories listed above.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment, and it maintains the National Priorities List containing those sites. Remedial Actions at sites on the NPL may be funded by the Hazardous Substance Response Trust Fund (Fund). Any site or portion of a site deleted from the NPL remains eligible for 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.

List of Subjects in 40 CFR Part 300

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

Dated: March 16, 1999.

Felicia Marcus,

Regional Administrator, Region 9.

For the reason set out in the preamble, 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.

2. Table 2 of Appendix B to part 300 is amended by revising the entry for ''Treasure Island Naval Station—Hun Pt An,'' San Francisco, California, to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 2.—FEDERAL FACILITIES SECTION

State	Site name	City/county	Notes[a]
*	*	*	*
CA	Treasure Island Naval Station-Hun Pt An	San Francisco	P

TABLE 2.—FEDERAL FACILITIES SECTION—Continued

State	Site name	City/county	Notes [a]
*	*	*	*

([a]) A=Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be > 28.50).

* * * * * *

P=Sites with partial deletion(s).

[FR Doc. 99–8086 Filed 4–2–99; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301

[FTR Amendment 79—1998 Edition]

RIN 3090–AG95

Federal Travel Regulation; Maximum Per Diem Rates in Michigan, New Jersey, New York, South Carolina, and West Virginia

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) Amendment 75, as corrected, published in the **Federal Register** on Wednesday, February 10, 1999 (64 FR 6550), to add per diem localities in the States of Michigan, New Jersey, New York, and West Virginia, respectively, and to increase the maximum lodging amount in Charleston, South Carolina.

DATES: This final rule is effective April 5, 1999, and applies for travel performed on or after April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Jim Harte, Office of Governmentwide Policy, Travel and Transportation Management Policy Division, telephone 202–501–1538.

SUPPLEMENTARY INFORMATION:

A. Background

The General Services Administration (GSA), after an analysis of additional data, has determined that current lodging allowances for Frankenmuth, Michigan; Tom's River, New Jersey; Syracuse, New York; Charleston, South Carolina; and Shepherdstown, West Virginia, do not adequately reflect the cost of lodging in those areas. To provide adequate per diem reimbursement for Federal employee travel to Frankenmuth (Saginaw County), Michigan, the maximum lodging allowance is $64 and the meals and incidental expenses (M&IE) rate is $34, resulting in a maximum per diem rate of $98. For Federal employee travel to Tom's River (Ocean County), New Jersey, seasonal rates are: for the period June 1–September 30, the maximum lodging allowance is $69 and the M&IE rate is $38, resulting in a maximum per diem rate of $107, and for the period October 1–May 31, the maximum lodging allowance is $50 and the M&IE rate is $38, resulting in a maximum per diem rate of $88. The maximum lodging allowance for Syracuse (Onondaga County), New York, is $70 and the M&IE rate is $34, resulting in a maximum per diem rate of $104. The maximum lodging allowance for Charleston (Charleston County), South Carolina, is changed to $95 and the M&IE rate remains at $42, resulting in a maximum per diem rate of $137. The maximum lodging allowance for Shepherdstown (Jefferson County), West Virginia, is $65 and the M&IE rate is $38, resulting in a maximum per diem rate of $103.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

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

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.*

E. Small Business Regulatory Enforcement Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Chapter 301

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, under 5 U.S.C. 5701–5709, 41 CFR chapter 301 is amended as follows:

CHAPTER 301—TEMPORARY DUTY (TDY) TRAVEL ALLOWANCES

Appendix A to chapter 301 is amended by adding, under the State of Michigan, an entry for Frankenmuth; under the State of New Jersey, an entry for Tom's River; under the State of New York, an entry for Syracuse, under the State of West Virginia, an entry for Shepherdstown; and by revising, under the State of South Carolina, the entry for Charleston as follows:

Appendix A to Chapter 301—Prescribed Maximum per Diem Rates for Conus

* * * * *

Per diem locality: key city 1 [1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate 4 (c)
*	*	*	*	*	*	*
MICHIGAN						
*	*	*	*	*	*	*
Frankenmuth	Saginaw	64		34		98

Per diem locality: key city 1 [1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate 4 (c)
* * *	*	*		*		*
NEW JERSEY						
* * *	*	*		*		*
Tom's River	Ocean					
(June 1-September 30)		69		38		107
(October 1-May 31)		50		38		88
* * *	*	*		*		*
NEW YORK						
* * *	*	*		*		*
Syracuse	Onondaga	70		34		104
* * *	*	*		*		*
SOUTH CAROLINA						
* * *	*	*		*		*
Charleston	Charleston	95		42		137
* * *	*	*		*		*
WEST VIRGINIA						
* * *	*	*		*		*
Shepherdstown	Jefferson	65		38		103
* * *	*	*		*		*

Dated: March 22, 1999.

David J. Barram,

Administrator of General Services.

[FR Doc. 99–8155 Filed 4–2–99; 8:45 am]

BILLING CODE 6820–34–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 97–181; FCC 99–28]

Defining Primary Lines

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission adopts a location-based definition of ''primary residential line.'' Under this definition, one residential line that a price cap local exchange carrier (LEC) provides to a particular location will be considered primary. Any other residential lines the price cap LEC provides to the same location shall be deemed non-primary residential lines. The Commission maintains the existing definition of ''single line business line.'' These definitions will facilitate implementation of the Commission's access charge rules, which set higher caps for the subscriber line charges (SLCs) and presubscribed interexchange carrier charges (PICCs) that price cap LECs may assess on non-primary residential lines and multi-line business lines than on primary residential lines and single line business lines. Adopting requirements for differentiating and identifying such lines will promote uniformity in the way price cap LECs assess SLCs and PICCs.

EFFECTIVE DATE: July 1, 1999.

ADDRESSES: The entire file is available for inspection and copying weekdays from 9:00 a.m. to 4:30 p.m. in the Commission's Reference Center, 445 Twelfth Street SW, Washington, DC 20554. Copies may be purchased from the Commission's duplicating contractor, ITS Inc., 1231 Twentieth St., NW, Washington, DC 20036, (202) 857–3800.

FOR FURTHER INFORMATION CONTACT: Neil Fried, Common Carrier Bureau, (202) 418–1520; TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION:

A. Background

1. To provide interstate telecommunications services, interexchange carriers (IXCs) usually rely on some of the telephone infrastructure that incumbent LECs use to provide local telephone service. The incumbent LEC's local loop, for example, connects a customer to the LEC network so that the customer can make and receive intrastate calls. The incumbent LEC's local loop also connects the customer to the networks of IXCs so that the customer can make and receive interstate calls. Consequently, a portion of the costs an incumbent LEC incurs in providing this common infrastructure is allocated to intrastate service and recovered pursuant to state regulation, and a portion is allocated to interstate service and recovered pursuant to regulations of the Federal Communications Commission.

2. The Commission adopted uniform access charge rules in 1983 to govern the way incumbent LECs recover that portion of the costs of the common infrastructure allocated to interstate service. Under these rules, the Commission allows incumbent LECs to recover some of the interstate costs of providing the local loop through a flat, monthly end-user common line charge (EUCL)—sometimes called a SLC—that they assess on end users. The Commission limited the amount of the SLC, however, because of concerns that an excessively high SLC might cause end users to disconnect their telephone service. The Commission allowed the incumbent LECs to recover the

remainder of their interstate costs attributable to the local loop through a per-minute carrier common line charge (CCLC) that they assess on IXCs.

3. Under principles of cost-causation, it is most economically efficient for incumbent LECs to recover the costs of providing interstate access in the same way that they incur them. Under such principles, incumbent LECs should recover their traffic-sensitive costs of interstate access through per-minute charges, and should recover their non-traffic-sensitive costs through flat charges. The incumbent LECs' costs of providing the local loop do not change with the number, length, or type of telephone calls customers make, and so are non-traffic sensitive. Because of the cap on SLCs, however, incumbent LECs recover some of these non-traffic-sensitive loop costs through the traffic sensitive CCLC. In its May 1997 *Access Charge Reform Order,* the Commission decided to phase out the CCLC for price cap LECs on the grounds that recovering the non-traffic-sensitive loop costs through traffic-sensitive charges is economically inefficient.

4. To provide price cap LECs with a means to recover some of the loop costs they previously recovered in the CCLC, the Commission raised the price cap LECs' SLC caps for non-primary residential lines and multi-line business lines, but chose not to raise the price cap LECs' SLC caps for primary residential lines and single line business lines. For 1999, the SLC cap for price cap LECs is $3.50 per month for each primary residential and single line business line, $6.07 per month for each non-primary residential line, and $9.20 per month for each multi-line business line. To address concerns that charging a higher SLC for non-primary residential lines sold by price cap LECs might encourage subscribers to obtain their additional residential lines from resellers, the Commission decided in the *Access Charge Reform Order* to allow price cap LECs to charge the higher SLC to carriers that resell price-cap LECs' lines if the lines are non-primary.

5. Because the SLC caps on residential and single line business lines would prevent most price cap LECs from recovering through the SLC all the costs they formerly recovered through the CCLC, the Commission also created the PICC: a flat, per-line charge that price cap LECs may assess on an end user's presubscribed IXC. As with the SLC, the Commission set higher PICC caps for non-primary residential lines and multi-line business lines than for primary residential lines and single line business lines. Through June 30, 1999, the PICC cap is $0.53 per month for each primary residential and single line business line, $1.50 per month for each non-primary residential line, and $2.75 per month for each multi-line business line. As a result of the various caps, the lines of customers that subscribe to single residential or business lines are not assessed the entire cost of the loops. Until the access reform rate structure is fully phased in, these lines are subsidized by customers that subscribe to multiple business lines.

6. The Commission sought comment in a September 1997 notice of proposed rulemaking (Notice) on whether to modify its rules to provide for the definition, identification, and verification of primary residential lines and single line business lines. 62 FR 48042, September 12, 1997; 12 FCC Rcd 13647. Choosing appropriately balanced definitions is important because as primary residential and single line business line counts increase, so, too, does the subsidy that multi-line business line customers must bear during the phase-in of the access reform rate structure.

B. Definition of Primary Residential Line

1. Background

7. The Commission's rules currently do not define ''primary residential line.'' The Commission sought comment in the Notice on whether to define the primary residential line as the primary line of a residence, of a household, of a subscriber, or on some other basis. Under a residence definition, only one line per service location—such as a house or an apartment—would receive primary line status. Under a household definition, each family unit would receive one primary line, so that if multiple families live in one house, each family would receive one line at rates with the lower caps. Under a subscriber definition, one line would be given primary-line status for each account opened with the carrier.

8. In the meantime, each price cap LEC devised its own definition for the purpose of its 1998 access tariff filings. The Commission concluded in its investigation of those tariff filings that, pending completion of this rulemaking proceeding, defining as a primary line either one line per residence or one line per billing-name account per residence was ''not unreasonable'' for purposes of the tariff filings. The Commission also found that reasonable definitions of primary and non-primary residential lines should, at a minimum, ''categorize a second residential line as non-primary if the line is billed to the same name at the same location.''

9. In the *Notice,* the Commission tentatively concluded that price cap LEC records might be inadequate to identify primary residential lines, particularly if the Commission adopted a household-based definition. Based on the presumption that identifying primary residential lines without information from the customer would be more administratively burdensome, the Commission tentatively concluded to permit price cap LECs to use end-user self-certification to identify primary lines.

2. Discussion

10. Some commenters have supported each of the definitions of primary residential line that the Commission identified in the *Notice:* household-based, account-based, and location-based. None of these definitions is flawless. An account-based definition, for example, would permit a subscriber to have multiple primary lines by ordering each line under a different account name. A location-based definition does not permit subscribers who share the same address, such as housemates, each to have his or her own primary line. A household-based definition would present carriers, consumers, and the Commission with the ambiguous and administratively burdensome task of determining which subscribers are part of which households. We have balanced the advantages and disadvantages of each option. We conclude that a location-based definition is the least intrusive and most administratively feasible definition that fulfills the *Access Charge Reform Order's* objectives for setting higher SLC and PICC caps for non-primary residential lines and multi-line business lines.

11. Thus, we will consider one residential line provided by a price cap LEC per service location to be a primary residential line. For example, only one line per house, per apartment, or per college dorm room will receive primary-line rates. We begin by noting along with a number of commenters that LECs can implement this definition based on their service records. As the Commission stated in the *Notice,* a location-based definition is ''administratively simple and less invasive of subscribers' privacy because it does not require the gathering of information regarding subscriber living arrangements that would be needed to identify households.'' Consequently, this definition obviates the need for the self-certification procedure that the Commission outlined in the *Notice,* a

procedure that the Office of Management and Budget (OMB) argues would be ineffective and burdensome. A customer's service location is also straightforward to determine and not something the customer can easily alter or misreport to obtain the primary-line rate. This definition will require carriers to cross-check records within a service location to ensure that only one subscriber line per residence receives the primary-line rates, but sorting records by service location should be relatively easy. Furthermore, many price cap LECs are already moving toward a location-based definition in their tariffs.

12. The Commission's rules that establish PICCs and set different SLC caps for primary residential lines than for non-primary residential lines apply only to price cap LECs, not to rate-of-return LECs. Consequently, the definition of primary residential line shall apply only to price cap LECs. The Commission has sought comment on whether to apply to rate-of-return LECs the rules regarding PICCs and the higher caps for non-primary residential lines, but has not issued an order resolving that issue. Should the Commission decide at a later date to apply such rules to rate-of-return LECs, the Commission will address at that time how to define, identify, and verify primary residential lines and single line business lines for rate-of-return LECs. Thus the Commission does not address issues that the *Notice* raised regarding rate-of-return LECs.

13. A number of commenters oppose the location-based definition because it allows only one primary line per multi-subscriber residence. If, for example, two roommates each subscribe to a line, only one line will be billed at the primary-line rate. Generally, however, only a single residential connection is necessary to permit all residents at a particular service location complete access to telecommunications and information services, including access to emergency services.

14. If a subscriber has both a primary and secondary home, this definition would also treat one line in each home as primary. We note that this definition departs from current practice in the business context, under which a business with one line in each of multiple locations in the same telephone company area receives multi-line business rates on each line. We find it unnecessary to extend this policy to the residential context. As many comments point out, the burden of investigating whether a particular residential subscriber has lines in multiple residences outweighs any benefit from collecting the higher non-primary line rates, especially as the number of subscribers with multiple residences, and thus the number of lines that would be reclassified from primary to non-primary, is likely only a small percentage of all residential lines. Furthermore, in many instances different incumbent LECs will serve the primary and secondary residences. This further complicates the task of determining which subscribers have multiple residences, and raises the difficult question of which line would be deemed the primary line, assuming the subscriber could have only one primary line throughout all his or her residences. We also note that the number of residential subscribers is larger than the number of business subscribers.

15. We will look at all lines provided by a particular price cap LEC, whether sold by the price cap LEC or a reseller, when determining the status of the lines to a residence. We do so to address concerns that charging higher rates for non-primary residential lines sold by price cap LECs might encourage subscribers to obtain their additional lines from resellers for no reason other than to avoid the higher SLC. Consequently, we do not accept the invitation of some commenters to qualify our definition further by treating as primary one line per location per service provider. Doing so would create an artificial incentive for subscribers to spread their lines out among price cap LECs and multiple resellers merely to avoid the higher SLCs and PICCs associated with non-primary residential lines.

16. We do not seek to discourage subscribers from ordering services from multiple providers, but also do not want to create an artificial incentive for them to do so. Thus, when a price cap LEC has already sold a line to a residence, the price cap LEC may assess the higher rates on any additional resold lines. If, however, a resold price cap LEC line is the primary line, as is the case when all the lines to the residence are purchased from one or more resellers, the resold line will remain the primary line should a price cap LEC subsequently sell an additional line to that residence. If the price cap LEC line and resold line are sold simultaneously, the price cap LEC line shall be the primary line. When lines are sold to a location by both a price cap LEC and at least one reseller of price cap LEC lines, one of the lines must be identified as primary, but which one will have little impact on the end user: whichever line is deemed primary, the sum of the SLC and PICC charges to the consumer will be the same. Because the price cap LEC is physically providing both lines, we think it reasonable that it get the primary line designation in the rare circumstance that both lines are sold simultaneously.

17. Lines sold by wireless carriers and competitive LECs that do not resell price cap LEC lines shall not be considered in determining residential line status. Such carriers are not rate regulated by the Commission and are not subject to the Commission's rules regarding SLCs and PICCs. Nor do price cap LECs collect SLCs or PICCs on those carriers' lines. This approach is equitable as between price cap LECs, resellers, competitive LECs, and wireless carriers because it does not provide any artificial advantage in marketing second lines. Furthermore, a price cap LEC would have difficulty determining whether its customers are also receiving lines from non-reselling competitive LECs or wireless carriers.

18. We will not adopt a household-based definition of primary residential line. Although such a definition would allow multiple primary lines in multi-household residences (*e.g.*, one for each family in a multi-family dwelling), it would also require gathering invasive information concerning living arrangements through a self-certification mechanism that would be administratively burdensome given the large universe of customers. The ambiguity of a household-based definition may also result in inconsistent application across subscribers, or encourage subscribers simply to declare themselves part of different households to receive the lower primary-line rates.

19. Nor will we treat one line per subscriber account as primary. Such a definition would allow multiple subscribers at a single location to receive the lower primary-line rates on each line (*e.g.*, roommates with individual accounts). Some commenters view this as an advantage to the definition. Any such advantage, however, is offset by the ability of a subscriber to game such a definition by obtaining multiple lines under different account names. Some carriers even allow customers to obtain separate accounts under the same name. Furthermore, universal service objectives are met so long as residents at a single location have access to one line at that location at the subsidized primary-line rates; allowing more than one such line per location excessively shifts costs onto other subscribers. We agree with commenters that an account-based definition is unambiguous and compatible with most carriers' existing service records, but so too is a location-

based definition. An account-based definition would eliminate the need to check whether multiple subscribers are receiving lines at the same location, but the definition's other shortcomings outweigh this benefit. In any event, as noted above, sorting records by service location should not be difficult.

20. We also do not adopt the suggestion of some commenters that we eliminate the primary/non-primary line distinction, perhaps by applying an averaged rate to all lines or replacing the PICC with a cost-based SLC. The Commission has, in the past, specifically decided not to raise the SLC caps on primary residential lines, in accordance with the recommendations of the Federal-State Joint Board on Universal Service. A narrow proceeding such as this is not the appropriate forum for considering a SLC increase.

C. Definition of Single Line Business Line

1. Background

21. The Commission's rules for price cap LECs state that ''[a] line shall be deemed to be a single line business subscriber line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.'' 47 CFR 69.152(i). The Commission defines ''telephone company'' for the purposes of the Part 69 Rules as ''an incumbent local exchange carrier.'' *See* 47 CFR 69.2(hh). The Commission sought comment in the *Notice* on whether to retain the definition of ''single line business line,'' and whether to consider as a single line business a business with a single line in each of multiple locations.

2. Discussion

22. We shall retain the existing definition of single line business line. This definition allows incumbent LECs to assess the correct SLCs and PICCs on business lines without determining whether a customer receives service from other carriers.

23. This definition treats as a single line business any business that obtains one line from a price cap LEC and other lines from a wireless carrier or a competitive LEC that does not resell the price cap LEC's lines. As in the context of residential lines, we do not include lines provided by wireless carriers and competitive LECs that do not resell price cap LEC lines because such carriers are not subject to the Commission's SLC and PICC requirements, and because price-cap LECs do not collect SLCs or PICCs on those carriers' lines.

24. We clarify that if a business receives lines from a price cap LEC and a competitive LEC that is reselling the price cap LEC's lines, all those lines shall be considered multi-line business lines. Clarifying that all the lines provided by a price cap LEC become multi-line business lines once a customer purchases a second line provided by that price cap LEC (whether sold by the price cap LEC or a reseller of the price cap LEC's lines) prevents businesses from avoiding the higher multi-line business charges by spreading out their lines among one price cap LEC and multiple resellers of the price cap LEC's lines.

25. Under existing practice, a business with one line in each of multiple locations within a ''telephone company area'' is treated as a multi-line business. We will continue that practice. Thus when a business subscriber's account reflects a single line in each of two locations within a particular telephone company area, the subscriber will be treated as a multi-line business. Consequently, we shall maintain the existing definition of single line business line, thereby preserving the status quo both for price cap LECs and rate-of-return LECs.

D. Identification of Primary Residential and Single Line Business Lines

1. Background

26. As discussed, the Commission tentatively concluded in the *Notice* to permit price cap LECs to use end-user self-certification to identify primary lines. The Commission also sought comment on whether to require resellers to relay primary- and non-primary-line data to price cap LECs, or whether price cap LECs should identify the primary and non-primary lines of resellers' customers directly. Thus, if resellers collected self-certifications, the Commission asked whether resellers should be required to provide those certifications to price cap LECs so that the price cap LECs could assess on the resellers the appropriate SLCs. The Commission tentatively concluded that it would not use databases, county and municipal records, or social security numbers to identify primary lines because such proposals are administratively burdensome and raise privacy concerns.

2. Discussion

27. The definitions of primary residential line and single line business line will enable price cap LECs to use their service records to identify the status of their lines. This approach alleviates the concerns that carrier records would be insufficient to identify line-status, as those concerns were directed primarily at a household-based definition of primary residential line. Carriers will have the necessary information in their existing service records; thus, allowing carriers to use their records is the least burdensome option for carriers, consumers, and the Commission, and minimizes privacy concerns. Carrier records are also relatively easy to verify and reasonably immune from gaming or misreporting by customers, willful or otherwise.

28. Consequently, we need not address various administrative and privacy issues related to the self-certification method discussed in the *Notice*. Price cap carriers are, of course, still subject to tariffing requirements, and the Commission can always examine carriers' line counts in a tariff investigation. We note, also, that carriers are governed by statutory and regulatory restraints regarding the treatment of customer information to the extent that they apply to data regarding line status.

29. We will require each price cap LEC to identify the status of the lines it provides to resellers. We are not persuaded by commenters' arguments that requiring price cap LECs to determine the status of other carriers' lines will raise administrative and confidentiality concerns. Most of these comments focused on the difficulties of identifying lines provided by facilities-based competitive LECs, not resellers of price cap LECs' lines, or presumed a self-certification procedure. We believe that the price cap LECs are in a better position going forward than the resellers to know all their lines going to a particular residence, as their service records indicate both the lines the price cap LECs bill and the lines they provide on behalf of resellers. Thus, we will not require resellers to identify their primary and non-primary lines to price cap LECs. The issues the Commission raised in the *Notice* regarding the exchange of information between price cap LECs and resellers are largely mooted by our decision to adopt a location-based definition of primary line and to allow carriers to use service records rather than self-certification to identify line status. Because of that decision, as well as our clarification of the single line business line definition, price cap LECs will have the information necessary to administer the definitions, eliminating the need to share data with, or collect data from, other carriers.

E. Customer Notification

30. Because the distinction between primary and non-primary residential lines may cause customer confusion, the Commission sought comment in the Notice on whether to require carriers to provide consumers with a uniform disclosure statement describing the distinction. The Commission tentatively concluded that such a disclosure requirement would be consistent with applicable First Amendment standards, and sought comment on that conclusion. The Commission also sought comment on how, if it adopts a consumer disclosure statement that refers to the SLC cap on non-primary lines, such disclosure statement should indicate any future increases in the SLC cap. The Commission sought comment on whether such a statement would be compatible with marketing and consumer information campaigns that carriers have instituted or may be formulating. The Commission has issued a Notice of Proposed Rulemaking in CC Docket No. 98–170 focused on truth-in-billing. 63 FR 55077, October 14, 1998; *Truth-in-Billing*, CC Docket No. 98–170, Notice of Proposed Rulemaking, FCC 98–232 (rel. Sept. 17, 1998). We think it more appropriate to consider these issues in connection with that docket. Consequently, we refer these issues to that proceeding.

F. Detailed PICC Billing of IXCs

31. AT&T, MCI, and Sprint have asked the Commission to require price cap LECs to issue detailed bills that enable interexchange carriers to audit the PICC charges that price cap LECs assess on them. Creating additional requirements is not necessary at this time. We already require price cap LECs to provide interexchange carriers with customer-specific information about the PICCs they assess on them, and to include a ''class of customer'' indicator on Customer Account Record Exchange (CARE) transactions for new customer notifications. Furthermore, our decisions in the order concerning the definition and identification of primary residential lines and single line business lines should facilitate clearer and more uniform billing of SLCs and PICCs.

G. Procedural Matters

1. Final Regulatory Flexibility Analysis

32. The Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Notice* in this docket, as required by the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 603. The Commission sought written public comment on the proposals in the *Notice*, including comment on the *IRFA*. The RFA also requires the Commission to prepare a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact the order might have on small entities, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b).

33. The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. 5 U.S.C. 601(3). A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Small Business Act, 15 U.S.C. 632. The SBA has further defined a small business for SIC categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) as a business with no more than 1,500 employees. 13 CFR 121.201. A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' 5 U.S.C. 601(4). ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' 5 U.S.C. 601(5).

34. Only price cap LECs currently assess SLCs and PICCs, and the order places the responsibility for differentiating and identifying primary residential lines and single line business lines only on price cap LECs, as discussed above. Consequently, the order will not significantly affect ''small organizations'' or ''small governmental jurisdictions,'' and we only address the impact on small price cap LECs. Neither the Commission nor SBA has developed a definition of ''small entity'' specifically applicable to price-cap LECs. The closest definition under SBA rules is that for establishments providing ''Telephone Communications, Except Radiotelephone.''

35. According to our most recent data, 1,371 carriers reported that they were engaged in the provision of local exchange services. Fewer than 20 of these carriers are price-cap incumbent LECs. Consistent with our prior practice, we shall continue to exclude small incumbent LECs from the definition of ''small entity.'' We consider these carriers dominant in their field of operations. Some also are not independently owned and operated, and most if not all likely have more than 1,500 employees. We therefore certify that our decisions in this proceeding will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the order, including the certification, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 801(a)(1)(A). A summary of the order and the certification will also be sent to the Chief Counsel for Advocacy of the SBA.

2. Final Paperwork Reduction Act Analysis

36. The decision contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law No. 104–13, and does not contain new and/or modified information collections subject to OMB review.

H. Ordering Clauses

37. Accordingly, *it is ordered*, pursuant to sections 1, 4(i) and (j), 201–209, 218–222, 251, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–209, 218–222, 251, 254, and 403, that the order is adopted.

38. *It is further ordered* that section 69.152 of the Commission's rules, 47 CFR 69.152, is amended as set forth in the rule changes.

39. *It is further ordered* that the policies, rules, and requirements adopted herein *shall be effective* July 1, 1999.

40. *It is further ordered* that the Commission's Office of Public Affairs, References Operations Division, *shall send* a copy of the Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 69

Access charges, Communications common carriers, End-user common line charge, Multi-line business line, Non-primary residential line, Price cap local exchange carriers, Primary interexchange carrier charge, Primary residential line, Reporting and recordkeeping requirements, Single line business line, Subscriber line charge, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 69 as follows;

PART 69—ACCESS CHARGES

1. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

2. Section 69.152 is amended by adding paragraph (h) to read as follows:

§ 69.152 End user common line for price cap local exchange carriers.

* * * * *

(h) Only one of the residential subscriber lines a price cap LEC provides to a location shall be deemed to be a primary residential line.

(1) For purposes of § 69.152(h), ''residential subscriber line'' includes residential lines that a price cap LEC provides to a competitive LEC that resells the line and on which the price cap LEC may assess access charges.

(2) If a customer subscribes to residential lines from a price cap LEC and at least one reseller of the price cap LEC's lines, the line sold by the price cap LEC shall be the primary line, except that if a resold price cap LEC line is already the primary line, the resold line will remain the primary line should a price cap LEC subsequently sell an additional line to that residence.

* * * * *

[FR Doc. 99–7787 Filed 4–2–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Interpretive rule.

SUMMARY: This document sets forth our interpretation of the location requirements for identification and clearance lamps mounted on the rear of trucks and trailers whose overall width is more than 2032 mm (80 in.). Federal Motor Vehicle Safety Standard No. 108 requires that identification lamps be mounted as close to the top of a vehicle as practicable. The identical requirement applies to clearance lamps, except when the rear identification lamps are mounted at the extreme height of the vehicle. In the past, we have stated that the manufacturer may make the initial determination as to whether it is practicable to mount these lamps near the top of a vehicle, and that it has been our enforcement policy to accept the manufacturer's determination of practicability unless that decision appears clearly erroneous. Under this approach, identification lamps on many vehicles, especially van-type trailers, have been mounted on the lower sill below the rear doors under various conditions, even on vehicles where the header was up to 3 inches wide. Our enforcement policy was based in part on the unavailability of narrow lamps. However, narrow lamps are now readily available. Effective on the publication of this interpretive rule, we interpret Standard No. 108 to require manufacturers to satisfy an objective standard of practicability; i.e., if, under all the circumstances, it would be practicable to locate lamps above the rear doors, the manufacturer must do so. We will no longer defer to a manufacturer's subjective determination of practicability.

DATES: Effective April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (Phone: 202–366–5263; FAX: 202–366–3820).

SUPPLEMENTARY INFORMATION:

Requirements of Federal Motor Vehicle Safety Standard No. 108 for the Location of Identification and Clearance Lamps on Large Trucks and Trailers

Table I of Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment,* requires trucks and trailers whose overall width is 2032 mm (80 inches) or more to be equipped with a rear lighting system that includes three red identification lamps and two red clearance lamps. Table II specifies that the identification lamps are to be mounted on the rear ''as close as practicable to the top of the vehicle at the same height, as close as practicable to the vertical centerline.'' Table II also requires that the clearance lamps shall be mounted on the rear ''to indicate the overall width of the vehicle, one on each side of the vertical centerline, at the same height, and as near the top thereof as practicable.'' However, clearance lamps need not be located near the top ''when the rear identification lamps are mounted at the extreme height of a vehicle,* * *'' S5.3.1.4).

In general, location requirements specified by Standard No. 108 for motor vehicle lamps and reflectors are expressed in terms of practicability. Under this approach, the required lighting equipment can be installed without unduly restricting the design of vehicles.

Past Policy Regarding the Meaning of ''Practicability'' With Respect to the Upper Mounting Location for Identification and Clearance Lamps

In 1968, when Standard No. 108 became effective for wide vehicles, lighting technology had not advanced to the level where it is today, and, in order to provide the required photometric performance, generally lamps were somewhat larger than lamps that are now commercially available. Manufacturers advised us that, in their opinion, it would not be practicable to mount the lamps on the rear header of some vehicles. Rather than make individual practicability assessments in an enforcement context, we advised the industry that we would not contest manufacturers' decisions to mount identification and clearance lamps below the cargo doors, on an approximate horizontal plane with other rear lamps, except where the manufacturer's decision was clearly erroneous.

This deferential approach originated as a matter of enforcement policy. Indeed, it was first articulated in a June 18, 1981 letter to the Division of State Patrol of the Wisconsin DOT from Francis Armstrong, who was the Director of NHTSA's Office of Vehicle Safety Compliance. Over the years this enforcement policy was restated in several letters signed by NHTSA's Chief Counsels.

However, over the years, narrow lamps have become available for use on trucks and trailers with relatively narrow headers. Since it appears that it is now ''practicable'' to locate clearance and identification lamps on or above such headers, we decided to review the issue and reconsider our earlier enforcement policy.

As part of our review, we conducted a field survey in which we took photographs and measured rear lighting configurations of several typical trailers. The photographs showed that some trailer manufacturers are locating identification and clearance lamps on the lower sill of many trailer models, even though there is sufficient space to

put those same lamps in the header area.

NHTSA's Preliminary Evaluations and Manufacturers' Responses

Based on the field survey information, we opened Preliminary Evaluations and sent information requests to eight van trailer manufacturers in November 1997. The manufacturers responded that each produces some models with identification and clearance lamps on the lower sill. Of a total production of these manufacturers totaling over 440,000 vehicles, the number with identification lamps located on the lower sill was approximately 225,000, or over half.

The manufacturers justified this location as one permitted by previous NHTSA letters and as representing ''common industry practice.'' They also argued that conspicuity treatment provides a sufficient delineation of vehicle size. Addressing practicability, the manufacturers contended that smaller lamps such as those using light-emitting diodes (LEDs) could not be installed on narrow headers because of the lack of availability of LEDs, the difficulty of wiring them in a narrow area, and structural problems that could arise if the trailers were redesigned to accommodate lamps at the top. Some manufacturers argued that the lower sill location is needed to provide a surface that is large enough and rigid enough for the lamps. The respondents may not have been aware of very narrow lamps. Some incandescent lamps as narrow as 17.3 mm (0.68 in.) and some LED lamps as narrow as 22.4 mm (0.88 in.) are now available.

One manufacturer also commented that lamps placed on the lower sill are more conveniently replaced when replacement becomes necessary. However, replacement would be less frequent with the use of reliable, long-life LED lamps. Another mentioned that slim-line lamps do not dissipate heat as effectively as larger incandescent lamps. However, LED lamps emit only a low level of heat. Another mentioned that narrow lamps do not seal out moisture as effectively, without also noting that narrow lamps are available that are permanently sealed. None of the manufacturers indicated that they planned to change the existing location of their clearance or identification lamps.

Canada's Rear Identification and Clearance Lamp Location Requirements

On November 10, 1996, Canadian Motor Vehicle Safety Standard No. 108 was amended to require that identification and clearance lamps be mounted above or on the rear doors when the header extends at least 25 mm (1 in.) above the rear doors. When the header extends less than 25 mm, the lamps may be mounted above, on, or below the rear doors. Since then, Canada has enforced this standard on trucks engaged in commerce within its borders, including those manufactured in the United States that operate in Canada. Some of these U.S. manufacturers have complied with Canada's upper location requirements, but have nevertheless continued to locate lamps on the lower sill of their trailers manufactured for use in the United States which have a rear door and header assembly identical to their counterparts sold for use in Canada. The Canadian practice objectively supports the view that it would have been ''practicable'' to locate the lamps at the top of the U.S. vehicles.

Truck Trailer Manufacturer's Association's (TTMA) Recommended Practice for Rear Identification and Clearance Lamp Placement

TTMA restates NHTSA's past approach on practicability in its recommendations to its members on location of rear identification and clearance lamps. It goes on to recommend that the lamps be on the header when the header extends at least 50 mm (2 in.) above the rear doors when there is a flat space of at least 25 mm (1 in.).

NHTSA's New Interpretive Rule

After reviewing the matter, we have concluded that clearance and identification lamps that meet the photometric requirements of Standard No. 108, and are of a size permitting mounting on the header above the rear doors of most trailers and trucks, are available in the marketplace. The prior enforcement policy has, in practice, deferred to manufacturers who exercised their discretion to decide whether to mount these lamps above the rear doors. This approach has not assured that the safety purposes of the standard are achieved. The responses to NHTSA's information requests demonstrate that many U.S. manufacturers, including some of the largest trailer manufacturers, have placed, and are continuing to place, identification and clearance lamps below the rear doors, notwithstanding the fact that the ability of many of these same manufacturers to comply with the new Canadian requirements demonstrates that it is now practicable to mount identification and clearance lamps on the rear header in most instances.

As reflected by the responses to our information requests, many manufacturers have taken advantage of the deference conferred by our longstanding enforcement policy in deciding where to locate these lamps. In recognition of this practice, we have decided that it would be preferable to provide notice that the prior policy has been changed before bringing enforcement actions against such manufacturers without providing notice that the prior policy has been changed. Accordingly, we are publishing this interpretation of the requirement in Table II of Standard No. 108 that rear clearance lamps and identification lamps must be located ''as near the top thereof as practicable'' to make it clear that, henceforth, manufacturers will be required to satisfy an objective standard of practicability, i.e., if under all the circumstances it would be practicable to locate the identification and clearance lamps above the rear doors, the manufacturer must do so. Moreover, based on the experiences of manufacturers who have been able to comply with the Canadian requirements, NHTSA will presume that it is practicable to locate lamps on the header of a vehicle when the header extends at least 25 mm (1 in.) above the rear doors.

This interpretive rule is effective as of its publication in the **Federal Register**. However, as a matter of enforcement discretion, we do not intend to bring enforcement actions based on this interpretive rule immediately. This will be addressed separately.

Authority: 49 CFR 1.50 and 501.8(d)(5).

Issued on: March 30, 1999.

Frank Seales, Jr.,

Chief Counsel.

[FR Doc. 99–8186 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 581

[Docket No. NHTSA 99–5458]

RIN 2127–AH59

Bumper Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This document amends 49 CFR Part 581 *Bumper Standard*, to update cross references in Sec.

581.5(c)(1) to Federal Motor Vehicle Safety Standard No. 108, 49 CFR 571.108, *Lamps, Reflective Devices and Associated Equipment.*

DATES: The amendment is effective April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202–366–5263).

SUPPLEMENTARY INFORMATION: Part 581 of Title 49, Code of Federal Regulations, contains the Federal bumper standard issued under the authority of 49 U.S.C. Chapter 325. At present, 49 CFR Sec. 581.5(c)(1) reads:.

(c) Protective criteria. (1) Each lamp or reflective device except license plate lamps shall be free of cracks and shall comply with applicable visibility requirements of S4.3.1.1 of Standard No. 108 (sec. 571.108 of this part). The aim of each headlamp shall be adjustable to within the beam aim inspection limits specified in Table 2 of SAE Recommended Practice J599b, July 1970, measured with a mechanical aimer conforming to the requirements of SAE Standard J602a, July 1970.

We amended Standard No. 108 several years ago to renumber its paragraphs. At that time, S4.3.1.1 became S5.3.1.1. However, we did not make a corresponding change in Sec. 581.5(c)(1). This amendment makes the change. We are also amending the standard to substitute the August 1997 version of SAE Recommended Practice J599 for the July 1970 version. Further, mechanical aimers are no longer required to aim all headlamps under Standard No. 108 as they once were. The method of aiming now depends upon the type of headlamp that the manufacturer chooses for its vehicle. We are changing Sec. 581.5(c)1) to reflect these amendments as well.

Accordingly, we are updating Sec. 581.5(c)(1) by making these technical amendments. Because these amendments create no burdens on any person, we are not required to give notice and afford an opportunity to comment on this rulemaking action. The amendments are effective upon their publication in the **Federal Register**.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures. This rulemaking action was not reviewed under Executive Order 12866. Further, it has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The purpose of the rulemaking action is to correct outdated references. Since the final rule will not impose or reduce costs, preparation of a full regulatory evaluation is not warranted. Vehicles subject to both Part 581 and Standard No. 108 are presumed to comply with both the new and old requirements.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. This final rule will not have a significant effect upon the environment. The composition of passenger motor vehicle bumpers will not change from those presently in production.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq.*). For the reasons stated above in the paragraph on Executive Order 12866 and the DOT Regulatory Policies and Procedures, I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The amendment primarily affects manufacturers of motor vehicles. Manufacturers of motor vehicles are generally not small businesses within the meaning of the Regulatory Flexibility Act.

The Small Business Administration's regulations define a small business in part as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)) SBA's size standards are organized according to Standard Industrial Classification Codes (SIC), SIC Code 3711 ''Motor Vehicles and Passenger Car Bodies'' has a small business size standard of 1,000 employees or fewer.

For manufacturers of passenger cars and light trucks, NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Since each manufacturer services a niche market, often specializing in replicas of ''classic'' cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most 500 cars manufactured per year by U.S. small businesses.

In contrast, in 1998, there are approximately nine large manufacturers producing passenger cars, and light trucks in the U.S. Total U.S. manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks per year. NHTSA does not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

Further, small organizations and governmental jurisdictions are not significantly affected as the price of motor vehicles ought not to change as the result of this final rule.

Executive Order 12612 (Federalism)

This rulemaking action has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that this rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice

This final rule does not have any retroactive effect. Under 49 U.S.C. 32511, whenever a Federal bumper standard is in effect, a state may not adopt or maintain a bumper standard which is not identical to the Federal standard. 49 U.S.C. 32503 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal bumper standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this final rule does not have a $100 million effect, no Unfunded Mandates assessment has been prepared.

List of Subjects in 49 CFR Part 581

Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 581 is amended as follows:

PART 581—BUMPER STANDARD

1. The authority citation for Part 581 is revised to read as follows:

Authority: 49 U.S.C. 32502; 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 581.5(c)(1) is revised to read as follows:

§ 581.5 Requirements.

* * * * *

(c) Protective criteria. (1) Each lamp or reflective device except license plate lamps shall be free of cracks and shall comply with applicable visibility requirements of S5.3.1.1 of Standard No.

108 (§ 571.108 of this chapter). The aim of each headlamp installed on the vehicle shall be adjustable to within the beam aim inspection limits specified in Table 2 of SAE Recommended Practice J599 AUG97, measured with the aiming method appropriate for that headlamp.

* * * * *

Issued on March 30, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–8185 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981014259–8312–02; I.D. 032699A]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Maine

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the State of Maine has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Maine for the remainder of calendar year 1999, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notice to advise the State of Maine that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in Maine.

DATES: Effective 0001 hours, March 30, 1999, through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The initial total commercial quota for summer flounder for the 1999 calendar year was set equal to 11.11 million lb (5.039 kg) (63 FR 72203, December 31, 1998). The percent allocated to vessels landing summer flounder in Maine is 0.04756 percent, or 5,285 lb (2,397 kg).

Section 648.100(e)(4) stipulates that any overages of commercial quota landed in any state be deducted from that state's annual quota for the following year. In the calendar year 1998, a total of 5,168 lb (2,344 kg) were landed in Maine, creating a 377 lb (171 kg) overage that was deducted from the amount allocated for landings in the state during 1999 (64 FR 5196, February 3, 1999). The resulting quota for Maine was 4,908 lb (2,226 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state's commercial quota is harvested. The Regional Administrator is further required to publish notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that the State of Maine has attained its quota for 1999.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, March 30, 1999, further landings of summer flounder in Maine by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1999 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective March 30, 1999, federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in Maine for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: March 30, 1999.

George H. Darcy,

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

[FR Doc. 99–8179 Filed 3–31–99; 1:02 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981014259–8312–02; I.D. 032699B]

Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for Winter I Period

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

ACTION: Commercial quota harvested for Winter I period.

SUMMARY: NMFS announces that the scup commercial quota available in the Winter I period to the coastal states from Maine to North Carolina has been harvested. Commercial vessels may not land scup in the northeast region for the remainder of the 1999 Winter I quota period (through April 30, 1999). Regulations governing the scup fishery require publication of this notice to advise the coastal states from Maine to North Carolina that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing scup in these states.

DATES: Effective 0001 hours April 1, 1999, through April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION: Regulations governing the scup fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is allocated into three quota periods, based upon percentages of the annual quota. The Winter I commercial quota (January through April) is distributed to the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.120.

The initial total commercial quota for scup for the 1999 calendar year was set equal to 2,534,000 lb (1,149,403 kg) (63 FR 72203, December 31, 1998). The Winter I period quota, which is equal to 45.11 percent of the annual commercial

quota (minus a discard estimate) was set at 1,143,087 lb (518,496 kg).

Section 648.121 requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the commercial scup quota for each quota period and, based upon dealer reports, state data, and other available information, to determine when the commercial quota has been harvested. The Regional Administrator is further required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the scup commercial quota has been harvested and no commercial quota is available for landing scup for the remainder of the Winter I period. The Regional Administrator has determined, based upon dealer reports and other available information, that the scup commercial quota for the 1999 Winter I period has been harvested.

The regulations at § 648.4(b) provide that Federal scup moratorium permit holders agree, as a condition of the permit, not to land scup in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for the scup is available. Therefore, effective 0001 hours, April 1, 1999, further landings of scup in coastal states from Maine to North Carolina by vessels holding commercial Federal fisheries permits are prohibited through April 30, 1999. The Summer period for commercial scup harvest will open on May 1, 1999. Effective April 1, 1999, federally permitted dealers are also advised that they may not purchase scup from federally permitted vessels that land in coastal states from Maine through North Carolina for the remainder of the Winter I period (through April 30, 1999).

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: March 29, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–8192 Filed 3–31–99; 1:02 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 033199A]

Fisheries of the Exclusive Economic Zone Off Alaska; Trawling in Steller Sea Lion Critical Habitat in the Central Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting trawling within Steller sea lion critical habitat in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 1999 critical habitat percentage of Atka mackerel established for the Central Aleutian District has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 31, 1999, until the end of the 1999 directed fishery for Atka mackerel within the Central Aleutian District.

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

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

The Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999) established the 1999 TAC for Atka mackerel in the Central Aleutian District as 10,360 metric tons (mt), of which no more than 8,288 mt may be harvested from critical habitat. See § 679.20(c)(3)(iii) and 679.22(a)(8)(iii)(B).

In accordance with § 679.22(a)(8)(iii)(A), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the allowable harvest of Atka mackerel in Steller Sea lion critical habitat in the Central Aleutian District as specified under the Final 1999 Harvest Specification has been reached. Consequently, NMFS is prohibiting trawling in critical habitat, as defined at 50 CFR part 226, Table 1, Table 2, and Figure 4, in the Central Aleutian District of the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to avoid jeopardy to the continued existence of Steller sea lions. A delay in the effective date is impracticable and contrary to the public interest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: March 31, 1999.

Bruce Morehead,

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

[FR Doc. 99–8236 Filed 3–31–99; 2:49 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9062–01; I.D. 033099B]

Fisheries of the Exclusive Economic Zone Off Alaska, Pacific Cod in the Gulf of Alaska

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

ACTION: Apportionment of reserve.

SUMMARY: NMFS is apportioning the initial reserve of Pacific cod in the Gulf of Alaska (GOA). This action is necessary to allow incidental catch of Pacific cod to be retained in other directed fisheries and to account for previous harvest of the total allowable catch (TAC) in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 5, 1999, until 2400, A.l.t., December 31, 1999. Comments must be received by April 20, 1999.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Administrator for Fisheries, Sustainable Fisheries Division, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK

99801 or P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–481–1780 or tom.pearson@noaa.gov.

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

The Final 1999 Harvest Specifications for Groundfish of the GOA (64 FR 12094, March 11, 1999) established the initial TAC of Pacific cod in the Western, Central, and Eastern Regulatory Areas of the GOA as 18,904 metric tons (mt), 34,348 mt, and 1,016 mt in the Western, Central, and Eastern Regulatory Areas respectively. Directed fishing for Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA was closed on March 8, 1999, and in the Central Regulatory Area on March 14, 1999, under § 679.20(d)(1)(iii), in order to prevent exceeding the allocation for processing by the inshore component in these areas (64 FR 12768, March 15, 1999 and 64 FR 13122, March 17, 1999).

The Final 1999 Harvest Specifications for Groundfish of the GOA (64 FR 12094, March 11, 1999) created reserves of Pacific cod in the GOA as a management buffer to prevent exceeding the TACs and to provide greater assurance that incidental catch of Pacific cod could be retained throughout the fishing year in other fisheries.

The Administrator, Alaska Region, NMFS, (Regional Administrator), has determined that the initial TAC for Pacific cod in the GOA needs to be supplemented from the Pacific cod reserve for the GOA in order to allow incidental catch of Pacific cod to be retained in other fisheries and to account for prior harvest. Therefore, in accordance with § 679.20(b)(3)(i)(A), NMFS is apportioning 13,567 mt of Pacific cod from the reserve to the TAC in the GOA: 4,726 mt in the Western, 8,587 mt in the Central, and 254 mt in the Eastern Regulatory Areas.

Pursuant to § 679.20(a)(6)(iii), the apportionment of the Pacific cod reserve in the GOA is allocated to vessels catching Pacific cod for processing by the inshore and offshore components as 90 percent and 10 percent of the TAC, respectively. This action increases the total allocation of the 1999 Pacific cod TACs for vessels catching Pacific cod for processing by the inshore component to 21,267 mt, 38,642 mt, and 1,143 mt in the Western, Central, and Eastern Regulatory Areas, respectively, and for the offshore component to 2,363 mt, 4,293 mt and 127 mt in the Western, Central, and Eastern Regulatory Areas, respectively. Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

In accordance with § 679.20(b)(3)(iii)(A), NMFS finds that there is good cause for not providing the public with a prior opportunity to comment. As of March 18, 1999, NMFS estimates the initial TACs of 17,014 mt and 30,913 mt allocated to the inshore component in the Western and the Central Regulatory Areas of the GOA have been reached. This action is necessary to allow retention of amounts of Pacific cod that are caught incidentally while conducting directed fishing for other species in these areas.

This action responds to the initial TAC limitations for Pacific cod established in the Final 1999 Harvest Specifications for Groundfish in the GOA. This action will allow incidental catch of Pacific cod to be retained in other directed fisheries. The alternative is to prohibit retention of Pacific cod which is contrary to the FMP goals of providing the opportunity to more fully utilizing the available TACs and reducing discards. A delay in the effective date is impracticable and contrary to the public interest as it relieves a potential restriction. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under U.S.C 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: March 30, 1999.

Bruce Morehead,

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

[FR Doc. 99–8289 Filed 4–2–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 64
Monday, April 5, 1999

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 340

[Docket No. 99–025–1]

Regulatory Requirements for Genetically Engineered Organisms; Customer Service Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service will hold a meeting to discuss the current and future status of the regulatory requirements pertaining to the introduction of genetically engineered organisms and products. The meeting, which is open to the public, will be operated as a customer service workshop. We request that interested persons register and submit agenda items two weeks before the meeting date.

PLACE, DATES, AND TIME OF MEETING: The meeting will be held in the Conference Center at the USDA Center at Riverside, 4700 River Road, Riverdale, MD, on Tuesday, May 11, 1999, from 8:30 a.m. until 4:30 p.m., and Wednesday, May 12, 1999, from 8:30 a.m. until 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: For information about the agenda, contact Dr. Sivramiah Shantharam, Biotechnology and Biological Analysis, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–4882; e-mail: shanthu.shantharam@usda.gov. To register for the meeting and to submit suggested agenda items, contact Ms. Kay Peterson at (301) 734–4885; fax: (301) 734–8910; e-mail: k.peterson@usda.gov. Information is also available on the Internet at the APHIS World Wide Web site: http://www.aphis.usda.gov/biotech.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.'' Before introducing a regulated article, a person is required under § 340.0 of the regulations to either notify the Animal and Plant Health Inspection Service (APHIS) in accordance with § 340.3 or obtain a permit in accordance with § 340.4. The regulations in § 340.6 provide that any person may submit a petition to APHIS seeking a determination that an article should not be regulated under 7 CFR part 340 and allow the extension of a previously issued determination of nonregulated status to certain additional regulated articles.

To provide an opportunity for a general discussion of the requirements for the preparation of notifications, permits, petitions, and requests for extensions of determinations of nonregulated status, APHIS has scheduled a workshop to be held in Riverdale, MD, on May 11 and 12, 1999. Additional items for consideration include the status of a pilot program designed to reduce the paperwork burden for the regulated public, proposals to simplify the existing regulations, and the movement of commodities containing genetically engineered organisms in international trade.

The tentative agenda for the meeting is as follows: Day 1, morning—notifications and permits; afternoon—petitions and extensions; Day 2, morning—international harmonization.

To register, submit your name, address, telephone number, and e-mail address to the person indicated under **FOR FURTHER INFORMATION CONTACT**. We request that you register and submit suggested agenda items by April 28, 1999.

Done in Washington, DC, this 29th day of March 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–8276 Filed 4–2–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–62–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Aircraft Engines CF34 Series Turbofan Engines

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 General Electric Aircraft Engines CF34 series turbofan engines. This proposal would establish new life limits for certain high pressure compressor (HPC) spools, Part Number (P/N) 6078T56P01, stage 9 HPC disks, P/N 6087T01P03 or 6087T01P04, and rear HPC spools, P/N 5087T46P01 or 5087T46P02. This proposal is prompted by a cyclic life analysis using increased stress levels resulting from manufacturing discrepancies. The actions specified by the proposed AD are intended to prevent HPC spool and disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by June 4, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-ANE–62-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m.,

Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7148, fax (781) 238–7199.

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 Number 98–ANE–62–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, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–62–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

General Electric Aircraft Engines (GEAE) has advised the Federal Aviation Administration (FAA) of the results of a cyclic life analysis using increased stress levels resulting from manufacturing discrepancies in certain forward high pressure compressor (HPC) spools, Part Number (P/N) 6078T56P01, stage 9 HPC disks, P/N 6087T01P03 or 6087T01P04, and rear HPC spools, P/N 5087T46P01 or 5087T46P02, installed on GEAE Models CF34–1A, –3A, –3A1, and –3A2 turbofan engines. No failures have occurred to date; the unsafe condition was identified by revised low cycle fatigue (LCF) analysis, after manufacturing discrepancies were discovered on parts. These discrepancies would result in component stress levels greater than those shown in original LCF life analyses, and consequently result in lower LCF lives. This condition, if not corrected, could result in HPC spool and disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removal from service of affected forward HPC spools, rear HPC spools, and stage 9 HPC disks prior to accumulating cycles in service beyond new, reduced cyclic life limits. This proposal also would require for HPC spools, which have accumulated 6,000 or more CSN on the effective date of this AD, remove at the next shop visit after the effective date of this AD, but prior to accumulating 12,000 CSN.

There are approximately 600 engines of the affected design in the worldwide fleet. The FAA estimates that 28 engines installed on aircraft of U.S. registry would be affected by the requirement within this proposed AD to replace the forward spool. The FAA has calculated the prorated cost for forward spool replacements to be $36,500 per engine, based on the estimated new part cost divided by the original life limit, multiplied by the number of cycles that will be reduced by the proposed AD requirement. Therefore, the FAA estimates the total cost impact for replaced forward spools to be $1,022,000.

The FAA estimates that 200 engines installed on aircraft of U.S. registry would be affected by the requirement to replace the stage 9 disk. The FAA has calculated the prorated cost for stage 9 disk replacements to be $3,500 per engine, based on the estimated new part cost divided by the original life limit, multiplied by the number of cycles that will be reduced by the proposed AD requirement. The FAA estimates the total cost impact for replaced stage 9 disks to be $700,000.

The FAA estimates that 300 engines installed on aircraft of U.S. registry would be affected by the requirement to replace the rear spool. The FAA has calculated the prorated cost for rear spool replacements to be $8,900 per engine, based on the new part cost divided by the original life limit, multiplied by the number of cycles that will be reduced by the proposed AD requirement. Therefore, the FAA estimates the total cost impact for replaced rear spools to be $2,670,000.

The FAA has determined that it would take no additional work hours per engine to remove affected components, as removal would take place at available opportunities. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,392,000.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Aircraft Engines: Docket No. 98–ANE–62–AD.

Applicability: General Electric Aircraft Engines (GEAE) Models CF34–1A, –3A, –3A1, and –3A2 turbofan engines, installed on but not limited to Canadair aircraft models CL–600–2A12, –2B16, and –2B19.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent high pressure compressor (HPC) spool and disk cracking, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Remove from service the following HPC spools and disks prior to accumulating cycles in service beyond new, reduced cyclic life limits, and replace with a serviceable part, as follows:

(1) For forward HPC spools, Part Number (P/N) 6078T56P01, which have accumulated fewer than 6,000 cycles since new (CSN) on the effective date of this AD, remove prior to accumulating 6,000 CSN.

(2) For forward HPC spools, P/N 6078T56P01, which have accumulated 6,000 or more CSN on the effective date of this AD, remove at the next shop visit after the effective date of this AD, but prior to accumulating 12,000 CSN.

(3) For the purpose of this AD, engine shop visit is defined as engine disassembly that includes separation of the compressor section from the fan section front frame and from the combustion section combustion chamber frame.

(4) For stage 9 HPC disks, P/N 6087T01P03 or 6087T01P04, remove prior to accumulating 20,000 CSN.

(5) For rear HPC spools, P/N 5087T46P01 or 5087T46P02, remove prior to accumulating 17,000 CSN.

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

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

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

Issued in Burlington, Massachusetts, on March 30, 1999.

David A. Downey,

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

[FR Doc. 99–8307 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–370–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–215–1A10 and CL–215–6B11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing amendment, applicable to certain Bombardier Model CL–215–1A10 and CL–215–6B11 series airplanes, that currently requires repetitive inspections to detect cracking on certain wing to fuselage frame-angles, and repair, if necessary. This action would continue to require the same inspections. This proposal is prompted by an adverse comment received in response to the existing amendment. The actions specified by the proposed AD are intended to detect and correct cracking in the wing to fuselage frame-angles, which could result in reduced structural integrity of the airframe.

DATES: Comments must be received by May 5, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–370–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Franco Pieri, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7526; fax (516) 256–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–370–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–370–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On April 3, 1998, the FAA issued amendment 39–10458 (issued as a direct final rule), which was published in the **Federal Register** on April 10, 1998 (63 FR 17672). [A correction of the direct final rule was published in the **Federal Register** on May 4, 1998 (63 FR 24389).] That amendment is applicable to certain Bombardier Model CL–215–1A10 and CL–215–6B11 series airplanes. It requires repetitive inspections to detect cracking on certain wing to fuselage frame-angles, and repair, if necessary. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The requirements of that action are intended to detect and correct cracking in the wing to fuselage frame-angles, which could result in reduced structural integrity of the airframe.

Comments Received in Response to Direct Final Rule

In response to the direct final rule, the FAA has received adverse comments. As specified in the preamble of the direct final rule, the FAA uses the direct final rule procedure for non-controversial rules for which the FAA anticipates that it will receive no adverse public comments. The direct final rule advised the public that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, was received within the comment period, the regulation would become effective on July 9, 1998.

Disposition of Comments

The commenter states that a reference (found in the ''Supplementary Information'' section of the preamble of the direct final rule) to cracking on Model CL–215T airplanes is incorrect, and that the correct reference is Model CL–215–6B11 series airplanes. The FAA acknowledges that cracking was found on three Model CL–215–6B11 (CL–215T Variant) series airplanes. However, the ''Supplementary Information'' section of the direct final rule does not reappear in this proposed rule; therefore, no change to this proposed rule is necessary in this regard.

The commenter also points out that the parallel Canadian airworthiness directive (CF–97–07) does not permit further flight after cracking has been found. The ''Differences Between This Rule and the Foreign AD'' section of the direct final rule implies that the referenced Canadian airworthiness directive does allow further flight following a finding of cracking. The FAA concurs that this section need not have appeared in the direct final rule. Canadian airworthiness directive CF–97–07, dated May 28, 1997, indicates that if inspection results exceed the acceptance criteria in paragraph 2.D(7) of the referenced alert service bulletin, the manufacturer should be contacted for disposition before further flight.

Relevant Service Information

The manufacturer has issued Bombardier Alert Service Bulletin 215–A476, Revision 3, dated August 21, 1998, which describes procedures for an eddy current inspection to detect cracking of the fuselage frame angles at the wing front and rear spar attachment to the fuselage. Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, classified this alert service bulletin as mandatory and issued Canadian airworthiness directive CF–97–07R1, dated September 30, 1998, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede amendment 39–10458, described previously, to continue to require repetitive inspections to detect cracking on certain wing to fuselage frame-angles, and repair, if necessary. The inspections would be required to be accomplished in accordance with the alert service bulletin described previously. The repair would be required to be accomplished in accordance with a method approved by the Manager, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate.

Cost Impact

The FAA estimates that 1 airplane of U.S. registry would be affected by this proposed AD. It would take approximately 2 work hours per airplane to accomplish the proposed actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed AD on U.S. operators is estimated to be $120 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10458 (63 FR 17672, April 10, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Bombardier Inc. (Formerly Canadair): Docket 98–NM–370–AD.

Applicability: Model CL–215–1A10 and CL–215–6B11 series airplanes, serial numbers 1001 through 1125 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking in the wing to fuselage frame-angles, which could result in reduced structural integrity of the airframe, accomplish the following:

(a) Perform an eddy current inspection to detect cracking of the fuselage frame angles at the wing front and rear spar attachment to the fuselage at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD; in accordance with Bombardier Alert Service Bulletin 215-A476, Revision 3, dated August 21, 1998. Thereafter, repeat the inspection at intervals not to exceed 415 flight hours.

(1) Prior to the accumulation of 2,300 total flight hours.

(2) Within 150 flight hours or 4 months after the effective date of this AD, whichever occurs first.

Note 2: Accomplishment of the eddy current inspections of the lower surfaces of the frame angles conducted in accordance with Bombardier Alert Service Bulletin ASB 215–A476, Revision 1, dated January 14, 1997, or ASB 215–A476, Revision 2, dated June 15, 1998, prior to the effective date of this AD is considered to be acceptable for compliance with the requirements of paragraph (a) of this AD for that area only.

(b) If the results of any inspection required by paragraph (a) of this AD are outside the limits specified in paragraph 2.C.(7) of Bombardier Alert Service Bulletin ASB 215–A476, Revision 3, dated August 21, 1998: Prior to further flight, repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

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

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–97–07R1, dated September 30, 1998.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–8330 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–17]

Proposed Modification of Class E Airspace; Willmar, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Willmar, MN. A VHF Omnidirectional Range (VOR) or Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 28, Amendment (Amdt) 2, and a VOR SIAP Rwy 10, Amdt 2, have been developed for Willmar Municipal-John L. Rice Field Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action proposes to add a northwest extension and a southeast extension to the existing controlled airspace for this airport.

DATES: Comments must be received on or before May 20, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–17, 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

Interesed 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. 99–AGL–17.'' 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 modify Class E airspace at Willmar, MN, to accommodate aircraft executing the proposed VOR or GPS Rwy 28 SIAP, Amdt 2, and the VOR SIAP Rwy 10, Amdt 2, at Willmar Municipal-John L. Rice Field Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approaches. 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 7400.9F dated September 10, 1998, and effective September 16, 1998, 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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

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

* * * * *

AGL MN E5 Willmar MN [Revised]

Willmar Municipal-John L. Rice Field Airport, MN
(Lat. 45°06′56″ N., long. 95°05′20″ W.)
Willmar VOR/DME
(Lat. 45°07′03″., long. 95°05′26″ W.)

That airspace extending upward from 700 feet above the surface within an 6.6-mile radius of the Willmar Municipal-John L. Rice field Airport and within 2.4 miles each side of the Willmar VOR/DME 115° radial extending from the 6.6-mile radius to 7.0 miles southeast of the airport, and within 2.4 miles each side of the Willmar VOR/DME 286° radial extending from the 6.6-mile radius to 7.0 miles northwest of the airport.

* * * * *

Issued in Des Plaines, Illinois on March 18, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–8252 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AWP–3]

Proposed Modification of Class E Airspace; Santa Rosa, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the Class E airspace area at Santa Rosa, CA. The establishment of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 14 and GPS RWY 32 at Sonoma County Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the GPS RWY 14 and GPS RWY 32 SIAP to Sonoma County Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Sonoma County Airport, Santa Rosa, CA.

DATES: Comments must be received on or before May 10, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 99–AWP–3, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261.

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

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

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Air Traffic Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made:

''Comments to Airspace Docket No. 99–AWP–3.'' 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 prosposed 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 Airspace Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 by modifying the Class E airspace area at Santa Rosa, CA. The establishment of a GPS RWY 14 and GPS RWY 32 SIAP at Sonoma County Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the GPS approach procedures at Sonoma County Airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the GPS RWY 14 and GPS RWY 32 SIAP at Sonoma County Airport, Santa Rosa, CA. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration 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; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 600 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Santa Rosa, CA [Revised]

That airspace extending upward from 700 feet above the surface beginning at lat. 38°56′00″ N., long, 123°02′04″ W.; to lat. 39°15′00″ N., long 123°02′04″ W.; to lat. 39°15′00″ N., long. 122°49′04″ W.; to lat. 38°47′30″ N., long, 122°49′04″ W.; to lat. 38°23′00″ N., long. 122°38′04″ W.; to lat. 38°18′00″ N., long. 122°48′04″ W.; to lat. 38°56′00″ N., long. 123°16′30″ W., thence to the point of beginning.

* * * * *

Issued in Los Angeles, California on March 15, 1999.

Leonard A. Mobley,

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

[FR Doc. 99–8273 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–20]

Proposed Establishment of Class E Airspace; De Kalb, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at De Kalb, IL. A Localizer/Distance Measuring Equipment (LOC/DME) Standard instrument Approach Procedure (SIAP) to Runway (Rwy) 2 has been developed for De Kalb Taylor 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 for this airport.

DATES: Comments must be received on or before May 20, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–20, 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. 99–AGL–20.'' 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 De Kalb, Il, to accommodate aircraft executing the proposed LOC/DME Rwy 2 SIAP at De Kalb Taylor Municipal Airport by creating controlled airspace. 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 7400.9F dated September 10, 1998, and effective September 16, 1998, 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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

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

* * * * *

AGL IL E5 De Kalb IL [New]

De Kalb Taylor Municipal Airport, IL
(Lat. 41°42′30″ W.)

That airspace extending upward from 700 feet above the surface within an 6.6-mile radius of the De Kalb Taylor Municipal Airport, excluding that airspace which overlies the Chicago, IL, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 18, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–8246 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–21]

Proposed Modification of Class E Airspace; Kokomo, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Kokomo, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 09, and a GPS SIAP to Rwy 27, have been developed for Logansport Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before May 20, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–21, 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, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comment 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. 99–AGL–21.'' 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 modify Class E airspace at Kokomo, IN, to accommodate aircraft executing the proposed GPS Rwy 09 SIAP, and the GPS Rwy 27 SIAP, at Logansport Municipal Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approaches. 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 7400.9F dated September 10, 1998, and effective September 16, 1998, 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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

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

* * * * *

AGL IN E5 Kokomo, IN [Revised]

Kokomo Municipal Airport, IN
(Lat. 40°31′41″ N., long. 86°03′32″ W.)
Grissom Air Reserve Base, IN
(Lat. 40°38′53″ N., long. 86°09′08″ W.)
Logansport Municipal airport, IN
(Lat. 40°42′41″ N., long 86°22′28″ W.)
Peru Municipal Airport, IN
(Lat. 40°47′11″ N., long. 86°08′47″ W.)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of the Kokomo Municipal Airport and within 2.6 miles each side of the ILS localizer northeast course extending from the 7.0-mile radius to 10.8 miles northeast of the airport; and within a 7.0-mile radius of the Grissom ARB and within 3.8 miles each side of the ILS localizer northeast course extending from the 7.0-mile radius to 14.5 miles northeast of the base, and within 2.0 miles each side of the ILS localizer southwest course extending from the 7.0-mile radius to 14.5 miles southwest of the base;; and within a 7.7-mile radius of the Logansport Municipal Airport; and within a 6.3-mile radius of the Peru Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on March 18, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–8247 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104072–97]

RIN 1545–AV07

Recharacterizing Financing Arrangements Involving Fast-Pay Stock; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under section 7701 recharacterizing, for tax purposes, financing arrangements involving fast-pay stock.

DATES: The public hearing originally scheduled for Thursday, April 8, 1999, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and/or notice of public hearing that appeared in the **Federal Register** on Wednesday, January 6, 1999 (64 FR 805), announced that a public hearing was scheduled for Thursday, April 8, 1999, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 7701 of the Internal Revenue Code. The public comment period for these proposed regulations expires on Tuesday, April 6, 1999. The outlines of topics to be addressed at the hearing were due on Thursday, March 18, 1999.

The notice of proposed rulemaking and/or notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, March 30, 1999, no one has requested to speak. Therefore, the public hearing scheduled for Thursday, April 8, 1999, is cancelled.

Cynthia Grigsby,

Chief, Regulations Unit Assistant Chief Counsel (Corporate).

[FR Doc. 99–8281 Filed 4–2–99; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6319–2]

RIN 2060–AH67

Protection of Stratospheric Ozone: Allowance System for Controlling HCFC Production, Import and Export

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: EPA is seeking comments on a variety of options for establishing an allowance allocation system to control the U.S. consumption of class II controlled substances, the hydrochlorofluorocarbons (HCFCs), in accordance with U.S. obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). Under the Protocol, the United States is obligated to limit HCFC consumption (defined by the Protocol and this notice as production plus imports, minus exports) under a specific cap, which will be reduced in a step-wise fashion over time. To ensure that the U.S. does not exceed this internationally mandated cap, EPA is presenting many options for establishing a future HCFC allowance allocation system. EPA is considering, among other things, an option where the allowance system would become effective only under certain conditions, i.e., once a specified percentage of the current U.S. HCFC cap has been reached or exceeded.

DATES: Comments on this advanced notice of proposed rulemaking must be received on or before June 4, 1999.

ADDRESSES: Comments on this advance notice of proposed rulemaking should be submitted in duplicate to: Air Docket No. A–98–33, U.S. Environmental Protection Agency, 401 M Street, SW., Room M–1500, Washington, DC 20460. The Docket is located in Room M–1500, First Floor, Waterside Mall at the address above. The materials may be inspected from 8 am until 4 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Vera Au, EPA, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, DC 20460, (202) 564–2216 or the Stratospheric Protection Hotline at (800) 296–1996.

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Annex A: Ozone Depletion Potentials for Class II Substances as Currently Listed Under the Montreal Protocol

I. Background

A. Montreal Protocol on Substances that Deplete the Ozone Layer

Signatory countries that are Parties to the international agreement called the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol), during their second meeting in London in 1990, identified hydrochlorofluorocarbons (HCFCs) as transitional substitutes for chlorofluorocarbons (CFCs) and other more destructive ozone-depleting substances. At the Parties' fourth meeting in Copenhagen in 1992, a detailed phaseout schedule for HCFCs (listed in Annex C, Group I of the Protocol) was created. At this fourth meeting, the Parties to the Protocol established a freeze level (a cap) on the consumption of HCFCs for industrialized countries (Parties governed by Article 2 of the Protocol). Consumption is defined by the Protocol as production plus imports minus exports. The cap on HCFC consumption for industrialized countries went into effect on January 1, 1996, and was derived from the formula of 3.1 percent (reduced to 2.8 percent at the seventh meeting of the Parties) of a Party's CFC consumption in 1989, plus the Party's consumption of HCFCs in 1989. This formula puts the current U.S. cap for HCFC consumption at 15,240 ODP-weighted metric tons. The Parties to the Protocol then created a schedule for the gradual reduction and eventual phaseout of the consumption of HCFCs by 2030. The Copenhagen Amendments to the Protocol call for a 35 percent reduction of the cap in 2004, followed by a 65 percent reduction in 2010, a 90 percent reduction in 2015, a 99.5 percent reduction in 2020, and a total phaseout in 2030. The U.S. must, at a minimum, comply with this phaseout schedule under the Protocol.

EPA was petitioned to phase out the most ozone-depleting HCFCs first. Upon

analyzing this approach, EPA determined that the U.S. could in fact meet, if not exceed, the required Montreal Protocol reductions by the specified dates. Therefore, the U.S., as authorized under the Clean Air Act, is implementing a different phaseout schedule, carried out on a chemical-by-chemical basis for HCFCs (58 FR 65018), which will meet or exceed the Montreal Protocol reductions required. U.S. implementation of the HCFC phaseout is described below in parts I.B and I.C of this notice.

B. Title VI of the Clean Air Act Amendments of 1990

The Clean Air Act Amendments of 1990 (CAA or the Act), under Section 605(c), originally required the Administrator to promulgate, by December 31, 1999, regulations phasing out the production, and restricting the use of, class II substances (HCFCs), subject to any acceleration of the phaseout of production under Section 606. Section 605(c) further states that the Administrator shall promulgate regulations to ensure that the consumption of class II substances is phased out and terminated in accordance with the same schedule. The original phaseout schedule established in the Act has since been accelerated as authorized under Section 606 and is outlined below in part I.C of this notice.

Section 605 of the Act established the original U.S. phaseout schedule for class II substances. Section 605(a) states that, ''Effective January 1, 2015, it shall be unlawful for any person to introduce into interstate commerce or use any class II substance unless such substance: (1) Has been used, recovered and recycled; (2) is used and entirely consumed (except for trace quantities) in the production of other chemicals; or (3) is used as a refrigerant in appliances manufactured prior to January 1, 2020.'' Section 605(b) states that, ''Effective January 1, 2015, it shall be unlawful for any person to produce any class II substance in an annual quantity greater than the quantity of such substance produced by such person during the baseline year. Effective January 1, 2030, it shall be unlawful for any person to produce any class II substance.'' This phaseout schedule has since been accelerated under authority of Section 606.

Section 606(a) specifically requires the Administrator to promulgate regulations, accelerating the phaseout of production and consumption of ozone-depleting substances, ''if (1) based on an assessment of credible current scientific information (including any assessment under the Montreal Protocol) regarding harmful effects on the stratospheric ozone layer associated with a class I or class II substance, the Administrator determines that such more stringent schedule may be necessary to protect human health and the environment against such effects, (2) based on the availability of substitutes for listed substances, the Administrator determines that such more stringent schedule is practicable . . ., or (3) the Montreal Protocol is modified to include a schedule to control or reduce production, consumption, or use of any substance more rapidly than the applicable schedule under this title.''

Thus, Section 606 (a)(3) requires EPA to accelerate the phaseout to conform to any acceleration under the Protocol. In addition, Section 614(b) provides that in the case of a conflict between Title VI of the Act and the Protocol, the more stringent provision shall govern. The Parties to the Protocol, based on scientific evidence that losses of stratospheric ozone were occurring more rapidly than earlier believed, accelerated the phaseout of class I substances and established the phaseout schedule for class II substances at the Fourth Meeting of the Parties in Copenhagen in 1992. Pursuant to authorities provided by Title VI, EPA amended its regulations on December 10, 1993 (58 FR 65018) to provide for these accelerations. Targeting the phaseout set by the Protocol, EPA chose to phase out production and consumption of HCFCs on a chemical-by-chemical basis, beginning with those with the highest ozone depletion potential (ODP). EPA accelerated the phaseout of production and import of HCFC–22, HCFC–141b and HCFC–142b, the three HCFCs with the highest ODPs. Specifically, EPA's rule bans the production and import of HCFC–141b as of January 1, 2003. The production and import of HCFC–142b and HCFC–22 in excess of baseline allowances are prohibited effective January 1, 2010, except for the use in equipment manufactured prior to January 1, 2010. Beginning January 1, 2020, the production and import of HCFC–142b and HCFC–22 are banned. Production and import of the remaining HCFCs, in excess of their baseline production and consumption levels, will be prohibited beginning January 1, 2015, except as a refrigerant in equipment manufactured before January 1, 2020. All HCFCs will be completely phased out by January 1, 2030. EPA did not establish an allocation system for class II substances, as it did for class I substances.

Section 605(d) of the Act speaks to exceptions to the original phaseout schedule for HCFCs. Beginning in 2030, EPA can authorize up to 10 percent of the baseline per year for production of class II substances for medical devices considered essential by the U.S. Food and Drug Administration (FDA) and for which no safe and effective alternative has been developed and approved. EPA can authorize use of these quantities beginning in 2015 as an exception to the use restrictions contained in 605(a). EPA can authorize this limited amount of production and use, to the extent consistent with the Protocol, if FDA, in consultation with EPA, determines that it is necessary for use in these medical devices. In addition, beginning in 2015, and continuing up until 2030, EPA may authorize production of up to 110 percent of the baseline per year solely for export to and use in developing countries (Article 5 countries) that are Parties to the Protocol. This production is intended to be solely for the purpose of satisfying basic domestic needs of the importing developing country. Between 2030 and 2040, no more than 15 percent of the baseline can be produced annually for export to Article 5 countries. Section 605(d) does not permit any production for export to and use in Article 5 countries after January 1, 2040.

Per Section 602(b) of the Act, EPA published a list of class II substances in 40 CFR Part 82, Subpart A, Appendix B. All HCFCs fall into one grouping under class II ozone depleting substances, and, since publication of the initial list, no new class II substances have been added to the list.

Section 602(e) requires EPA to assign numerical values representing the ozone depletion potential (ODP) of all class II substances; and Section 602(e) further states that, ''Where the ozone depletion potential of a substance is specified in the Montreal Protocol, the ozone depletion potential specified for that substance under this section shall be consistent with the Montreal Protocol.'' Annex A of this notice lists the ODPs for all class II substances as currently specified by the Protocol. Note that some of the ODPs listed under Annex A vary slightly from those listed under Appendix B to 40 CFR Part 82, Subpart A due to revisions of those ODPs under the Protocol since May 10, 1995. However, because this notice merely seeks comments and presents options, the future final rulemaking for the class II allowance allocation system will amend the list of ODPs currently presented in 40 CFR Part 82. Unless there are future revisions of the ODPs

for class II substances under the Protocol, entities involved in the HCFC market can expect to use the ODPs listed in Annex A of this notice for any ODP-weighted calculations that may be necessary as part of an HCFC allowance system.

Section 607(b) of the Act requires EPA to permit the transfer of any class I or class II allowances, within each group or class, on an ozone depletion weighted basis. In allowing transfers, under Section 607(a) of the Act, EPA must ensure that ''the transactions under the authority of this section will result in greater total reductions in the production in each year of class I and class II substances than would occur in that year in the absence of such transactions.'' In other words, transfers cannot be made at a 1:1 ratio. In the class I regulations, an offset of one percent was required in any transfer to accomplish the environmental benefit required by Section 607. Those transfer requirements are set forth in 40 CFR Part 82, Subpart A, Section 82.12 (60 FR 24970, May 10, 1995). Transfer of class II allowances between entities and interpollutant transfers on an ODP-weighted basis, along with an appropriate offset, are addressed under II.E of today's notice.

Section 616 of the Act states that the U.S. may transfer allowances to another Party, under certain conditions. Few countries currently have a system in place for allocating, trading and expending HCFC allowances. As discussed in today's notice, differences exist between the manners in which the Protocol and the U.S. have structured their respective HCFC phaseout systems. Nevertheless, a trading regime similar to that implemented by EPA for class I international trades (40 CFR 82.9, 82.10) (60 FR 24970, May 10, 1995) could work effectively for class II trades. One possible such system is outlined in II.E.6 of this notice.

Reporting requirements mandated in Section 603 relative to HCFCs are currently in place in 40 CFR 82.13(n). Additional reporting requirements will likely accompany the implementation of a class II allowance allocation system.

II. Options for Establishing an HCFC Allowance System

Section 607 of the Act requires EPA to issue allowances for the production and consumption of class II substances. With this notice, EPA is putting forth options as to how such an allowance system could be established. The allowance system must ensure that U.S. consumption of class II substances does not exceed the cap agreed to under the Protocol (currently at 15,240 metric tons but will be reduced over time).

For the class I substances, EPA considered many methods for achieving the required reductions that were agreed to under the Protocol. The approaches distinguished between economic incentives and engineering controls or bans. EPA concluded that the most equitable, least costly and easiest system to administer for achieving the Protocol's required reductions for class I ozone-depleting substances was a marketable allowance system. EPA established such a system. The system proved highly successful and by January 1, 1996, the production and import of class I substances were completely phased out (but for narrow exemptions granted by the Parties to the Protocol) with minimal economic impact.

Unlike the class I allowance system, however, EPA is considering an approach whereby an allowance system for class II substances would only become effective if a certain threshold (i.e., a certain percentage of the total U.S. cap for class II substances) were reached or exceeded.

A. Allowance Allocation System to Control HCFC Consumption in the United States

1. Type of Allowances

a. Production Allowances and Consumption Allowances for Class I Controlled Substances. Under the control system for class I substances, EPA created a unit of measure called an allowance (see 40 CFR 82). An allowance, for a class I substance, represents the marketable rights and privileges granted to a company to produce or import a specific quantity of that class I substance. Under the class I allowance program, there were two types of allowances: production allowances and consumption allowances. One allowance in the regulatory program for class I substances was equal to one kilogram of either production or consumption of a substance, depending on the type of allowance.

Under the class I phaseout regulations, a company was required to expend both production and consumption allowances to be able to produce. To be able to import a class I controlled substance, a company was required to expend consumption allowances (See 40 CFR 82.4). After proper documentation was presented to EPA reflecting an export of a class I controlled substance, consumption allowances were refunded or returned to the exporting company (See 40 CFR 82.10).

b. Options for Allowances for Class II Controlled Substances. EPA is considering, and seeking comment on, the following options for class II allowances. One option for a class II allowance system would be to follow the structure established for the class I substances. To produce, a company would expend both production allowances and consumption allowances for a specific quantity of a class II controlled substance. To import, a company would expend consumption allowances for a specific quantity of a class II controlled substance. An exporter of class II substances would be able to obtain consumption allowances by providing documentation indicating the quantity of substance exported abroad.

A second option for a class II allowance system would be to operate the system using only one kind of allowance, which could be applied equally for production, imports and exports. This means that such an allowance (hereafter referred to as ''class II allowance'') could be applied to any element of the formula for consumption (consumption = production + imports-exports). Producers and importers alike would be allocated class II allowances according to baseline calculations. To produce, a company would expend class II allowances for a class II substance. To import, a company would expend class II allowances for a class II substance. Upon export, a company would receive class II allowances for the quantity of a class II substance exported. Essentially, allocation and expenditure of allowances under this system would differ from the class I system in that only one allowance would be allocated and expended for production. For example:

Activity	Class I allocated/expended	Class II allocated/expended
Production	production & consumption	class II allowance.
Import	consumption	class II allowance.
Export	consumption returned	class II allowance returned.

2. Unit of Measure for Allowances

Allowances can be accounted for in a variety of ways. They can equal any quantity one assigns to them, calculated by any workable measure. In the class I allowance system, EPA assigned each allowance a value of one kilogram of a class I substance. To produce or import, allowances were expended similarly, by kilograms. Since each chemical has its own ODP, any trades that took place between class I chemicals took into account the difference in ODPs, weighting the resulting allowances accordingly.

Due to the aforementioned differences in ODPs among chemicals, another possible measure for an allowance is an ODP-weighted unit (ODP x kilogram), tied to no specific chemical. EPA is considering, and seeking comment on, both an absolute allowance allocation by kilogram (which is chemical-specific) and an ODP-weighted allocation system (which is also allocated in kilograms but not chemical-specific). With this notice, EPA is exploring both options but attempts below to illustrate what the advantages and disadvantages of each system may entail.

a. Absolute Kilogram Allowances on a Chemical-by-Chemical Basis. One option for assigning a value to class II allowances would be to allocate them on an absolute quantity (kilogram) basis, as was done in the class I allocation system. In such a system, one kilogram of an HCFC would correspond to one allowance. In this absolute system, one would track the production, import or export of a specific chemical on a kilogram basis.

If trades were to occur between different class II substances in a system where one allowance equals one kilogram, any difference in ODP between the substances would have to be factored into the exchange, as was done with transfers and trades among class I substances (See Section 607(b)(1) of the Act). A brief example of such transfers is described below, but further options related to, and a more thorough explanation of, transfers are discussed in part II.E of today's notice.

To better illustrate how an absolute allowance system would function, take for example, Company A, which produced 1000 kilograms of HCFC–141b and 550 kilograms of HCFC–22 in its baseline year. Under an absolute allowance system, Company A would be allocated 1000 allowances for HCFC–141b and 550 allowances for HCFC–22. To produce 70 kilograms of HCFC–141b, 70 allowances would be subtracted from 1000, leaving Company A with 930 kilograms or allowances of HCFC–141b. If Company A wanted to produce more than 1000 kilograms of HCFC–141b, it could trade with another holder of HCFC–141b allowances or transfer its own HCFC–22 allowances to HCFC–141b allowances, taking into account the difference in ODP between the two substances. In this case, if Company A wanted to produce 200 additional kilograms of HCFC–141b, it could, through an intra-company transfer, shift the appropriate number of HCFC–22 allowances that, accounting for ODP differences, would represent the equivalent of 200 HCFC–141b allowances. Therefore, Company A would exchange 400 HCFC–22 allowances to add 200 HCFC–141b allowances, since the ODP of HCFC–22 is 0.055 and the ODP of HCFC–141b is 0.110. Similarly, Company A could have purchased 200 allowances of HCFC–141b or 400 allowances of HCFC–22 from some other allowance holder.

It is important to note what would occur under an absolute allowance system when various phaseout dates become effective. In 2003, for example, when the ban on production and importation of HCFC–141b takes effect (See 40 CFR section 82.4), entities with HCFC–141b baseline allowances, measured in kilograms, would no longer be authorized to produce or import HCFC–141b. Essentially, these entities would receive zero percent of their baseline allowances on January 1, 2003. The same would occur when other individual phaseout dates (e.g., for HCFC–22 and HCFC–142b in 2010) become effective.

In 2004, under the Protocol, the U.S. is required to reduce its current HCFC consumption cap (15,240 ODP-weighted metric tons) by 35 percent. At this time, every entity still holding HCFC baseline allowances may receive 65 percent (or 35 percent less) of their remaining HCFC baseline allowances.

Administratively, an absolute allocation system based on kilograms may be advantageous for its simplicity. Both for the regulated entities and EPA, an absolute system would afford greater ease, clarity, and predictability. Holders of absolute allowances would report their transactions in kilograms of each chemical. To determine future regulatory actions, EPA needs to keep a running tab on market supply and demand of the various chemicals. EPA is much better able to track which companies are expending which allowances for which chemicals if EPA carries out the calculations involving trades and expenditures, and then tracks the absolute quantities of each chemical. EPA is also obligated to report to the United Nations Environment Programme (UNEP) annually on U.S. production and importation on an absolute basis for each individual substance. Producers and importers have been operating and reporting under the class I absolute allocation system for many years, and are familiar with the necessary calculations, reporting forms, and tracking requirements. Therefore, any additional administrative burden of adopting a similar system for class II substances may be minimal for the regulated community. Consistency between the class I and potential class II systems would present a significant advantage. Under an absolute system, flexibility would not be compromised, due to the trading opportunities that can be established. EPA requests comment on the advantages or disadvantages of an absolute allocation system.

b. ODP-Weighted Allocation. Another means of allocating allowances is through an ODP-weighted system, whereby each allowance holder's allocation would be calculated according to the numerical value of the ODP associated with each chemical in the allowance holder's baseline year(s). In this case, the ODP weight of each HCFC becomes the meaningful variable and companies would be allocated an aggregate number of ODP-weighted (ODP x kilogram) units. For example, a company that produced 1000 kilograms of HCFC–142b in the baseline year(s) would be allocated 65 ODP-weighted allowances because HCFC–142b has an ODP of 0.065. Likewise, if this same company imported 1000 kilograms of HCFC–22 during the baseline year(s), they would also be allocated 55 ODP-weighted allowances (HCFC–22 has an ODP of 0.055). Thus, the company would have a total of 120 ODP-weighted allowances. The company would be able to expend the 120 ODP-weighted allowances by producing or importing any class II controlled substance or combination of class II controlled substances that it chooses, as long as the weighted total (kilogram x ODP) does not exceed the number of allowances. For example, the company could expend all of the 120 ODP-weighted allowances to produce 2,181 kilograms of HCFC–22. Alternatively, the company might expend the 120 ODP-weighted allowances to produce 6,000 kilograms of HCFC–123 (ODP = 0.02), or 1,091 kilograms of HCFC–141b (ODP=0.11). Under this system, intra-company transfers would not be necessary; inter-company trades would be in increments of ODP-weighted units.

The ODP-weighted allowance system may be viewed as more advantageous to regulated entities. Altering patterns of production and importation in response to market changes could be done more easily, and the offset required for intra-company transfers under an absolute kilogram allowance system would not apply, simply because there would be no actual transfer of allowances within a company where ODP units are concerned. The offset would still apply to inter-company trades because allowances would in fact be trading hands.

Under an ODP-weighted allowance system, however, complex calculations would be necessary by the reporting companies to arrive at the total quantity of class II substances produced or imported during the reporting period. For each chemical, the number of kilograms would have to be multiplied by its ODP and compared to the number of ODP-weighted allowances. Blends would present an additional complication by requiring a calculation of the percentage of each HCFC in a substance (e.g., R–401A), at each applicable ODP, and including that in the total reported ODP produced or imported for a quarter.

When the first phaseout date becomes effective in 2003 for HCFC–141b, under an ODP-weighted system, an entity participating in the HCFC–141b market would no longer receive the amount of ODP-weighted allowances associated with that entity's ODP units of HCFC–141b produced and/or imported in the baseline year(s). The same would be true for subsequent phaseouts. Complications come into play, however, when ODP-weighted allowances have been transferred on a permanent basis; that is, when a company actually trades baseline allowances. Where baseline trades (discussed more in part II.E.4 of this notice) have been made, adequately tracking ODP-weighted class II substances from one holder to another becomes very difficult. This is extremely important at each phaseout, to determine who holds the baseline allocation of the chemical being phased out.

EPA seeks comments on the viability of an ODP-weighted allowance system as presented above. Though presented as a possible option, EPA recognizes the many difficulties that could emerge with an ODP-weighted system (e.g., monitoring chemicals that have been produced or imported with traded allowances; reporting to UNEP the absolute quantities of all class II substances in kilograms). An ODP-weighted allowance system would also possibly be in conflict with Section 605(b)(1) of the Act, which states that, ''Effective January 1, 2015, it shall be unlawful for any person to produce any class II substance in an annual quantity greater than the quantity of such substance produced by such person during the baseline year.'' This is because ODP-weighted allowances could be shifted within a company and thus allow that company to produce a greater quantity of a class II substance than in its baseline. (Such an intra-company transfer of allowances is discussed below in part E of this notice.)

B. Method for Distributing Allowances

EPA is required, under Section 607 of the Act, to issue allowances for the production and consumption of class II substances. There are a variety of methods for allocating allowances and EPA seeks comments on these options. First, EPA is considering allocating allowances for the full time period until the complete production and importation phaseout for all class II substances (currently 2030), taking into account both accelerated phaseouts for individual chemicals (e.g., those for HCFC–141b, HCFC–22 and HCFC–142b) and the step-wise reduction of the consumption cap as mandated under the Protocol. This allocation of allowances was the method followed in the regulatory program for class I substances. For class I substances, a quantity of allowances was allocated to listed companies as a baseline in the **Federal Register**. Allocating allowances for the full time period until a particular phaseout date provides certainty and stability for the market. Assuming the regulatory program includes smooth procedures for trading allowances, the full-term allocation of allowances establishes the basis for a ''marketable permit'' system.

The second option being considered is a system for re-calculating and re-allocating allowances on a ''rolling basis.'' This would essentially move the baseline forward in time so that the baseline would always be the most accurate reflection of the current HCFC market. Under this option, EPA would review data on the production, import and export of HCFCs on some periodic basis, establish a new baseline for each entity, and re-allocate the allowances accordingly. A re-allocation of allowances may require an amendment to the original list in the regulation of entities with their respective baseline allowances. Alternatively, an administrative mechanism could be established to re-allocate allowances automatically at regular intervals.

However, if the regulatory system includes smooth procedures for trading allowances, shifts in demand and changes in market share could be addressed by individual companies, thus obviating the need to re-allocate allowances. Identifying the appropriate length of time for periodic review and re-allocation of allowances would be important, especially given both the existing phaseout schedule for specific HCFCs and the step-wise reduction of the HCFC consumption cap over time. Likewise, the length of time for periodic re-allocation of allowances may depend on the definition of a trigger mechanism for making the final rule effective, which is discussed in II.H of this notice. For example, instead of establishing specific years for the re-allocation of allowances (e.g., 2000 and 2002), the re-allocation could be linked with the trigger mechanism, so that re-allocation of allowances would occur, say, 2 years and 4 years after the allowance system becomes effective.

A final option would involve allocating allowances on a year-by-year basis. However, this would generate a large administrative burden for both EPA and those who produce, import and export HCFCs. The ability of those producers, importers and exporters to plan for the longer term would also be hampered.

EPA is seeking comments on all of the aforementioned options for distributing allowances.

C. Establishing an Equitable Baseline for Distributing Allowances

In developing the regulatory program for class I controlled substances, EPA collected information on the amounts of each class I substance produced, imported and exported during a given calendar year. EPA collected the data by publishing two notices in the **Federal Register** under authority of Section 114 of the Act (52 FR 47489 (December 14, 1987) and 55 FR 49116 (November 26, 1990)). The data requested from U.S. companies included reports on production runs, quantities of feedstock chemicals used in production, bills of lading, invoices, and other documents for a specific calendar year. The data submitted to EPA was used to assign company-specific production and import rights (allowances) to companies.

EPA is considering, and seeking comment on, many options for establishing a baseline for HCFC allowances. Consistent with the procedures associated with class I controlled substances, EPA will likely use historical information regarding a

company's activities to establish the baseline for class II allowances. EPA is considering following the same procedures used for establishing the baseline for class I controlled substances, including the publication of a Section 114 notice requesting specific information.

Options for establishing the actual baseline allowances for class II controlled substances are represented by a spectrum of choices, including using historical information from one year, from an average of multiple years, or using a formula for combining multiple years. At the extremes, EPA is considering historical information from 1989 or 1997, and many variations in between. EPA believes that the process of establishing the baseline should take into account, inter alia, the agreements by the Parties to the Protocol to control and phase out class II substances, the signing of the Clean Air Act Amendments of 1990 into law, the publication of regulations under Title VI of the Act governing the phaseout of class II substances, and the development of the current HCFC market in the U.S. EPA is seeking comments on the various options discussed below, as well as any other ideas for establishing an allocation baseline.

One option EPA is considering for establishing the baseline for class II controlled substances is historical information from one year. Collecting documents and information from companies for one year of activity would be less of an administrative burden for both EPA and the companies than if EPA were to collect information for more than one year. Another option EPA is considering is using data from multiple years to establish the baseline for class II substances. EPA is considering using historical information from consecutive years and averaging the data. EPA is also considering averaging historical data from non-consecutive years to establish the class II baseline. Calculating baseline allowances for class II substances by using a weighted average of multiple years is also being considered. For example, using a number of either consecutive or non-consecutive years within the time frame 1989–97, EPA would first calculate the production and importation for each. Then, after deciding upon the relative importance of each of those years regarding production and importation quantities, EPA would weight each year accordingly and make the baseline calculation to reflect the weighted average of those years. Once the option for determining the baseline is chosen, EPA believes that steps to ensure accuracy of historical data will be of utmost importance. Any baseline calculation involving multiple years will have to be reconciled with the definition of ''baseline'' in Section 601(2) of the Act, which states that the term ''baseline year'' means ''a representative calendar year * * * in the case of any class II substance.''

Another option EPA is considering for establishing a baseline is to use different years for establishing each HCFC's individual baseline. As an example, EPA might consider using one particular year (or years) to establish the baseline for HCFC–141b and a completely different year (or years) for establishing the baseline for HCFC–22 and HCFC–142b. In this example, EPA might consider using yet another year (or years) for establishing the baseline for all remaining HCFCs. Using this type of approach, and linking it with the options discussed above, EPA might choose the average of multiple years for one HCFC and a formula for establishing the baseline for another HCFC.

It is important to note that, under any scenario, when the phaseout date for HCFC–141b is reached in 2003, all HCFC–141b consumption (production + imports − exports) will cease. Those who did not participate in the HCFC–141b market will not be affected in 2003. However, those who did participate in the HCFC–141b market—through, for example, producing or importing HCFC–141b—would no longer receive any allowances associated with their historic HCFC–141b activity, and thus any authorization to produce or import HCFC–141b. Likewise, any company that, through a baseline trade, received allowances associated with historic HCFC–141b would no longer receive any allowances associated with the baseline trade in 2003.

In 2004, when the Protocol requires that the HCFC consumption cap be reduced from its current level by 35 percent, all remaining allowance holders may be affected. At that time, all allowance holders may receive up to 35 percent less of their remaining HCFC baseline allowances (all HCFC allowances minus HCFC–141b allowances).

D. Percentage of Allowances Distributed Under U.S. HCFC Consumption Cap

EPA is considering, and seeking comment on, whether to allocate the total number of allowances (the total quantity of ODP-weighted HCFC consumption) available to the U.S. under the cap as established by the Montreal Protocol. As discussed in part I.A of this notice, the current U.S. cap for HCFC consumption is 15,240 ODP-weighted metric tons, based on the formula of 2.8 percent of CFC consumption in 1989 plus the consumption of HCFCs in 1989. Today's notice considers an allocation of allowances equal to 100 percent of the 15,240 metric tons. This would, however, in the event of some violation of the allowance system, provide no cushion for error, thus risking violation of the U.S. cap. This risk could demand that EPA request information and monitor more often and in greater detail.

EPA is also considering, and seeking comment on, an allocation of some percentage less than the full quantity of the cap. In this scenario, consideration is given to potential violations of the allocation system by leaving enough unallocated class II allowances to cover any overage. In this case, the U.S. would not violate the cap as a consequence of a violation of its allocation system. EPA is seeking comment on the necessity of providing a safe buffer below the HCFC cap; the percentage to be allocated if less than 100 percent is warranted; and on the possible size of errors in the reporting of production and import data that could occur in a control period.

Related to the discussion above is the issue of how to allocate the remaining class II allowances falling between the U.S. cap (potentially allowing for some margin of error) and the selected baseline (discussed in II.C of this notice). For example, if the year 1996 were chosen as the baseline, this would represent about 82 percent of the U.S. cap, thus leaving open the question of how to allocate the remaining 18 percent, and if all of the remaining 18 percent should be allocated. This remaining percentage, or a lower percentage that would provide for a margin of error, could simply be added to the allocated baseline allowances, to be distributed on a pro rata basis. The entire amount, then, would be allocated in the form of allowances to those companies that participated in the HCFC market in the baseline year(s). Such a system would provide certainty in how the allowances would be allocated.

Depending on the baseline year(s), another possible option would be to allocate some portion of the remaining percentage (in our example some portion of the 18 percent) to those companies whose historic HCFC activity is not well represented by the baseline year(s), such as new companies that may have entered the HCFC market after the baseline year(s).

E. Transfers of Class II Allowances

In establishing the regulatory allowance program for class I controlled substances, EPA included provisions that permitted the transfer of allowances. The provisions for trades and transfers of class I allowances are in § 82.9, § 82.10, § 82.11 and § 82.12 of the final rule published in the **Federal Register** on May 10, 1995 (60 FR 24970). Today's notice describes the many different types of transfers permitted for class I allowances, as well as other variations. EPA is seeking comment on how these variations and options could apply to the transfer of class II allowances.

Under the current class I regulatory program, EPA is required to process the transfer of allowances within three working days from when EPA receives the request for an inter-pollutant or inter-company trade. Companies fax the request for a trade to EPA and within three working days EPA faxes a reply showing the new balance of unexpended allowances (See 40 CFR 82.12(a)(1), (b)(4)).

1. Transfers Within Groups of Class II Substances

To facilitate transfers among class II substances, EPA is permitted, under Section 607(b)(3) of the Act, to establish groups of class II substances. Under such a framework, inter-pollutant transfers of allowances would be limited to chemicals within an assigned group. Class I controlled substances are listed in the Act in groups, and inter-pollutant transfers of class I allowances are restricted to the specific groups. For example, CFC–11 and CFC–114 are listed in the Act as being in class I, Group I and all the halons are listed in class I, Group II. Inter-pollutant transfers of allowances can occur among CFCs in Group I and among halons in Group II, but transfers of allowances cannot occur between the two groups. One option for class II substances might be to establish class II groups based on each chemical's ODP. Another option might be to establish class II groups based on the U.S. phaseout dates for class II substances. EPA requests comment on the concept of grouping class II substances and the possible groupings themselves.

2. Inter-Pollutant Transfers

Section 607(b) of the Act states that inter-pollutant transfers shall be permitted. An inter-pollutant transfer is the transfer of an allowance of one substance to an allowance of another substance on an ODP-weighted basis. As an example, under the class I system, a company would transfer allowances for CFC–12 to allowances for CFC–115, taking into account ODP differences between the two chemicals. If a company wanted to transfer 1000 kilograms of their CFC–12 production allowances to CFC–115 production allowances, paperwork would be submitted with the following calculation: the 1000 kilograms of CFC–12 allowances are multiplied by the ODP of CFC–12 (1.0) and then divided by the ODP of CFC–115 (0.6), yielding 1667 kilograms of new CFC–115 production allowances. Inter-pollutant transfers are sometimes called intra-company trades because a company might shift allowances internally from one substance to another to react to shifts in demand. Inter-pollutant transfers of allowances were fairly common for class I controlled substances. There were more than 40 inter-pollutant transfers for class I substances each year from 1992 through 1995.

For class II substances, an example of an inter-pollutant transfer would be a transfer of 10,000 kilograms of HCFC–142b allowances to HCFC–141b allowances, which would result in 5,909 kilograms of HCFC–141b allowances because of the adjustment for the ODPs of the two chemicals (which does not take into account the required offset for transfers as discussed in II.E.7 of this notice). If the class II allowance system were to distribute allowances on an ODP-weighted basis, however, there would be no need to include provisions for inter-pollutant transfers.

3. Inter-Company Transfers

Another example of trades of class II allowances that EPA must permit under Section 607(c) of the Act are inter-company transfers. Inter-company transfers are trades of allowances, for the same substance, from one company to another company. Under such a system, Company A would simply transfer its allowances of a class II substance to Company B who wishes to have more allowances of that particular class II substance.

4. Inter-Pollutant Transfers Combined With Inter-Company Transfers

Both inter-company and inter-pollutant transfers could be combined in the same transaction for class I controlled substances, and EPA is considering allowing the same combined system for class II substances. As an example of how this worked under the class I system, Company A would trade 35,000 kilograms of CFC–11 allowances to Company B who needed allowances to produce CFC–115. In the information submitted to EPA, the two companies would agree that Company A would deduct 35,000 allowances for CFC–11 from its balance and Company B would receive 58,333 kilograms of CFC–115, due to the ODP difference between the two chemicals. (An additional one percent offset would also be required in this calculation as discussed in II.E.7).

Under this combined system for class II substances, a company that wishes, say, to increase its production of HCFC–141b before the 2003 phaseout could (1) re-distribute its own allowances that have been allocated for another class II substance to HCFC–141b (an intra-company/inter-pollutant transfer); (2) purchase more HCFC–141b allowances from another company (an inter-company transfer); or (3) purchase more allowances from another company of a substance other than HCFC–141b (an inter-company/inter-pollutant transfer). Any inter-pollutant transfer would account for differences in ODP.

5. Transfers of Current-Year Allowances

EPA is considering approaches for permitting transfers of current-year allowances for class II controlled substances. A transfer of current-year allowances means the allowances being traded can only be expended for production or import in that specific control period, or calendar year. Transfers of current-year allowances do not change the quantity of actual baseline allowances assigned to a company. A trade of current-year allowances is a one-time trade, only reflected in a company's balance of allowances for that control period in which the trade occurs. Trades of current-year allowances were permitted in the class I regulatory program. From 1992 to 1995, many companies took advantage of the opportunity to trade current-year allowances for class I controlled substances. As an example, a company might make an inter-pollutant trade from their unexpended CFC–11 allowances to their CFC–114 allowances in order to respond to greater market demand for CFC–114 in that particular year. Another example would be Company A purchasing allowances from Company B, because Company A wants to import CFC–113 sometime during that control period. EPA seeks comment on current-year allowance transfers.

6. Permanent Transfers of Baseline Allowances

EPA is considering the merits of permitting transfers of baseline allowances for class II substances. A

transfer of baseline allowances is a permanent shift of some quantity of a company's baseline allowances to another company. The permanent nature of the transfer of baseline allowances makes the trade different from the transfer of current-year allowances. For example, Company A could have produced 1,000 kilograms of HCFC–22 in the baseline year(s), and would therefore receive either 1,000 baseline allowances (for the kilogram-based system) or 55 ODP-weighted baseline allowances (for the ODP-weighted system). Company A could in turn permanently trade away these baseline allowances to Company B. In all subsequent years, Company A's quantity of baseline allowances would permanently be reduced, while Company B's quantity of baseline allowances would permanently be increased.

To implement the current U.S. phaseout schedule for class II controlled substances, it may not be possible to allow permanent transfers of baseline allowances if the type of allowance chosen is an ODP-weighted unit, as described in part II.A.2.b of this notice. Under the U.S. phaseout schedule for class II substances, the consumption of chemicals with the highest ODP is eliminated first. To efficiently eliminate the consumption of a specific chemical, such as HCFC–141b, under a possible program using ODP-weighted allowances, a company would no longer receive, in 2003, the portion of its allowances attributable to its historic consumption of HCFC–141b. Under this scenario, a company would not be able to make a permanent trade of a quantity of ODP-weighted allowances because the permanent transfer of ODP-weighted allowances would not be linked to a specific chemical, unless there were groupings of HCFCs according to their phaseout dates or unless historical consumption would determine deduction of allowances at a particular phaseout. Alternatively, regardless of whether or not baseline trades with ODP-weighted units are made, the historic baseline ODP-weighted amount for a given chemical could be deducted in the relevant phaseout year (e.g. 2003 for HCFC–141b). EPA seeks comment on the merits of baseline trades in general, and on the compatibility of baseline trades with kilogram-based allowances versus ODP-weighted allowances.

7. International Trades of Current-Year Allowances

Under the Protocol, international trades are recognized as a part of a process called ''industrial rationalization.'' In Article 1 of the Protocol, industrial rationalization is defined as ''the transfer of all or a portion of the calculated level of production of one Party to another, for the purpose of achieving economic efficiencies or responding to anticipated shortfalls in supply as a result of plant closures.'' International trades of production are permitted under the Protocol so companies can consolidate the manufacturing of a chemical in order to be able to achieve economies of scale as demand shrinks.

The Protocol includes the following language in Article 2, paragraph 5 bis: ''Any Party not operating under paragraph 1 of Article 5 may, for one or more control periods, transfer to another such Party any portion of its calculated level of consumption set out in Article 2F [pertaining to HCFCs], provided that the calculated level of consumption of controlled substances in Group I of Annex A [CFCs] of the Party transferring the portion of its calculated level of consumption did not exceed 0.25 kilograms per capita in 1989 and that the total combined calculated levels of consumption of the Parties concerned do not exceed the consumption limits set out in Article 2F. Such transfer of consumption shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.''

International trades of production allowances are permitted under EPA's current regulations for class I controlled substances (40 CFR 82.9(c)). The procedures for international trades involve more review than the procedures for inter-pollutant and inter-company trades.

For class II substances, the implementation challenge of paragraph 5 bis of Article 2 in the Protocol is that ''consumption'' is a formula (production + imports − exports). Pursuant to a decision by the Parties, the Protocol language in paragraph 5 bis of Article 2 clearly restricts the U.S. from trading away HCFC consumption to another Party. The U.S. per capita consumption of CFCs in 1989 was 1.28 kilograms, well above the 0.25 kilogram per capita limit for transferring HCFC consumption. However, the Protocol language allows the U.S. to potentially receive a transfer of HCFC consumption from another Party. Only two non-Article 5 Parties, Norway and Poland, had a per capita consumption of CFCs in 1989 less than 0.25 kilograms. Thus, these are the only non-Article 5 Parties from whom the U.S. could potentially receive a transfer of HCFC consumption. We must therefore consider the likelihood of such international trades, and whether or not the establishment of provisions for class II international trades is warranted.

If EPA were to create provisions for class II international transfers, the options for such trades would be intimately linked to the type of allowance chosen for the final program, as discussed in part II.A.1 of this notice. If EPA were to choose a program with both production and consumption allowances (as in the class I system), it would be easier to limit international trades to just production by following the model already established for class I substances. If, on the other hand, EPA were to choose a program with class II allowances (which could apply to production, imports and exports), EPA would have to ensure that such allowances are used for production only and not for import.

Alternatively, EPA may choose to establish a special type of allowance to represent production rights received from an international trade. EPA seeks comment on allowing international trades of HCFC allowances and how they should be administered.

8. Offset for a Transfer of Allowances

The final aspect of trades of class II allowances considered in today's notice is the manner of achieving greater total reductions than would occur in the absence of a trade, as required in Section 607(a) of the Act. EPA believes that the offset required by Section 607 of the Act is only for inter-pollutant and inter-company transfers. In the allowance program for class I substances, an offset was not included in international trades.

Section 607(a) states that, ''transactions under the authority of this section will result in greater total reductions in the production in each year of class I and class II substances than would occur in that year in the absence of such transactions.'' For the class I allowance program, EPA adopted a one percent offset, deducted from the transferor's allowance balance, for all inter-pollutant trades and all inter-company trades (40 CFR 82.12(a)(1)(i)(H), 82.12(b)(4)(i)(F)). However, for inter-pollutant trades combined with inter-company trades, only one offset is applied to the transfer of allowances. For class II controlled substances, EPA is considering re-examining the quantity of offset assessed in a transfer of allowances. Because the class II substances are less ozone-depleting than class I substances, EPA may consider a smaller offset for

trades of HCFC allowances. EPA requests comment on the degree of offset to apply to domestic trades of class II substances.

F. Conditions Under Which a Control System Would Become Effective

As mentioned in the background section of this notice (part I.B), EPA is mandated under the Act to promulgate regulations by December 31, 1999, to administer the phaseout of class II controlled substances. By this time, EPA intends to have in place an allowance system based on the options, or some slight variation thereof, discussed throughout this notice. However, EPA is considering an approach, whereby the allowance system would not go into effect unless a certain percentage of the U.S. cap for class II controlled substances were to be reached or exceeded.

It is possible that U.S. HCFC consumption levels will remain within a safe buffer of the current cap as agreed to under the Protocol, and thus never activate the allowance system. In 2003, under the U.S. accelerated phaseout for individual class II substances, HCFC–141b will be phased out. An allowance allocation system may not be necessary to phase out HCFC–141b. In 2004, however, at which time the U.S. is required under the Protocol to reduce its current HCFC consumption cap by 35 percent, an allowance system will likely be necessary to ensure U.S. compliance with the Protocol. Consequently, EPA should select a default date before 2004 when the allowance allocation system would become effective, in the event that the allowance system is not in place before that default date. EPA is seeking comments on the most appropriate timing of a default date for the system to become effective.

The rationale for an approach that would condition the onset of an allowance system upon reaching an established percentage of the U. S. cap set by the Montreal Protocol would be to avoid premature government intervention in the HCFC industry. Therefore, the threshold must be set at a level where the implementation of EPA's allowance system would be deemed necessary to ensure that the U.S. complies with its cap for class II substances. Furthermore, having the allowance system in place with a set threshold for implementation will provide the regulated community with a relatively predictable regulatory structure.

EPA is considering, and seeking comment on, the appropriateness of such an approach, the percentage of the U.S. cap for class II controlled substances that would trigger the onset of the allowance system, the time span and type of data used to calculate whether or not the percentage has been reached or exceeded, and the amount of time deemed appropriate for implementation of EPA's allowance system once the threshold has been reached or exceeded.

EPA is considering a range of percentage options that would trigger the onset of the allowance system. A low percentage would possibly mean that EPA's implementation of its allowance system occurs with a relatively long lag time (e.g., more than one year), whereas a higher percentage may require swift implementation (e.g., within one year or less). EPA is concerned that a percentage threshold set too high could threaten U.S. compliance with its cap for class II controlled substances, given the delays inherent in data collection and the need for some transition time between reaching the percentage and implementing the allowance system.

The trends that the data on class II consumption (discussed below) reveal, combined with the percentage threshold, may also influence the speed with which EPA implements its allowance system. For example, if class II reporting data reveal that the threshold has been, or will be, surpassed by an amount considered ''too close'' to the cap, then EPA may implement its allowance system within a shorter time frame; likewise, if the threshold were surpassed by an amount considered to be within a secure buffer of the cap, EPA could implement its allowance system with a longer delay.

EPA must decide on the time span and type of class II data used to determine U.S. class II consumption levels relative to the selected percentage. EPA currently receives quarterly data on production, importation and exportation of class II substances as required under Section 603 of the Act. In order to assess meaningful trends and levels of class II consumption relative to the selected percentage, EPA is considering, and seeking comment on, a variety of ways of using this quarterly data for that purpose.

Under the Protocol and the Act, compliance for class II substances (i.e., consumption relative to the cap) is measured against the calendar year. Therefore, aggregating four quarters of quarterly data (an annual sum) serves as a convenient method to determine class II consumption levels relative to the cap, and thus the selected criteria for initiating the allowance system. This would represent one possible option for calculating class II consumption levels relative to the selected criteria. Another option would be to use a rolling sum in determining compliance with an established threshold, based on submitted data for four or possibly more consecutive quarters, which could include quarters from two calender years. The rationale for using four or more consecutive quarters is to avoid seasonality effects, or trend biases, which individual quarterly data could bring. If a number other than four quarters were used, the appropriate weighting would have to be given to each quarter so that their sum would be the equivalent of a 12-month period. If five consecutive quarters were used, for example, each quarter would be scaled to represent one fifth of the 12-month period.

III. Other Regulatory Options for Controlling HCFCs

To ensure that the U.S. adheres to its phaseout schedule for class II controlled substances, EPA has options of pursuing, if necessary, other means to contribute to the control HCFC of consumption of class II substances. The discussion below pertains to current labeling program, SNAP program and the non-essential products ban, and potential amendments to those regulations. These options address the use of HCFCs rather than their production, import and export, which an allowance system would directly control. EPA is seeking comment on using any of these options discussed below in controlling HCFC consumption, either in combination with an allowance system, each other, or on its own.

A. Labeling

As an additional means of discouraging use of class II substances, so as to ensure that the U.S. does not exceed its cap for class II substances under the Protocol, EPA is considering and seeking comment on the required use of labels on products containing or manufactured with class II substances. According to Section 611 of the Act, such labels would read as follows: ''Warning: Contains/manufactured with [insert name of substance], a substance which harms public health and environment by destroying ozone in the upper atmosphere.''

According to Section 611(c) of the Act, ''After 30 months after the enactment of the Clean Air Act Amendments of 1990, and before January 1, 2015, no product containing

a class II substance shall be introduced into interstate commerce unless it bears the label [referred to above] if the Administrator determines, after notice and opportunity for public comment, that there are substitute products or manufacturing processes (A) that do not rely on the use of such class II substance, (B) that reduce the overall risk to human health and the environment, and (C) that are currently or potentially available.'' Section 611(d) of the Act contains the same requirements for products manufactured with class II substances. Beginning January 1, 2015, all products containing or manufactured with a class II substance must bear the specified label regardless of whether the Administrator has made a determination regarding the availability of substitutes (§§ 611(c)(2) and 611(e)(5)). Therefore, the issue upon which EPA is requesting comment is whether EPA should, prior to January 1, 2015, require labels on certain products containing or manufactured with class II substances.

B. SNAP Approval and Restrictions

Section 612 of the Act requires EPA to promulgate rules making it unlawful to replace any class I or class II substance with any substitute substance that may present adverse effects to human health or the environment, where EPA has identified an alternative to such replacement that ''(1) reduces the overall risk to human health and the environment; and (2) is currently or potentially available.'' In accordance with Section 612 of the Act, and under the Significant New Alternatives Policy (SNAP) program, EPA publishes lists of acceptable and unacceptable substitutes for class I and class II substances. In some SNAP sector end-uses, class II substances have been listed as acceptable substitutes. Class II substances are viewed by the Agency as transition chemicals that facilitate the transition out of more harmful class I chemicals. Since 1994, availability of zero-ODP alternatives has increased in a number of end-uses. It is therefore possible that existing SNAP determinations allowing HCFC end-uses could be revised to make them unacceptable for use. This could happen through three mechanisms.

First, EPA could receive a petition from a company to add a substance to or delete a substance from the SNAP list of acceptable and unacceptable alternatives (See Section 612(d)). Second, EPA could receive notification from a company before introduction of a substitute into interstate commerce for significant new use as an alternative to a class II substance (See Section 612(e)). Finally, EPA can initiate changes to the SNAP determinations independent of any petitions or notifications received. Such changes could be based on new data either on additional substitutes or on characteristics of substitutes previously reviewed.

EPA solicits comments on the possibility of controlling HCFCs through SNAP determinations.

C. Nonessential Product Ban under Section 610

Section 610(d) of the Act prohibits the sale, distribution, or offer for sale or distribution in interstate commerce, of certain nonessential products that contain or are made with class II substances. EPA is authorized to grant exceptions to the ban under certain conditions. Since the issuance of the final rule providing exemptions from the statutory Class II nonessential products ban, EPA has received information, including information on new substitutes for making certain products, indicating that it may be necessary to reconsider the continued appropriateness of those exemptions. The Agency also is aware that since the issuance of that initial final rulemaking, there has been further substitution away from ozone-depleting substances in aerosols and pressurized dispensers. EPA is currently reviewing information concerning the aerosol products and pressurized dispensers that were given exemptions in the December 1993 rulemaking. In particular, the Agency is evaluating whether there are technologically available substitutes for the HCFCs used in these products. When EPA completes its evaluation of the existing exemptions for HCFCs, if appropriate, the Agency will issue a notice of proposed rulemaking. Potentially removing some of these products from the current exemptions to the nonessential product ban could provide some further assurance that the U.S. would not exceed its cap for class II substances under the Protocol.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The E.O. defines ''significant regulatory action'' as any regulatory action (including an advanced notice of proposed rulemaking) that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined by OMB and EPA that this action is a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore subject to OMB review under the Executive Order. This notice was reviewed by OMB and changes recommended by OMB have been made and documented for the public record.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

EPA determined that the members of the regulated community that may be directly affected by this rulemaking are generally not small businesses. Small governments and small not-for-profit organizations would not be subject to the options in today's notice. The options discussed in today's notice are directed to large, multinational corporations that either produce, import, export, transform or destroy ozone-depleting chemicals covered by this notice. The options discussed in this notice, therefore, will not have a significant economic impact on a substantial number of small entities.

C. Applicability of Executive Order 13045: Children's Health Protection

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an

environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This notice is not subject to E.O. 13045 because it presents options to implement a previously promulgated health or safety-based Federal standard, which in this case would be the accelerated phaseout schedule for HCFCs (58 FR 65018).

D. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (NTTAA), § 12(d), Pub. L. 104–113, requires federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. If use of such technical standards is inconsistent with applicable law or otherwise impractical, a federal agency or department may elect to use technical standards that are not developed or adopted by voluntary consensus standards bodies if the head of the agency or department transmits to the Office of Management and Budget an explanation of the reasons for using such standards.

This advance notice does not mandate the use of any technical standards; accordingly, the NTTAA does not apply to this advance notice.

ANNEX A: OZONE DEPLETION POTENTIALS FOR CLASS II SUBSTANCES AS CURRENTLY LISTED UNDER THE MONTREAL PROTOCOL*

Dichlorofluoromethane (HCFC–21)	0.04
Monochlorodifluoromethane (HCFC–22)	0.055
Monochlorofluoromethane (HCFC–31)	0.02
Tetrachlorofluoroethane (HCFC–121)	0.01–0.04
Trichlorodifluoroethane (HCFC–122)	0.02–0.08
Dichlorotrifluoroethane (HCFC–123)	0.02
Monochlorotetrafluoroethane (HCFC–124)	0.022
Trichlorofluoroethane (HCFC–131)	0.007–0.05
Dichlorodifluoroethane (HCFC–132b)	[reserved]
Monochlorotrifluoroethane (HCFC–133a)	0.02–0.06
Dichlorofluoroethane (HCFC–141b)	0.11
Monochlorodifluoroethane (HCFC–142b)	0.065
Hexachlorofluoropropane (HCFC–221)	0.015–0.07
Pentachlorodifluoropropane (HCFC–222)	0.01–0.09
Tetrachlorotrifluoropropane (HCFC–223)	0.01–0.08
Trichlorotrifluoropropane (HCFC–224)	0.01–0.09
Dichloropentafluoropropane (HCFC–225ca)	0.025
Dichloropentafluoropropane (HCFC–225cb)	0.033
Monochlorohexafluoropropane (HCFC–226)	0.02–0.10
Pentachlorofluoropropane (HCFC–231)	0.05–0.09
Tetrachlorodifluoropropane (HCFC–232)	0.008–0.10
Trichlorotrifluoropropane (HCFC–233)	0.007–0.23
Dichlorotetrafluoropropane (HCFC–234)	0.01–0.28
Monochloropentafluoropropane (HCFC–235)	0.03–0.52
Tetrachlorofluoropropane (HCFC–241)	0.004–0.09
Trichlorodifluoropropane (HCFC–242)	0.005–0.13
Dichlorotrifluoropropane (HCFC–243)	0.007–0.12
Monochlorotetrafluoropropane (HCFC–244)	0.009–0.14
Trichlorofluoropropane (HCFC–251)	0.001–0.01
Dichlorodifluoropropane (HCFC–252)	0.005–0.04
Monochlorotrifluoropentane (HCFC–253)	0.003–0.03
Dichlorofluoropropane (HCFC–261)	0.002–0.02
Monochlorodifluoropropane (HCFC–262)	0.002–0.02
Monochlorofluoropropane (HCFC–271)	0.001–0.03

*According to Annex C of the Protocol, ''Where a range of ODPs is indicated, the highest value in that range shall be used for the purposes of the Protocol. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are based on estimates and are less certain. The range pertains to an isomeric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.''

List of Subjects in 40 CFR Part 82

Environmental protection, Allowances, Administration practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Montreal Protocol, Production, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: March 29, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–8258 Filed 4–2–99; 8:45 am]

BILLING CODE 6506–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1635

Timekeeping Requirement

AGENCY: Legal Services Corporation.

ACTION: Proposed rule: Republication.

SUMMARY: This proposed rule would revise the Corporation's timekeeping rule to require recipient attorneys and paralegals to provide the date as well as

the time spent on each case, matter or supporting activity. In addition, the rule would require that recipient part-time attorneys and paralegals who work part-time for a recipient and part-time for an organization that engages in restricted activities certify that they did not engage in any restricted activities during any time period for which they were compensated by the recipient.

DATES: Comments should be received on or before June 4, 1999.

ADDRESSES: Comments should be submitted to the Office of the General Counsel, Legal Services Corporation, 750 First St. NE., 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Suzanne B. Glasow, 202–336–8817.

SUPPLEMENTARY INFORMATION:

Background

The Operations and Regulations Committee (Committee) of the Legal Services Corporation's (LSC) Board of Directors (Board) met on September 11, 1998, in Chicago, Illinois, to consider proposed revisions to § 1635.3(b)(1) of the Corporation's timekeeping rule. The revisions were intended to require records that would more clearly demonstrate that part-time employees do not engage in restricted activities during the time for which they are compensated by the recipient. A proposed rule was published on October 22, 1998 (63 FR 56594), for public comment. The rule was a response to the Corporation's Office of Inspector General's (OIG) Summary Report on Audits of Selected Grantees for Compliance with Selected Regulations (February 1998) which found that timekeeping records could not demonstrate that part-time employees of recipients do not work on restricted activities during any time for which they are compensated by the recipient for their services. In order to address this finding, the OIG recommended revising the Corporation's timekeeping rule to require that part-time attorneys and paralegals account for all hours worked for the recipient by date and time of day in their timekeeping records. In subsequent discussions, the OIG stated that it would consider its recommendation implemented if LSC placed such a requirement only on part-time attorneys and paralegals who also work part-time for an organization that engages in restricted activities (hereinafter referred to as ''part-time attorneys'').

Accordingly, the proposed rule required part-time attorneys to provide the date and exact time of day for time spent on each case, matter or supporting activity. In addition, the rule required that the timekeeping records for such attorneys be consistent with their time and attendance records maintained by the recipient for payroll purposes (hereinafter referred to as ''payroll records'').

During the September meeting, the Committee questioned whether a certification requirement would constitute a better alternative to the timekeeping proposal and requested that the proposed rule include discussion of a certification alternative and requested comments on both proposals and any other alternatives that might better address the OIG's concerns.

The Corporation received 19 comments on the rule. Although a few comments expressed agreement with certain of the proposed timekeeping requirements, most comments opposed the proposal and stated a preference for the certification alternative. Opposing comments argued that the timekeeping proposal would impose a substantial administrative burden on recipients, without any meaningful remedy to the problem identified by the OIG. They also alleged that the proposal would place recipients in jeopardy of being in non-compliance with the Fair Labor Standards Act (FLSA).

The Committee met in Miami, Florida on February 21, 1999, to consider comments on the rule and, for the reasons set out below, determined that the certification alternative was the better remedy. The Committee also decided to retain the requirement that all attorneys and paralegals provide the date for each timekeeping entry and included a definition of *restricted activities.* Finally, the Committee decided to republish the rule for comment as revised at the Committee meeting because specific language on certification had not been included in the proposed rule.

Analysis of Comments

1. Exact Time of Day

The proposed rule required that timekeeping records for part-time attorneys provide the exact time of day spent on each case, matter or supporting activity. Several comments stated that the exact time of day requirement does not reflect the reality of time spent by an attorney in a law office. According to the comments, attorneys rarely spend significant blocks of time on a specific task. Work is often done on multiple cases at the same time and is often interrupted by phone calls, clients, and other staff needing advice or assistance in a matter. In order to keep time for each such occurrence, an attorney would be constantly taking time to keep time. As one comment pointed out, it would be impossible ''for most attorneys to credibly recreate the exact time of day'' in which each activity took place. One comment pointed out that its program is already diverting significant time, staff positions and funds to timekeeping. It now uses an equivalent to 6.78% of its LSC grant for timekeeping, even though its timekeeping system is fully computerized. Several recipients were concerned that they would need to buy new software and possibly hire new staff.

Comments also stated a concern that the additional timekeeping requirements would not provide sufficiently useful information to justify their imposition. This is due in part, according to several comments, because the requirement is an attempt to prove a negative.

In light of the comments and with the recommendation of the OIG, the Committee determined that the certification requirement, which is discussed below, would provide a better remedy than the timekeeping proposal.

2. Consistency Requirement

The proposed rule also required that timekeeping records be consistent with payroll records. Comments were especially concerned about the administrative burden of implementing the proposed rule's directive that timekeeping records be consistent with the recipient's payroll records (consistency requirement). On this point, one comment stated that it would force them ''to combine two functions that are quite different.''

Based on the comments received and the change in circumstances since the original recommendation was made, the Committee decided to take out the requirement that timekeeping records be consistent with time and attendance records used for payroll purposes. According to the OIG, the recommendation to include this provision was made as a result of the OIG audits which followed the 1996 appropriation act's implementation of additional restrictions and prohibitions on recipients. At that time, the prohibitions were new and required recipients to divest themselves from ongoing matters, and the OIG was receiving more complaints. Therefore, the risk of non-compliance was deemed to be relatively high. Subsequently, experience in OIG from audits and a significant reduction in complaints

suggests otherwise. The current view is that the risk of non-compliance is not high and, thus, the necessity for a regulatory requirement that timekeeping and payroll records be consistent is no longer deemed necessary.

The Committee's decision was also based on the concern raised in comments about the burden the consistency requirement would impose on recipients. Comments suggested that current systems may not provide the type of determinative information envisioned in the rule, although they would provide some information that, in particular cases, would be helpful. Recognizing this, the Committee decided to remove the requirement from the rule. Recipients should recognize, however, that auditors, in the normal course of auditing, will certainly note inconsistencies in records. Thus, while there would be no requirement that timekeeping and payroll records be consistent, if a clear inconsistency appears, auditors will raise questions and may ask to review other records or otherwise request an explanation of the inconsistency. Recipients should be prepared to explain such inconsistencies. For example, if (as described in some of the comments) a recipient allows an employee to work less than a full day (determined from the timekeeping records) although paid for a full day (determined from the payroll records) because the employee had worked long hours the previous day, the timekeeping records should confirm that the employee worked long hours the previous day.

3. Fair Labor Standards Act

Many comments were concerned that the requirement that timekeeping records be consistent with payroll records would place recipients in jeopardy of being in violation of the Fair Labor Standards Act (FLSA). Under the FLSA, exempt employees, in order to maintain their status, must be paid on a salary rather than on an hourly basis. Comments were concerned that a timekeeping proposal that focuses on time periods and requires consistency between time and payroll records would threaten the exempt status of recipient employees.

For the reasons set out below, the Committee determined that it is unlikely that recipients would be in violation of the FLSA as to their exempt employees simply because they require set working hours, require their employees to keep timekeeping records or require that such records be consistent with payroll records, unless they also dock their employees' pay based on the quality or quantity of their work. *See Hurley v. State of Oregon*, 27 F.3d 392, 395 (9th Cir. 1994)(It is either the actual docking of pay or an express policy that pay for a class of employees would be docked that violates the FLSA.). Nothing in the timekeeping proposal is intended to affect the pay of recipient employees. Rather, the purpose of the requirement is to ensure compliance with LSC restrictions. As long as recipients do not use the timekeeping information to inappropriately dock the pay of exempt employees, there should be no violation of the FLSA.

The FLSA, 29 U.S.C. 201, *et seq.*, sets out Federal minimum wage and overtime requirements for public and private sector employees. However, employees employed in a bona fide executive, administrative, or professional capacity are exempt from these requirements. 29 U.S.C. 213(a)(1). The United States Department of Labor (''DOL'') is the Executive agency designated to implement the FLSA and it has issued regulations which define whether an employee is exempt under section 213(a)(1).

One criterion to determine whether an employee is exempt is whether the employee is compensated on a salary basis. 29 CFR 541.118. According to DOL regulations, an employee will not be considered to be on a salary basis if the employee is subject to a salary reduction because of variations in quantity or quality of work performed. 29 U.S.C. 541.118(a). Thus, an employee will not be found to be exempt if the employee's pay is docked for a pay period for absences from work for less than a day. § 541.118(a)(2). (Although this anti-docking requirement was recently revised for public employees, it remains a determinate factor for private sector employees. *See* 57 FR 37666 (August 19, 1992). Failure to pay non-exempt employees a fair hourly wage and overtime subjects an employer to financial sanctions.

Various practices of employers have been called into question by the courts as violative of the salary basis test and there has been disagreement over time and among courts regarding certain of these practices. However, certain common practices of employers are permissible because of Wage & Hour opinions issued by DOL may be relied upon by employers. 29 U.S.C. 258. Under the Portal-to-Portal Act, employers have an absolute defense against FLSA actions if the employer's actions are done in good faith and the employer relies on an administrative regulation, order, ruling, approval, or interpretation of the Wage & Hour Administrator, or any administrative practice of enforcement policy of the Administrator with respect to the class of employers to which the employer belongs. *Id.*

Existing Wage and Hour Opinion letters provide that the following practices are consistent with the ''salary basis test.''

An exempt employee can be required to work specific hours, fill out time cards or time sheets and to obtain permission before taking time off from work. W.H. OP. Ltr. (July 1, 1993).

An exempt employee can be paid overtime—on any basis the employer wishes. W.H. Op. Ltr. (April 13, 1967); W.H. Op. Ltr. (March 3, 1970; and W.H. Op. Ltr. (March 16, 1984).

An exempt employee can be docked leave by the hour, i.e., for absences of less than a day, as long as there are no cash deductions from the weekly salary for such absences. W.H. OP. Ltr. (April 9, 1993); W.H. Op. Ltr. (July 17, 1987); and W.H. Op. Ltr. (Marcy 30, 1994).

The Supreme Court in *Auer v. Robbins*, 117 S. Ct. 905, 911 (1997), has held that the DOL Secretary's interpretations of FLSA are controlling, unless clearly erroneous or inconsistent with the law. In *Graziano v. The Society of the New York Hospital*,[1] a Federal District Court vacated its earlier holding in the case based on W&H Opinion letters that were brought to the Court's attention in a motion to reconsider. The Court based its order to vacate on *Auer's* finding that DOL interpretations of FLSA are controlling. Because the opinion letters brought to the Court's attention were controlling decisions to which the Court was bound, the Court vacated its earlier decision which was inconsistent with the opinions.

A few comments cited case law that suggests that requiring employees to keep time is inconsistent with the exempt status of an employee. Although some courts have found that ''rigid attendance and time keeping requirements are not consistent with salaried status,'' *Service Employees International Union, Local 102, v. County of San Diego*, 784 F. Supp. 1503, 1510 (S.D. Ca. 1992), the findings in these cases were not based on that factor alone, and, as noted above, Wage & Hour opinions approve of the practice. *See also Martin v. Malcolm*, 949 F.2d 611 (2d Cir. 1991).

[1] 1997 WL 639026 (S.D.N.Y. Oct. 15, 1997). This opinion was not reported in the Federal Supplement. It is also cited as a W&H Opinion at 4 Wage & Hour Cas.2d (BNA) 286. The underlying opinion that was vacated was also not reported, *see* 4 Wage & Hour Cas.2d (BNA) 12.

4. Certification requirement

The certification requirement in § 1635.3(e) of this proposed rule would require part-time attorneys or paralegals who also work for an organization that engages in restricted activities to certify on a quarterly basis that they were not compensated by the recipient for any restricted activities. The Committee favors this alternative to the timekeeping proposal because it does not create any undue administrative burden, is consistent with the Corporation's program integrity certification requirement, is more likely to achieve the intended goal, and would not implicate the FLSA.

Comments generally favored the certification alternative over the timekeeping proposal. One comment stated that certification would act as a true deterrent because violations would be subject to the sanctions under part 1640. Another recognized that ''the consequences of a false certification will encourage honest and careful attention by staff.''

Several suggestions and reservations were expressed about certification. A few comments expressed concern that the certification requirement creates a presumption that attorneys have violated the rules. This is not the intent of the requirement. The Corporation is aware that program attorneys generally provide high quality legal assistance and make every effort to comply with their LSC grant requirements. The certification requirement is no different than other LSC recordkeeping or certification requirements. The Corporation is required by statute to ensure that LSC funds are appropriately used. Tools such as records and certifications must be available to Corporation auditors to enable them to document that programs are in compliance.

Because of the seriousness of the sanctions for a false certification, one comment encouraged the Corporation to include an exception for *de minimis* involvement in restricted activities. The Committee agreed to add *de minimis* langauge to the certification requirement and requests comments on the exception. *De minimis* activity would include actions related to restricted activities that fall short of actually working on a restricted activity. Examples include such unavoidable actions as answering the phone and establishing another time to discuss a restricted case with the caller, or opening and screening mail.

Another comment questioned the necessity of the certification requirement when recipients are already subject to part 1640 and the certification requirement in part 1610 on program integrity. The certification in part 1610 is required of the program, not individuals. Certification by individual attorneys and paralegals would serve as a notice to such individuals of the seriousness with which the Corporation views the use of recipient funds and resources for involvement in restricted activities. It would also help provide documentation to auditors necessary to ensure compliance by part-time attorneys and would provide information to the recipient for use in its annual part 1610 program integrity certification. Part 1640 would not be implicated unless an attorney made a false certification about involvement in restricted activities or violated other laws listed in part 1640.

The proposed certification language requires quarterly certification on dates established by the Corporation. This language would allow the Corporation to establish the date for the initial certification at an appropriate time so that subsequent certification dates would coincide with the dates normally attributed to the end of each of a year's quarters. Certifications would be for a period of time that has already occurred. Thus, the first certification would most likely occur approximately three months after the effective date of the final rule.

A false certification, depending on the applicable law or circumstances, may constitute a violation of civil or criminal law. For LSC purposes, a false certification by a recipient employee would implicate certain Federal laws related to the use of Federal funds that are currently applicable to LSC recipients pursuant to 45 CFR part 1640. Violations of certain laws listed in part 1640 carry severe sanctions for false statements or claims to the Federal government regarding the use of Federal funds. *See for example,* 18 U.S.C. 287, 371, 1001 and 31 U.S.C. 3729; *United States v. Columbia/HCA Healthcare Corporation,* 125 F.3d 899 (5th Cir. 1997) (''false certifications of compliance create liability under the (False Claims Act) when certification is a prerequisite to obtaining a government benefit.''); *United States v Burns,* 104 F.3d 529 (2nd Cir. 1997) (falsified time sheets submitted for pay under government-funded program found to be violation of 18 U.S.C. 1001).

Under part 1640, whether or not a recipient or an employee of a recipient has violated any of the applicable Federal laws is determined by the Federal court having jurisdiction of the matter. The Corporation does not prosecute or make judgments under the applicable Federal laws but it has authority to terminate funding under the conditions set out in § 1640.4. In addition, the Corporation's Inspector General has statutory authority to refer unlawful activity to the proper authorities. Several of the laws included in part 1640 prohibit making false claims to the government regarding the use of Federal funds. LSC funds are Federal funds for the purposes of the laws included in part 1640. Thus, a false certification regarding activities for which the applicable employee is compensated by the recipient, in certain circumstances, may put the employee at risk of prosecution for violation of such laws. Employees who sign such certifications should be fully informed of the implications and sign forms that, to the best of their knowledge, are true and accurate. Comments on the effects of requiring certification on program attorneys and paralegals are specifically requested by the Committee.

5. Date for Each Timekeeping Entry

The proposed rule also required both full-time and part-time attorneys and paralegals to provide the date as well as the amount of time spent on each case, matter or supporting activity. Comments generally opposed the requirement to include the date on the grounds that it is not required by the statutory timekeeping provision and because it does not address any specific concern. A few comments also alleged that it would impose an undue administrative burden on recipients to revise their current timekeeping systems.

The Committee did not agree that providing the date is unreasonable or would put an undue burden on recipients. Timekeeping records have little significance unless put into the context of a particular timeframe. 63 FR 56595 (Oct. 22, 1998). The current rule already implies a connection between timekeeping records and a particular date because it requires that timekeeping records be made contemporaneously. The preamble to the current rule explains that, in most cases, contemporaneous timekeeping means ''records should be created no later than the end of the day.'' 61 FR 14262 (April 1, 1996). This makes sense because identifying a record with a particular time is the way to determine whether it is a contemporaneous record. It is also consistent with the Corporation's 1996 Timekeeping Guide for recipients which includes sample timekeeping forms, all of which require a date. In addition, according to the

OIG, most recipients already provide the date in their timekeeping records. Therefore, the Committee was not convinced that this requirement would impose additional burdens on most recipients. However, comments are requested in this proposed rule from those recipients who do not currently provide the date to explain how the requirement will affect their programs. Finally, the language setting out the date requirement has been moved and simplified from the proposed rule and is found in § 1635.3(b)(1).

6. Definition of Restricted Activities

A definition is added to this proposed rule in § 1635.2(c) in order to clarify the meaning of the term as used in the certification requirement. *Restricted activities* has been used as an umbrella term to refer to the restrictions listed in the definitions of purpose prohibited by the LSC Act and activity prohibited by or inconsistent with section 504 in 45 CFR 1610.2 (a) and (b). See preamble to 45 CFR part 1610, 62 FR 27695 (May 21, 1997). The restrictions therein apply variously to a recipient's LSC, private and public funds. A particular activity is restricted only to the extent it is limited pursuant to statutory or regulatory law. Thus, if the law permits an activity that is funded with non-LSC public funds, the activity is not restricted if it is funded with non-LSC public funds. Nothing in the proposed rule is intended to expand on the scope of any restriction or the type of recipient funds implicated by a particular restriction.

List of Subjects in 45 CFR Part 1635

Legal services, Reporting and recordkeeping requirements.

For reasons set out in the preamble, LSC proposes to revise 45 CFR part 1635 to read as follows:

PART 1635—TIMEKEEPING REQUIREMENT

Sec.
1635.1 Purpose.
1635.2 Definitions.
1635.3 Timekeeping requirement.
1635.4 Administrative provisions.

Authority: 42 U.S.C. 2996e(b)(1)(A), 2996g(a), 2996g(b), 2996g(e).

§ 1635.1 Purpose.

This part is intended to improve accountability for the use of all funds of a recipient by:

(a) Assuring that allocations of expenditures of Corporation funds pursuant to 45 CFR part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended;

(b) Enhancing the ability of the recipient to determine the cost of specific functions; and

(c) Increasing the information available to the Corporation for assuring recipient compliance with Federal law and corporation rules and regulations.

§ 1635.2 Definitions.

As used in this part—

(a) A *case* is a form of program service in which an attorney or paralegal of a recipient provides legal services to one or more specific clients, including, without limitation, providing representation in litigation, administrative proceedings, and negotiations, and such actions as advice, providing brief services and transactional assistance, and assistance with individual PAI cases.

(b) A *matter* is an action which contributes to the overall delivery of program services but does not involve direct legal advice to or legal representation of one or more specific clients. Examples of matters include both direct services, such as community education presentations, operating pro se clinics, providing information about the availability of legal assistance, and developing written materials explaining legal rights and responsibilities; and indirect services, such as training, continuing legal education, general supervision of program services, preparing and disseminating desk manuals, PAI recruitment, intake when no case is undertaken, and tracking substantive law developments.

(c) *Restricted activities* means the restrictions listed in the definitions of purpose prohibited by the LSC Act and activity prohibited by or inconsistent with section 504 in 45 CFR 1610.2(a) & (b).

(d) A *supporting activity* is any action that is not a case or matter, including management and general, and fundraising.

§ 1635.3 Timekeeping requirement.

(a) All expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must be carried out in accordance with 45 CFR part 1630.

(b) Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity.

(1) Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient.

(2) Each record of time spent must contain: For a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent.

(c) The timekeeping system must be implemented within 30 days of the effective date of this regulation or within 30 days of the effective date of a grant or contract, whichever is later.

(d) The timekeeping system must be able to aggregate time record information from the time of implementation on both closed and pending cases by legal problem type.

(e) Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time period for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities. The certification requirement does not apply to a *de minimis* action related to a restricted activity that does not involve working on the restricted activity. Such *de minimis* actions would include activities such as answering the phone and establishing another non-program time with the caller to discuss the restricted activity, or opening and briefly screening mail. Certifications shall be made on a quarterly basis on dates established by the Corporation and shall be made on a form determined by the Corporation.

§ 1635.4 Administrative provisions.

Time records required by this section shall be available for examination by auditors and representatives of the Corporation, and by any other person or entity statutorily entitled to access to such records. The Corporation shall not disclose any time record except to a Federal, State or local law enforcement official or to an official of an appropriate bar association for the purpose of enabling such bar association official to conduct an investigation of an alleged violation of the rules of professional conduct.

March 30, 1999.

Suzanne B. Glasow,

Senior Assistant General Counsel.

[FR Doc. 99–8223 Filed 4–2–99; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 73, and 76

[MM Docket Nos. 98–204 and 96–16, DA 99–529]

Revision of Broadcast and Cable EEO Rules and Policies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: In *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies,* the Commission partially grants a motion for extension of time and grants a request that comments be considered *nunc pro tunc.* The Minority Media and Telecommunications Council and 29 other organizations (MMTC *et al.*) request that comments that they filed March 5, 1999, and March 19, 1999, be considered *nunc pro tunc.* The NAB and broadcast associations representing the 50 states, Puerto Rico and the District of Columbia (NAB *et al.*) request an extension of time to file reply comments. The Commission believes that grant of MMTC *et al.*'s request is in the public interest and that partial grant of NAB *et al.*'s request will give commenters ample time to prepare and submit reply comments in this proceeding.

DATES: Reply comments due April 15, 1999.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Hope G. Cooper, Mass Media Bureau, Enforcement Division. (202) 418–1450.

SUPPLEMENTARY INFORMATION:

1. On November 20, 1998, the Commission released a *Notice of Proposed Rule Making,* MM Docket No. 98–204, 13 FCC Rcd 23004, 63 FR 66104, December 1, 1998, (*NPRM*), requesting comment on various proposals concerning the Commission's broadcast and cable EEO rules and policies. Comment and Reply Comment deadlines were established for January 19, 1999, and February 18, 1999, respectively.

2. On December 17, 1998, the National Association of Broadcasters (NAB) filed a ''Motion for Extension of Time of Comment and Reply Comment Deadlines'' (Motion). *See* National Association of Broadcasters' Motion for Extension of Time of Comment and Reply Comment Deadlines, MM Docket Nos. 98–204 and 96–16 at page 1. Therein, the NAB requested that we extend the due dates for the submission of comments and reply comments in response to the *NPRM* to February 18, 1999, and March 23, 1999, respectively. On January 4, 1999, the Minority Media and Telecommunications Council (MMTC) sent a letter to the Commission expressing support for the NAB's Motion.

3. Because we believed that the public interest would be served by an extension of the comment period in this proceeding, we granted the NAB's Motion and extended the date for filing comments to February 18, 1999, and extended the date for filing reply comments to March 23, 1999, in an *Order* released January 5, 1999, DA 99–105, 64 FR 2461, January 14, 1999.

4. On February 10, 1999, the MMTC filed a ''Motion for Extension of Time.'' *See* Minority Media and Telecommunications Council's Motion for Extension of Time, MM Docket Nos. 98–204 and 96–16. Therein, the MMTC requested that we extend the due date for the submission of comments in response to the *NPRM* for three weeks, until March 11, 1999.

5. Because we believed that the public interest would be served by an extension of the comment period in this proceeding, we granted the MMTC's Motion in part and extended the date for filing comments to March 1, 1999, and, on our own motion, extended the date for filing reply comments to March 31, 1999, in an *Order* released February 12, 1999, DA 99–326, 64 FR 8779, February 23, 1999.

6. On March 1, 1999, MMTC and over 20 national civil rights organizations (MMTC *et al.*) filed a letter (MMTC letter) with the Commission in which they stated that they were unable to file their comments by the comment deadline due to ''[t]he magnitude of the task and the illnesses of many of the fifteen people involved in this project'' and in which they stated that they would move for consideration of their comments *nunc pro tunc. See* Letter from David Honig, Counsel for EEO Supporters (MMTC *et al.*), to Hon. Magalie Roman Salas, Secretary, Federal Communications Commission, MM Docket Nos. 98–204 and 96–16. In the letter, the MMTC *et al.* also stated that they planned to file four volumes of comments, with Volume I being 183 pages in length. On March 5, 1999, MMTC *et al.* filed Volume I of their comments, with a cover letter requesting consideration of these comments *nunc pro tunc. See* Comments filed by MMTC and 29 other organizations, MM Docket Nos. 98–204 and 96–16. MMTC *et al.* also stated that they would shortly file Volumes II (the Operation of an FCC Regulatory Program), Volume III (Statements of Witnesses), and Volume IV (Discussion of Witnesses' Statements) of their comments.

7. On March 10, 1999, the NAB and broadcast associations representing all 50 states, the District of Columbia and Puerto Rico (NAB *et al.*) filed a ''Motion For Extension of Time of Reply Comment Deadline''. Therein, NAB *et al.* requested that the Commission extend the due date for submission of reply comments. In support of their request, the NAB *et al.* stated that an important part of the comments for the record are not yet available. They cited to the MMTC letter and noted that, while MMTC *et al.* filed Volume I of their comments on March 5, 1999, they have yet to file the remaining volumes, whose length is unknown. The NAB *et al.* argued that, given the circumstances described above, if the Commission decides to consider MMTC *et al.*'s comments, it would be impossible for commenters to reply to all of the materials submitted in this proceeding by March 31, 1999. The NAB *et al.* further contended that, because the MMTC *et al.* has indicated that their future comments will include factual studies, sufficient time must be allowed for those studies to be evaluated and any additional research suggested by those studies to be conducted. Therefore, the NAB *et al.* contended that the Commission should extend the due date for filing comments to 60 days after the date that the MMTC's final volume, Volume IV, is filed with the Commission.

8. On March 19, 1999, MMTC *et al.* filed the remainder of their comments, Volumes II, III, and IV, with a cover letter requesting consideration of these comments *nunc pro tunc.* We believe that it is in the public interest to grant MMTC *et al.*'s request to consider their comments, even though their comments were filed after the due date for comments in this proceeding. MMTC *et al.* include a large number of organizations whose voices we feel should be heard in this proceeding and they provided sufficient explanation for the lateness of the filing. Therefore, we hereby grant MMTC's request to have their comments be considered *nunc pro tunc* in this proceeding.

9. We have considered the extension request filed by the NAB *et al.* and hereby extend the date for filing reply comments to April 15, 1999. This extension affords interested parties sufficient time from the date of MMTC

et al.'s last comment submission and a total of 45 days from the March 1 filing of all but one of the other comments. We believe that this is ample time to prepare and submit reply comments in this proceeding.

10. *Accordingly, it is ordered* that the MMTC *et al.*'s request for consideration of their comments *nunc pro tunc* is granted.

11. *It is further ordered* that the Motion for Extension of Time filed by the NAB *et al.* is granted in part and denied in part.

12. *It is therefore ordered* that the date for filing reply comments in this proceeding *is extended to* April 15, 1999.

13. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 USC 154(i) and 303(r), and 0.204(b), 0.283 and 1.46 of the Commission's rules, 47 CFR 0.204(b), 0.283 and 1.46.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 73

Radio, Equal employment opportunity, Reporting and recordkeeping requirements, Television.

47 CFR Part 76

Cable television, Equal employment opportunity, Reporting and recordkeeping requirements.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 99–8421 Filed 4–2–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 97–181; FCC 99–28]

Defining Primary Lines

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission has adopted a location-based definition of ''primary residential line.'' Under this definition, one residential line that a price cap local exchange carrier (LEC) provides to a particular location will be considered primary. Any other residential lines the price cap LEC provides to the same location shall be deemed non-primary residential lines. This definition will facilitate implementation of the Commission's access charge rules, which set higher caps for the subscriber line charges (SLCs) and presubscribed interexchange carrier charges (PICCs) that price cap LECs may assess on non-primary residential lines and multi-line business lines than on primary residential lines and single line business lines. The Commission issues a Further Notice of Proposed Rulemaking in which we tentatively conclude that individuals with speech or hearing disabilities should have access at primary-line rates to one residential line per location for use with a TTY, regardless of whether another line at the location is also treated as primary for residents without such disabilities. We seek comment on this tentative conclusion, and several proposals for implementing it.

DATES: Comments are due on or before April 9, 1999, and reply comments are due on or before April 26, 1999.

ADDRESSES: The entire file is available for inspection and copying weekdays from 9:00 a.m. to 4:30 p.m. in the Commission's Reference Center, 445 Twelfth Street SW, Washington, DC 20554. Copies may be purchased from the Commission's duplicating contractor, ITS Inc., 1231 Twentieth St., NW, Washington, DC 20036, (202) 857–3800.

FOR FURTHER INFORMATION CONTACT: Neil Fried, Common Carrier Bureau, (202) 418–1520; TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION:

A. Background

1. To provide interstate telecommunications services, interexchange carriers (IXCs) usually rely on some of the telephone infrastructure that incumbent LECs use to provide local telephone service. The incumbent LEC's local loop, for example, connects a customer to the LEC network so that the customer can make and receive intrastate calls. The incumbent LEC's local loop also connects the customer to the networks of IXCs so that the customer can make and receive interstate calls. Consequently, a portion of the costs an incumbent LEC incurs in providing this common infrastructure is allocated to intrastate service and recovered pursuant to state regulation, and a portion is allocated to interstate service and recovered pursuant to regulations of the Federal Communications Commission.

2. The Commission adopted uniform access charge rules in 1983 to govern the way incumbent LECs recover that portion of the costs of the common infrastructure allocated to interstate service. Under these rules, the Commission allows incumbent LECs to recover some of the interstate costs of providing the local loop through a flat, monthly end-user common line charge (EUCL)—sometimes called a SLC—that they assess on end users. The Commission limited the amount of the SLC, however, because of concerns that an excessively high SLC might cause end users to disconnect their telephone service. The Commission allowed the incumbent LECs to recover the remainder of their interstate costs attributable to the local loop through a per-minute carrier common line charge (CCLC) that they assess on IXCs.

3. Under principles of cost-causation, it is most economically efficient for incumbent LECs to recover the costs of providing interstate access in the same way that they incur them. Under such principles, incumbent LECs should recover their traffic-sensitive costs of interstate access through per-minute charges, and should recover their non-traffic-sensitive costs through flat charges. The incumbent LECs' costs of providing the local loop do not change with the number, length, or type of telephone calls customers make, and so are non-traffic sensitive. Because of the cap on SLCs, however, incumbent LECs recover some of these non-traffic-sensitive loop costs through the traffic sensitive CCLC. In its May 1997 *Access Charge Reform Order*, the Commission decided to phase out the CCLC for price cap LECs on the grounds that recovering the non-traffic-sensitive loop costs through traffic-sensitive charges is economically inefficient.

4. To provide price cap LECs with a means to recover some of the loop costs they previously recovered in the CCLC, the Commission raised the price cap LECs' SLC caps for non-primary residential lines and multi-line business lines, but chose not to raise the price cap LECs' SLC caps for primary residential lines and single line business lines. For 1999, the SLC cap for price cap LECs is $3.50 per month for each primary residential and single line business line, $6.07 per month for each non-primary residential line, and $9.20 per month for each multi-line business line. To address concerns that charging a higher SLC for non-primary residential lines sold by price cap LECs might encourage subscribers to obtain their additional residential lines from resellers, the Commission decided in

the *Access Charge Reform Order* to allow price cap LECs to charge the higher SLC to carriers that resell price-cap LECs' lines if the lines are non-primary.

5. Because the SLC caps on residential and single line business lines would prevent most price cap LECs from recovering through the SLC all the costs they formerly recovered through the CCLC, the Commission also created the PICC: a flat, per-line charge that price cap LECs may assess on an end user's presubscribed IXC. As with the SLC, the Commission set higher PICC caps for non-primary residential lines and multi-line business lines than for primary residential lines and single line business lines. Through June 30, 1999, the PICC cap is $0.53 per month for each primary residential and single line business line, $1.50 per month for each non-primary residential line, and $2.75 per month for each multi-line business line. As a result of the various caps, the lines of customers that subscribe to single residential or business lines are not assessed the entire cost of the loops. Until the access reform rate structure is fully phased in, these lines are subsidized by customers that subscribe to multiple business lines. The Commission has adopted a location-based definition of ''primary residential line.'' Under this definition, one residential line that a price cap local exchange carrier (LEC) provides to a particular location will be considered primary. Any other residential lines the price cap LEC provides to the same location shall be deemed non-primary residential lines.

B. Discussion

6. In establishing different SLCs and PICCs for primary and non-primary residential lines, we cited the important universal service goal of subsidizing rates for at least one line so that consumers have access to the telephone network. It has come to our attention that when one or more members of a residence have hearing or speech disabilities, the members of the residence often subscribe to one line dedicated for a traditional telephone and one line for a text telephone (TTY), which uses graphic communication in the transmission of coded signals through a wire or radio communication system. *See* 47 CFR 64.601(8). The residents can use the TTY to communicate directly with other TTYs, or can use the TTY in conjunction with Telecommunications Relay Services (TRS) and ''two-line'' voice or hearing carryover.

7. Telecommunications Relay Services (TRS) are telephone transmission services that enable an individual who has a hearing or speech disability to communicate by wire or radio with a hearing individual in a manner that is functionally equivalent to the way an individual who does not have a hearing or speech disability communicates using voice telephone services by wire or radio. *See* 47 CFR 64.601(7). Voice carryover (VCO) is a form of TRS that allows users with hearing disabilities to speak directly to a hearing person, while the TRS communication assistant (CA) types what is said to the TTY user. Hearing carryover (HCO) is a form of TRS that allows persons with speech disabilities to listen to the person they are calling, while typing their statements for the CA to read aloud to the voice telephone user. *See* 47 CFR 64.601(6), (9). ''Two line'' VCO and HCO are versions of these services that use two telephone lines and conference calling functions to increase the transparency of the CA and improve the functional equivalency of these services. Thus, in residences where one family member has a hearing or speech disability, two lines may be necessary for all the residents to have access to telephone service.

8. We believe that it is important to ensure that consumers with hearing or speech disabilities have access to the telephone network at primary-line rates, but we lack a detailed record in the present proceeding to determine how to address this issue. We tentatively conclude that individuals with speech or hearing disabilities served by price cap LEC lines should have access to the telecommunications network at primary line rates. Moreover, if we extend the non-primary line rate structure to rate-of-return LECs, we tentatively conclude that individuals with hearing or speech disabilities served by rate-of-return LEC lines should receive similar treatment. We seek comment on these tentative conclusions. In addition, we seek comment on other technologies or services that require an additional line to permit consumers with disabilities to access the telephone network and on whether those additional lines should also receive primary line rates. We believe that our tentative conclusions above are consistent with the Commission's mandate to ensure that all Americans have access to telecommunications services, and with the policy goals underlying the Commission's decision to cap primary residential SLCs and PICCs at lower levels than are applicable to other lines.

9. One way to ensure that consumers with hearing or speech disabilities have access to the telephone network at primary-line rates would be to treat as primary one residential line per location that is used by such individuals in conjunction with a TTY, regardless of whether another line at the location is also treated as primary for residents without such disabilities. We seek comment on such an approach, and how it might be implemented.

10. Another approach would be to subsidize more explicitly the difference in charges that would apply when the TTY-dedicated line is deemed non-primary as opposed to primary. We seek comment on such an approach, and how it might be implemented. In particular, we seek comment on whether the subsidies for such an approach should come from the TRS Fund or the more general Universal Service Fund. We also seek comment on the implications of section 225(d)(1)(D), which ''require[s] that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination.'' 47 U.S.C. 225(d)(1)(D).

11. In many cases, the only change necessary to make a telephone line more easily accessible to an individual with a disability is to add a piece of consumer premises equipment (CPE), such as a TTY. Consequently, carriers may have no readily apparent means of determining which lines are being used by individuals with disabilities. We seek comment on whether carrier records indicate the presence at a location of certain CPE such as TTYs. We also seek comment on whether self-certification would be an appropriate means for carriers to identify the relatively small universe of customers to which either the definitional or funding approaches would apply, and if so, how such self-certification could be implemented. We note that many IXCs offer qualified TTY users the opportunity to self-certify to receive toll discounts, in recognition of the longer calling times associated with TTY use. For the sake of a clear record and so that all parties understand the issues involved, we also ask commenters to describe the developments in technology and services associated with TTYs, TRS, and ''two-line'' voice or hearing carryover. Parties should also address the extent to which any of these proposals would affect small business entities, including new entrants.

C. Procedural Matters

1. Ex Parte

12. This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's revised *ex parte* rules. Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b), as well.

2. Initial Regulatory Flexibility Act Analysis

13. As required by the RFA, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Further Notice of Proposed Rulemaking (Further Notice).* Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the *Further Notice*, but they must have a separate and distinct heading, designating the comments as responses to the IRFA. The Commission will send a copy of the *Further Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *Further Notice* and IRFA (or summaries thereof) will be published in the **Federal Register**.

14. *Need for and Objectives of the Proposed Rules*: In the *Access Reform Order*, the Commission set lower SLC and PICC caps for primary residential lines and single line business lines than for non-primary residential lines and multi-line business lines. The *Report and Order* in this proceeding promulgates definitions of ''primary residential line'' and ''single line business line'' to promote uniformity in the way price cap LECs assess SLCs and PICCs. The *Further Notice* seeks comment on how to apply the primary line distinction to TTY lines used by individuals with speech or hearing disabilities.

15. *Legal Basis:* The proposed action is authorized by sections 1, 2, 4(i), 4(j), 201–205, 218–220, 225, and 254 of the Communications Act as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 201–205, 218–220, 225, and 254.

16. *Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply:* The RFA directs agencies to provide, where feasible, a description of the type and number of small entities that our proposed rules may affect. *See* 5 U.S.C. 603(b)(3). The proposals set forth in the proceeding may have a significant economic impact on a substantial number of small entities identified by the SBA. Because one of the proposals is to use a funding mechanism, such as the Universal Service Fund, we provide estimates of the number of small entities potentially affected across many sectors of the telecommunications industry. A definitional approach, on the other hand, would affect only price cap LECs. Consequently, the rules we eventually adopt may affect significantly fewer small entities than we describe here.

17. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. We further describe and estimate the number of small entities that may be affected by the proposed rules, if adopted. We ask parties to comment on the number of small carriers that they believe will be affected by rules regarding the primary-line treatment of TTY lines used by individuals with speech or hearing disabilities. Wherever possible, commenters should break their estimates into categories and subcategories similar to those we discuss here.

18. *Telephone Companies* (SIC 4813). We shall continue to exclude small incumbent LECs from the definitions of ''small entity'' and ''small business concern,'' but nonetheless consider the impact on small incumbent LECs in our IRFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass ''small incumbent LECs.'' We use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by SBA as ''small business concerns.''

19. *Total Number of Telephone Companies Affected.* The proposals herein may have a significant effect on a substantial number of the small entity telephone companies identified by SBA. The U.S. Bureau of the Census reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. Although it seems certain that some of the 3,497 telephone service firms are not ''independently owned and operated,'' are dominant in their field, or have more than 1,500 employees, we will assume for present purposes that they qualify as small entities or small incumbent LECs. Thus, we estimate that the rules we eventually adopt following the *Further Notice* will affect no more than 3,497 small entity telephone companies and small incumbent LECs.

20. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that 2,321 such telephone companies were in operation for at least one year at the end of 1992. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Because we lack more specific data, we will assume for present purposes that the 26 companies have fewer than 1,500 employees. Although it seems certain that some of the 2,321 carriers are not independently owned and operated, or are dominant in their field, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that the rules we eventually adopt will affect no more than 2,321 small entity wireline companies and small incumbent LECs.

21. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition of small LEC. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to our most recent data, 1,371 carriers reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, are dominant in their field, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that

would qualify as small business concerns under SBA's definition. Consequently, we estimate that the rules we eventually adopt following the *Further Notice* will affect no more than 1,371 small entity LECs and small incumbent LECs.

22. *Interexchange Carriers.* Neither the Commission nor SBA has developed a definition of small IXCs. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 143 carriers reported that they were engaged in the provision of interexchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that the rules we eventually adopt following the *Further Notice* will affect no more than 143 small entity IXCs.

23. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 109 carriers reported that they were engaged in the provision of competitive access services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that the rules we eventually adopt following the *Further Notice* will affect no more than 109 small entity CAPs.

24. *Operator Service Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 27 carriers reported that they were engaged in the provision of operator services. Although some of these companies may not be independently owned and operated, or may have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that the rules we eventually adopt following the *Further Notice* will affect no more than 27 small entity operator service providers.

25. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 441 carriers reported that they were engaged in the provision of pay telephone services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 441 small entity pay telephone operators that may be affected by the proposed rules, if adopted.

26. *Resellers (including debit card providers).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 339 reported that they were engaged in the resale of telephone service. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 339 small entity resellers that may be affected by the proposed rules, if adopted.

27. *Radiotelephone (Wireless) Carriers.* The Census Bureau reports that there were 1,178 companies in operation for at least one year at the end of 1992 that meet the SBA's definition of radiotelephone company. The Census Bureau also reported that all but 12 of those radiotelephone companies had fewer than 1,000 employees. Because we lack more specific data, we will assume for present purposes that the remaining 12 companies have fewer than 1,500 employees. Although it seems certain that some of the wireless carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that the rules we eventually adopt following the *Further Notice* will affect no more than 1,178 small entity radiotelephone companies.

28. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies, as discussed. We note that there are 1,758 cellular licenses, although a cellular licensee may own several licenses. According to the most recent *Telecommunications Industry Revenue* data, 804 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 804 small cellular service carriers that may be affected by the proposed rules, if adopted.

29. *Mobile Service Carriers.* Neither the Commission nor the SBA has developed a definition of small entities applicable to mobile service carriers. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. The most recent *Telecommunications Industry Revenue* data shows that 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services. Consequently, we estimate that there are fewer than 172 small mobile service carriers that may be affected by the proposed rules, if adopted.

30. *Paging Services.* The Commission has adopted a two-tier definition of small businesses in the context of auctioning licenses in the paging

service. A small business is defined as either (1) a entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. The SBA has approved this definition for paging companies. The Commission estimates that the total current number of paging carriers is approximately 600. In addition, the Commission anticipates that a total of 16,630 non-nationwide geographic area licenses will be granted or auctioned. The geographic area licenses will consist of 2,550 Major Trading Area (MTA) licenses and 14,080 Economic Area (EA) licenses. In addition to the 47 Rand McNally MTAs, the Commission is licensing Alaska as a separate MTA and adding three MTAs for the U.S. territories, for a total of 51 MTAs. No auctions of paging licenses have been held yet, and there is no basis to determine the number of licenses that will be awarded to small entities. Given the fact that no reliable estimate of the number of paging licensees can be made, we assume, for purposes of the IRFA, that all of the current licensees and the 16,630 geographic area paging licensees either are or will consist of small entities, as that term is defined by the SBA.

31. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, the Commission added a classification for ''very small business,'' which the Commission defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these regulations defining ''small entity'' in the context of broadband PCS auctions. We do not have sufficient data to determine how many small entities under the SBA-approved definition bid successfully for licenses in Blocks A and B. As of now there are 90 non-defaulting winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders qualify as small entities for Blocks D, E, and F. Based on this information, we conclude that the rules we eventually adopt following the *Further Notice* will affect no more than 183 non-defaulting winning bidders that qualify as small entities in the C, D, E, and F Block broadband PCS auctions.

32. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of the IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

33. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

34. *Specialized Mobile Radio.* Pursuant to Section 90.814(b)(1) of the Commission's Rules, the Commission has defined ''small entity'' for geographic area 800 MHz and 900 MHz SMR licenses as firms that had average gross revenues of no more than $15 million in the three previous calendar years. This regulation defining ''small entity'' in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service, nor how many of these providers have annual revenues of no more than $15 million. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities under the Commission's definition in the 900 MHz auction. Based on this information, we conclude that the rules we eventually adopt following the *Further Notice* will affect no more than 60 small entity geographic area SMR licensees. A total of 525 licenses were auctioned for the upper 200 channels in the 800 MHz geographic area SMR auction. There were 62 qualifying bidders, of which 52 were small businesses. The Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis to estimate, moreover, how many small entities within the SBA's definition will win these lower channel licenses. We assume that, for purposes of our evaluations in the IRFA, all of the current specialized mobile radio licensees are small entities, as the SBA defines that term.

35. *220 MHz Service.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. Therefore, if this general ratio continues to 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

36. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz *Third Report and Order* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding

three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. 908 licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction. A re-auction of the remaining, unsold licenses is likely to take place during calendar year 1999.

37. *Mobile Satellite Services (MSS).* The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is one with $11.0 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9.999 million. Mobile Satellite Services or Mobile Satellite Earth Stations are intended to be used while in motion or during halts at unspecified points. These stations operate as part of a network that includes a fixed hub or stations. The stations that are capable of transmitting while a platform is moving are included under section 20.7(c) of the Commission's rules as mobile services within the meaning of sections 3(27) and 332 of the Communications Act. Those MSS services are treated as CMRS if they connect to the Public Switched Network (PSN) and also satisfy other criteria of Section 332. Facilities provided through a transportable platform that cannot move when the communications service is offered are excluded from Section 20.7(c). The MSS networks may provide a variety of land, maritime and aeronautical voice and data services. There are eight mobile satellite licensees. At this time, we are unable to make a precise estimate of the number of small businesses that are mobile satellite earth station licensees.

38. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small business specific to the Air-Ground Radiotelephone Service, which is defined in section 22.99 of the Commission's rules. Accordingly, we will use the SBA's definition applicable to radiotelephone companies. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

39. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of the IRFA, we will use the SBA's definition applicable to radiotelephone companies. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies, and may be affected by the rules we eventually adopt to the extent that they contribute to the Universal Service or TRS funds.

40. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

41. *Cable System Operators* (SIC 4841). The SBA has developed a definition of small entities for cable and other pay television services that includes all such companies generating less than $11 million in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. According to the Census Bureau, there were 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue. We note that cable system operators are included in our analysis due to their ability to provide telephony.

42. The Commission has developed with the SBA's approval our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company,'' is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators that may be affected by the decisions and rules adopted in the Order. We conclude that only a small percentage of these entities currently provide qualifying ''telecommunications services'' required by the Act and, therefore, estimate that the number of such entities affected are significantly fewer than noted.

43. The Act also contains a definition of small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 617,000 subscribers or fewer total 1,450. We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Act.

44. *Direct Broadcast Satellites (DBS).* Because DBS provides subscription services, DBS falls within the SBA definition of Cable and Other Pay Television Services (SIC 4841). As of

December 1996, there were eight DBS licensees. The Commission, however, does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these rules. Although DBS service requires a great investment of capital for operation, we acknowledge that there are several new entrants in this field that may not yet have generated $11 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

45. *International Services.* The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with $11 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services, NEC in operation in 1992, and a total of 775 had annual receipts of less than $9,999 million. We note that those entities providing only international service will not be affected by our rules. We do not, however, have sufficient data to estimate with greater detail those providing both international and interstate services. Consequently, we estimate that there are fewer than 775 small international service entities potentially impacted by our rules.

46. *International Broadcast Stations.* Commission records show that there are 20 international broadcast station licensees. We do not request or collect annual revenue information, and thus are unable to estimate the number of international broadcast licensees that would constitute a small business under the SBA definition. We note that those entities providing only international service will not be affected by our rules. We do not, however, have sufficient data to estimate with greater detail those providing both international and interstate services. Consequently, we estimate that there are fewer than 20 international broadcast stations potentially impacted by our rules.

47. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements:* Once we adopt rules regarding the primary-line treatment of TTY lines used by individuals with speech or hearing disabilities, carriers will need to identify such individuals. To do so, carriers may be able to rely on existing mechanisms, such as the toll discount program. If carriers are unable to use existing mechanisms, they may need to implement a self-certification mechanism. If the Commission adopts a funding approach, carriers may also need to report revenues for the administration of the funding mechanism. Carriers may, however, already be providing some of the necessary information in conjunction with existing funding mechanisms, such as the one currently in place for TRS. Under the funding approach, carriers may also need to provide data on the revenues attributable to TTY lines used by speech or hearing-impaired individuals as primary lines and as non-primary lines. We ask parties to comment on the reporting, recordkeeping, and other compliance requirements they believe will be necessary to implement rules regarding the primary-line treatment of TTY lines used by individuals with speech or hearing disabilities.

48. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered:* We have outlined and sought comment on what we believe are the significant possible alternatives for implementing a primary-line definition with respect to TTY lines used by speech-or hearing-disabled individuals. We note that small entities will be largely unaffected by the rules we promulgate following the *Further Notice* because the distinction between primary and non-primary lines applies only to price cap LECs. Depending on the funding mechanism—if any—chosen, however, some small entities may have contribution requirements. We seek comment on any significant alternative compliance or reporting requirements or timetables that take into account the resources available to small entities and accomplish our stated objectives.

49. *Federal Rules that May Overlap, Duplicate, or Conflict with the Proposed Rules.* Because this is the first occasion in which the Commission has attempted to define primary lines, we do not believe that the proposals in the *Further Notice* overlap with or duplicate any existing federal rules. We ask parties to comment on any federal rules that they believe may overlap with, duplicate, or conflict with the approaches we discuss in the *Further Notice.*

3. Initial Paperwork Reduction Act Analysis

50. Certain proposals contained in the *Further Notice* may require an information collection. As part of our continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13, we invite the general public and the OMB to take this opportunity to comment on those information collections. Public and agency comments are due at the same time as other comments on the *Further Notice;* OMB comments are due 60 days from date of publication of the *Further Notice* in the **Federal Register**. Comments should address: (a) whether the proposed information collections are 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 estimates; (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.

4. Notice and Comment Procedures

51. Pursuant to sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before April 9, 1999, and reply comments on or before April 26, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

52. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail message to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

53. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street SW, Room TW–A325, Washington, DC 20554. In addition, one copy of each

pleading must be filed with the Commission's duplicating contractor, International Transcription Services (ITS), 1231 Twentieth Street, NW, Washington, DC 20036, and one copy with the Chief, Competitive Pricing Division, 445 Twelfth St. SW, Fifth Floor, Washington, DC 20554.

54. Parties are also asked to submit comments and reply comments on diskette. Such diskette submission would be in addition to and not a substitute for the formal filing requirements addressed above. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible form using MS Dos 5.0 and WordPerfect 5.1 software. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labeled with the party's name, proceeding, type of pleading (comment or reply comments), and date of submission. The diskette should be accompanied by a cover letter.

55. Written comments by the public on the proposed information collections are due April 9, 1999, and replies are due on or before April 26, 1999. The Office of Management and Budget (OMB) must submit written comments on the proposed information collections on or before 60 days after date of publication in the **Federal Register**. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, 445 Twelfth St. SW, Washington, DC 20554, Room 1–C804, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 Seventeenth Street NW, Washington, DC 20503, or via the Internet to fain__t@al.eop.gov.

56. Alternative formats (computer diskette, large print, audio cassette and Braille) of the Report and Order and Further Notice of Proposed Rulemaking are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 voice, (202) 418–2555 TTY, or mcontee@fcc.gov. The Notice can also be downloaded at: http://www.fcc.gov/dtf/.

57. Accordingly, *It is ordered*, pursuant to the authority contained in sections 1, 2, 4(i), 4(j), 201–205, 218–220, 225, and 254 of the Communications Act as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 201–205, 218–220, 225, and 254, a Further Notice of Proposed Rulemaking *Is hereby adopted*.

58. *It is further ordered* that the Commission's Office of Public Affairs, References Operations Division, *Shall send* a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7788 Filed 4–2–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–90, RM–9528]

Radio Broadcasting Services; Socorro, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain West Broadcasting seeking the allotment of Channel 271C2 to Socorro, NM, as the community's second local commercial FM service. Channel 271C2 can be allotted to Socorro in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 34–03–42 NL; 106–53–48 WL. Mexican concurrence in the allotment is required since Socorro is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

DATES: Comments must be filed on or before May 17, 1999, and reply comments on or before June 1, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Michael, Jr., President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82009 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–90, adopted March 17, 1999, and released March 26, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8240 Filed 4–2–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[I.D. 030399A]

Endangered and Threatened Species; Petition to Delist Coho Salmon in Siskiyou County, California

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

ACTION: Notification of petition finding.

SUMMARY: NMFS has received a petition to delist coho salmon (*Oncorhynchus kisutch*) in Siskiyou County, California, from the endangered species list. NMFS has determined that the petition does not contain any new, substantial scientific or commercial information indicating that the petitioned action may be warranted.

DATES: The finding announced in this document was made on March 29, 1999.

ADDRESSES: Requests for information concerning this petition should be sent to Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910; telephone: (301)713–1401.

FOR FURTHER INFORMATION CONTACT: Lisa Lierheimer at (301)713–1401.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C *et seq*.), requires that NMFS make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. NMFS' standard for substantial information is stated at 50 CFR 424.14(b) as ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.'' This finding is to be based on all information available to NMFS at the time. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If the finding is positive, NMFS is also required to promptly commence a review of the status of the involved species.

NMFS has made a 90-day finding on a petition to delist coho salmon (*Oncorhynchus kisutch*) in Siskiyou County, California. The petition, dated January 4, 1999, was submitted by Mr. Richard A. Gierak, Director of New Frontiers Institute, Inc., and was received by NMFS on January 20, 1999. The petitioner requested that NMFS delist coho salmon (*Oncorhynchus kisutch*) in Siskiyou County, California. This population is included in the Southern Oregon/Northern California coho salmon Evolutionarily Significant Unit (ESU); the ESU was listed as a threatened species on May 6, 1997 (62 FR 24588).

The petitioner submitted information from various documents from 1985 through 1998, including NMFS publications, reports, and **Federal Register** documents of salmon listings, and from personal communications on the primary causative factors in the decline of coho salmon in northern California rivers. The petitioner identifies two categories of major factors contributing to the decline of northern California coho: nature (i.e., floods, fire, drought, El Nino), and human activities (i.e., the Marine Mammal Protection Act and the overpopulation of salmonid predators, the removal of salmonid eggs for hatchery production, ocean fishing, and the destruction of estuarine habitats along the coast).

Under section 4(a)(1) of the ESA and the listing regulations at 50 CFR 424.11(c), when a species is considered for listing, NMFS must determine whether the species is endangered or threatened due to any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanism; or (5) other natural or manmade factors affecting its continued existence.

Under 50 CFR 424.11(d), the factors considered in delisting a species are the same as those used to list a species. A species may be delisted only if the best scientific and commercial data indicates that the species is no longer threatened or endangered for the following reasons: (1) Extinction; (2) recovery (the point at which the purposes of the ESA are no longer required); or (3) subsequent investigation reveals that the original data or the interpretation of that data used to list the species was in error.

In its listing determination for coho salmon in the Southern Oregon/Northern California ESU (62 FR 24588, May 6, 1997), NMFS concluded that the current status of the population is the result of a wide range of long-standing, human-induced factors (i.e. habitat degradation, harvest, and artificial propagation) that serve to exacerbate the effects of environmental conditions that adversely impact coho salmon such as drought, poor ocean conditions, and flooding. The specific factors for decline of coho salmon that were identified in the petition (i.e. natural environmental change due to floods, fire, drought and El Nino, and human-induced activities associated with the management of marine mammal populations, fishing, and hatchery practices) were previously considered by NMFS in its listing determination and found to have contributed to the species decline. Information demonstrating that listed salmon have recovered or that the threats to salmon no longer exist were not presented in the petition.

NMFS has reviewed the petition, the literature cited in the petition, and other available literature and information. NMFS finds that the petitioned action does not present substantial scientific or commercial information indicating that delisting coho salmon in Siskiyou County, California, or the Southern Oregon/Northern California coho salmon ESU in which these populations are included, may be warranted.

Authority: 16 U.S.C. 1531 *et seq*.

Dated: March 29, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–8181 Filed 4–2–99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223, 224, and 226

[Docket No. 960723205–9057–02; I.D. 121198A]

RIN 1018–AF45

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Species; Threatened Status for Southwestern Washington/Columbia River Coastal Cutthroat Trout in Washington and Oregon, and Delisting of Umpqua River Cutthroat Trout in Oregon

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service (FWS), Interior.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS completed a comprehensive status review of coastal cutthroat trout (*Oncorhynchus clarki clarki*) populations in Washington, Oregon, and California and has identified six Evolutionarily Significant Units (ESUs) within this range. Since that time, the question of whether NMFS or FWS (the Services, or we) has ESA jurisdiction over the species has arisen, and we have therefore agreed to resolve this matter before the final listing determination. In addition, the ESA requires FWS concurrence on NMFS ESA delisting determinations. Therefore, we are issuing this proposal jointly. We propose a rule to list one of the six cutthroat trout ESUs as threatened under the Endangered Species Act (ESA). The proposed ESU consists of coastal cutthroat trout populations in southwestern Washington and the Columbia River, excluding the Willamette River above Willamette Falls. We also propose to delist the Umpqua River cutthroat trout ESU currently listed as endangered. Information made available since that listing indicates Umpqua River cutthroat trout are part of a larger ESU

encompassing the coast of Oregon between the Columbia River and Cape Blanco, Oregon, and that this ESU does not warrant listing at this time. NMFS considers this ESU a candidate for listing.

In the proposed ESU, only naturally spawned cutthroat trout are proposed for listing. Prior to the final listing determination, we will examine the relationship between hatchery and naturally spawned populations of cutthroat trout, and populations of cutthroat trout above barriers to assess whether any of these populations warrant listing. This may result in the inclusion of specific hatchery populations or populations above barriers as part of the listed ESU in the final listing determination.

The Services request public comments on the biological issues pertaining to this proposed rule. We also request information on the biological, economic, and any other information relevant to designating critical habitat for the proposed cutthroat trout ESU. We further request suggestions and comments on integrated local/state/tribal/Federal conservation measures that will achieve the purposes of the ESA to recover the health of coastal cutthroat trout populations and the ecosystems upon which they depend. We believe these efforts, if successful, could serve as central components of a broadly based conservation program for recovery and rebuilding of salmonid populations, including coastal cutthroat trout.

DATES: Comments must be received by July 6, 1999. NMFS will announce the dates and locations of public hearings in Washington and Oregon in a separate **Federal Register** document. Requests for additional public hearings must be received by May 20, 1999.

ADDRESSES: Comments on this proposed rule and requests for public hearings or reference materials should be sent to Chief, Protected Resources Division, NMFS, Northwest Region, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737; fax (503) 230–5435.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, 503–231–2005, Craig Wingert, 562–980–4021, or Christopher Mobley, 301–713–1401 of NMFS, or Catrina Martin, 503–231–6131 of FWS.

SUPPLEMENTARY INFORMATION:

Electronic Access

Reference materials regarding this listing determination can also be obtained from the internet at www.nwr.noaa.gov.

Background

In a document dated September 12, 1994, NMFS announced its intent to conduct comprehensive status reviews for five species of Pacific salmonids, including sea-run cutthroat trout (59 FR 46808). These were in addition to two ongoing status reviews for west coast coho salmon (*O. kisutch*) and steelhead (*O. mykiss*). NMFS completed coastwide status reviews for coho salmon and steelhead on July 25, 1995, and August 9, 1996, respectively (60 FR 38011; 61 FR 41541). On October 4, 1995, NMFS completed its status review for west coast pink salmon (*O. gorbuscha*) (60 FR 51928). In March of 1998, NMFS completed its status reviews for west coast sockeye (*O. nerka*), chum (*O. keta*), and chinook salmon (*O. tshawytscha*) (63 FR 11750; 63 FR 11774; 63 FR 11482). Thus, the current status review for coastal cutthroat trout completes NMFS' comprehensive assessment of seven Pacific salmonid stocks under its ESA jurisdiction (coho, pink, sockeye, chum, and chinook salmon; and steelhead and cutthroat trout).

On December 18, 1997, the Secretary of Commerce received a petition from Oregon Natural Resources Council to list and to designate critical habitat for sea-run cutthroat trout in the States of Washington, Oregon, and California. Copies of this petition are available upon request (see **ADDRESSES**). On March 23, 1998, NMFS accepted this petition as containing substantial scientific information indicating that a status review was warranted (63 FR 13832). Acceptance of this petition invoked the ESA's statutory requirement for NMFS to issue its findings on the coastal cutthroat trout status review by December 18, 1998.

In response to a petition to list Umpqua River cutthroat trout under the ESA, on July 8, 1994 (59 FR 35089), NMFS published a proposed rule to list this ESU, or distinct population (See ''Consideration as a 'Species' Under the ESA''), as an endangered species. In this notice, NMFS proposed to include all cutthroat trout life-history types (i.e., non-migratory, freshwater migratory, and anadromous) in the listed ESU. On August 9, 1996 (61 FR 41514), NMFS published a final rule listing Umpqua River coastal cutthroat trout as an endangered species. However, in doing so, NMFS committed to re-evaluate the status of the species within 2 years or as new scientific information became available. The Services re-evaluate the status of Umpqua River cutthroat in this document.

On January 29, 1998, Douglas County, Oregon sued the Secretary of Commerce, alleging that NMFS' listing of Umpqua River cutthroat trout as an endangered species was not based on the ''best scientific and commercial data available'' in violation of the ESA. On December 14, 1998, the District Court of Oregon upheld NMFS' listing determination, noting that NMFS' ongoing status review of the species provides Douglas County and other parties with an opportunity to submit new information for NMFS' consideration. *Douglas County* v. *Daley*, No. 98–6024–HO, slip op. at n. 13 (D. OR. Dec. 14, 1998). NMFS considers new information submitted by Douglas County and other parties below.

During the status review process NMFS initiated a series of technical meetings with comanagers (state and tribal governments) and the public. Among these meetings was a series of Pacific Salmon Biological Technical Committee meetings held in Washington, Oregon, and California. Furthermore, on October 13, 1998, NMFS Biological Review Team (BRT) members met with comanagers and discussed their comments on a draft status review report. The BRT considered these comments in drafting their final status review report. Copies of the final status review document entitled ''Scientific Conclusions of the Review of the Status of Coastal Cutthroat Trout (*Oncorhynchus clarki clarki*) from Washington, Oregon, and California'' (NMFS, 1998a) are available upon request (see **ADDRESSES**).

Agency Jurisdiction for Cutthroat Trout

As described above, NMFS has a history of conducting status reviews on sea-run cutthroat trout. During the status review for Umpqua River sea-run cutthroat trout, NMFS and FWS agreed that NMFS would handle ESA responsibilities for all life forms of the species in the Umpqua River Basin (FWS, 1994). Since that time, the issue of agency jurisdiction has arisen for the various cutthroat life forms in other west coast basins, including the Southwestern Washington/Columbia River cutthroat trout ESU. For this reason, the current proposal to list the Southwestern Washington/Columbia River cutthroat trout ESU is being promulgated jointly. Prior to the final listing determination, one agency will assume lead ESA responsibility for the species.

Data Limitations and Scientific Uncertainty

There is a lack of quantitative information across the range of coastal cutthroat trout. This is not to say that information about coastal cutthroat trout does not exist; in fact, a considerable amount is known about the biology of this species. However, much of this information is qualitative or descriptive, rather than quantitative. Comprehensive, coastwide data sets on distribution, abundance, age structure, run timing, and other biological characteristics are largely absent for coastal cutthroat trout. The fact that coastal cutthroat trout do not constitute a commercially caught species, with fewer directed fisheries than for co-occurring Pacific salmonids, no doubt has much to do with the paucity of these data. Furthermore, spawning coastal cutthroat trout are more difficult to observe than spawning salmon, and there are almost no large runs that are clear targets for systematic monitoring.

Given the paucity of available data for coastal cutthroat trout, NMFS employed two methods to characterize uncertainty in its risk assessments. Both methods entailed characterizing BRT members' degree of certainty with particular risk conclusions. These methods generally led to consistent results, and the BRT used this information to draw its conclusions regarding the status of ESUs and then to characterize the degree of certainty associated with such scientific conclusions.

Life History of the Species

The life history of coastal cutthroat trout may be one of the most complex of any Pacific salmonid. Unlike other anadromous salmonids, sea-run forms of coastal cutthroat trout do not overwinter in the ocean and only rarely make extended migrations across large bodies of water. Their migrations in the marine environment are usually within 10 kilometers (6 miles) of land (Giger, 1972; Sumner, 1972; Jones, 1976; and Johnston, 1982), but have been detected up to 80 kilometers (50 miles) offshore (Pearcy, 1997). Although most anadromous cutthroat trout enter seawater as 2-or 3-year-old fish, some may remain in fresh water up to 5 years before entering the sea (Giger, 1972; and Sumner, 1972). Other cutthroat trout may not outmigrate to the ocean, but remain as nonmigrants in small headwater tributaries. Still other cutthroat trout may migrate entirely within freshwater environments (Nicholas, 1978; Tommasson, 1978; and Moring *et al*., 1986), even when they have access to the ocean (Tomasson, 1978). In the Umpqua River, anadromous, non-migratory, and freshwater migratory (river-migrating) life-history forms have been reported (Loomis and Anglin, 1992; and Loomis *et al*., 1993). Details of coastal cutthroat trout life history and ecology, including characteristics of particular life-history forms, can be found in published reviews by Hall (1997), Bisson (1997), and Gresswell and Harding (1997). Unfortunately, these reviews indicate that the genetic and environmental factors determining these life-history forms are poorly understood, a situation that has complicated the characterization of ESU boundaries and risk for coastal cutthroat trout.

Consideration as a ''Species'' Under the ESA

To qualify for listing as a threatened or endangered species, the identified populations of coastal cutthroat trout must constitute ''species'' under the ESA. The ESA defines a ''species'' to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' [ESA Section 3(15)] NMFS published a policy describing the agency's application of the ESA definition of ''species'' to anadromous Pacific salmonid species (56 FR 58612, November 20, 1991). Subsequently, the Services jointly issued a policy addressing the recognition of distinct vertebrate population segments of all vertebrate species under the ESA on February 7, 1996 (61 FR 4722). NMFS' policy provides that a Pacific salmonid population will be considered distinct and, hence, a species under the ESA if it represents an ESU of the biological species. A population must satisfy two criteria to be considered an ESU: (1) It must be reproductively isolated from other conspecific population units (i.e., different populations of the same species), and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute, but must be strong enough to permit evolutionarily important differences to accrue in different population units. The second criterion is met if the population contributes substantially to the ecological/genetic diversity of the species as a whole. Guidance on the application of this policy is contained in a NOAA Technical Memorandum entitled ''Definition of Species Under the Endangered Species Act: Application to Pacific Salmon,'' that is available upon request (see **ADDRESSES**).

Reproductive Isolation

Genetic data provide useful indirect evidence on reproductive isolation by integrating information about migration and gene flow over evolutionary time frames. However, only a limited number of studies of the genetic population structure of coastal cutthroat trout populations in the Pacific Northwest have been published, and these are very recent. Other studies are contained in unpublished graduate theses. All but one of these studies included samples from a limited geographic range.

In order to address this genetic data gap, NMFS, the Washington Department of Fish and Wildlife (WDFW), and the Oregon Department of Fish and Wildlife (ODFW) recently conducted a coastwide study of biochemical genetic variability in coastal cutthroat trout to help delineate groups of populations for management and conservation. The results of this study are summarized in this document under ''Summary of Proposed ESU Determinations'' and are discussed in further detail in the status review document (NMFS, 1998a).

Few detailed studies have explored the relationship between non-migratory, freshwater migratory, and anadromous *O. clarki clarki* in the same river basin, cohabitating in the same location. The few existing studies of cutthroat trout show that, although both allele frequencies and morphology may differ between populations above barriers and populations below barriers with access to the sea, these different life-history forms are generally more closely related within a drainage than are populations from different drainages. These results indicate that sea-run and non-migratory populations of cutthroat trout represent a single evolutionary lineage in which the various life-history characteristics have arisen repeatedly in different geographic regions.

With respect to barriers that permit some one-way migration (i.e., downstream migration of smolts but not upstream passage of adults), NMFS concludes that coastal cutthroat trout above these barriers should generally be included in ESUs that contain populations below these barriers. The basis for this conclusion is twofold: (1) Populations above barriers may contribute demographically and genetically to populations below them, even if the number of successful one-way migrants per generation is low, and (2) populations above barriers may represent genetic resources shared by populations below these barriers (and

therefore may constitute a significant component of diversity for an ESU). However, at this time NMFS has not attempted to identify any specific populations above barriers where one-way migration is occurring to a significant extent. Therefore, while such populations are considered part of the biological ESU to which they contribute, NMFS (or the FWS) will determine on a case-by-case basis whether such populations warrant protection under the ESA. Populations of coastal cutthroat trout existing above Willamette Falls in Oregon are an exception to this general rule; this situation and the rationale for this determination are discussed in the following section.

Summary of Proposed ESU Determinations

NMFS' ESU determinations for coastal cutthroat trout in Washington, Oregon, and California are summarized here. A more detailed discussion of ESU determinations is presented in the ''Scientific Conclusions of the Review of the Status of Coastal cutthroat (*Oncorhynchus clarki clarki*) trout from Washington, Oregon, and California'' (NMFS, 1998a). Copies of this document are available upon request (see **ADDRESSES**).

(1) Puget Sound ESU

This proposed ESU includes populations of coastal cutthroat trout from drainages of Puget Sound, Hood Canal, the eastern Olympic Peninsula (east of and including the Elwha River), and the Strait of Juan de Fuca. Life-history data indicate that coastal cutthroat trout from Puget Sound generally smolt at a smaller size and possibly at a younger age than those directly entering the open ocean or the outer coastal marine waters. Genetic data also indicate differences among populations in this ESU and those in southwestern Washington and farther south. Genetic data also indicate that, although populations in Puget Sound, Hood Canal, and on the Olympic Peninsula are highly heterogeneous genetically, evidence exists for separation of populations on the Olympic Peninsula from those in the eastern Strait of Juan de Fuca, northern Puget Sound, and Hood Canal. Populations in Hood Canal and along the Strait of Juan de Fuca are distinctive, but show no clear evidence of a transition zone between populations in Puget Sound and southwestern Washington. Populations from the upper Nisqually River (a heavily glacially influenced system in southern Puget Sound) are markedly distinct genetically from their nearest geographic neighbors. NMFS was unable to ascertain the source of this distinctiveness; possibilities include strong and long-standing reproductive isolation, sharp habitat differences, or a combination of these factors.

Based on distinctive life-history, genetic, and biogeographic patterns, NMFS concludes that the Puget Sound ESU includes all streams in Puget Sound and the Strait of Juan de Fuca west to, and including, the Elwha River. The northern boundary for this ESU is unclear, but genetic data lend support to the hypothesis that this ESU extends into southern British Columbia, including populations along the eastern Georgia Strait north of the city of Vancouver. These data also indicate that Vancouver Island populations are genetically distinct from those on the mainland, providing evidence for reproductive isolation of these groups. In general, this ESU's boundaries reflect an ecoregion in which river drainages have relatively high flows due largely to high precipitation, snow melt, and temperatures moderated by the marine environment. The southern and western boundaries are similar to those previously identified for chinook, coho, chum, and pink salmon, and steelhead; the northern boundary differs from that for chinook and coho salmon (which does not extend into Canada) and for pink, chum, and coho salmon (which does not include eastern Vancouver Island).

(2) Olympic Peninsula ESU

The proposed boundaries of this ESU are similar to those of steelhead and coho salmon, previously reviewed by NMFS (Busby *et al.,* 1996; and Weitkamp *et al.,* 1996) and include coastal cutthroat trout populations from the Strait of Juan de Fuca west of the Elwha River and coastal streams south to, but not including, streams that drain into Grays Harbor. Support for this ESU relies on the ecological distinctiveness of this area, which is characterized by high precipitation, cool water temperatures, and relatively short, high-gradient streams entering directly into the open ocean. Life-history data also suggest that these fish may have different migratory patterns than those in Puget Sound or the Columbia River. Coastal cutthroat trout from this area are relatively large as smolts, and a higher proportion of individuals appear to mature at first return from seawater than is the case in most Puget Sound populations.

Genetic data for this ESU are limited. Populations that have been sampled from the Olympic Peninsula are genetically distinctive but show a stronger genetic affinity to neighboring populations in Puget Sound and in Hood Canal than to those along the Strait of Juan de Fuca (east of the Elwha River). However, at least some of the Olympic Peninsula populations are not strongly differentiated from those in northern or southern Puget Sound, and they are well differentiated from populations to the south along the coast. Available information indicates that this ESU may represent a genetic transition zone between the Puget Sound and Southwestern Washington/Columbia River ESUs.

(3) Southwestern Washington/Columbia River ESU

The proposed boundaries of this ESU are similar to those of the lower Columbia River/southwest Washington Coast coho salmon ESU (Weitkamp *et al.,* 1996). The ESU comprises cutthroat trout in the Columbia River and its tributaries downstream from the Klickitat River in Washington and Fifteenmile Creek in Oregon (inclusive) and the Willamette River and its tributaries downstream from Willamette Falls. The ESU also includes cutthroat trout in Washington coastal drainages from the Columbia River to Grays Harbor (inclusive). Support for these ESU boundaries comes primarily from ecological and genetic information. Ecological characteristics of this region include the presence of extensive intertidal mud and sandflats, similarities in freshwater and estuarine fish faunas, and differences from estuaries to the north of Grays Harbor and to the south of the Columbia River. Genetic samples from coastal cutthroat in southwestern Washington also show a relatively close genetic affinity to the samples from the Columbia River.

Some data support a split of the Columbia River from southwestern Washington coastal cutthroat trout populations. Tagging and recovery data for chinook, coho, and chum salmon indicate different marine distributions for fish from the two areas. The limited dispersal ability of anadromous cutthroat trout may restrict genetic exchange among populations in the two areas, and the areas exhibit differences in their physical estuarine characteristics. An important salmonid parasite, *Ceratomyxa shasta,* occurs in the Columbia River but has not been observed in Willapa Bay or Grays Harbor. WDFW has conducted an unpublished analysis of a small number

of southwestern Washington populations in which it detected a greater differentiation of populations between this ESU and those in the Columbia River than did NMFS in its more comprehensive analysis. WDFW also argues that extensive hatchery influence in some populations may have obscured natural genetic differences between southwestern Washington and lower Columbia River coastal cutthroat trout. However, NMFS concludes that these analyses collectively do not provide compelling evidence for separate coastal cutthroat trout ESUs for the southwestern Washington coast and the Columbia River.

(4) Upper Willamette River ESU

This proposed ESU includes populations of cutthroat trout above Willamette Falls in Oregon. Coastal cutthroat trout, along with spring chinook salmon and winter steelhead, are the only three species of anadromous Pacific salmonids that historically occurred above Willamette Falls. In the Upper Willamette River, these other two species have been identified as separate ESUs in previous status reviews, based on ecological and genetic differences from other Columbia River populations, and on physical and hydrological conditions (Busby *et al.*, 1996; and Myers *et al.*, 1998). Based on information provided by ODFW (1998), Willamette Falls is a nearly complete barrier to anadromous fish, including summer steelhead and coastal cutthroat trout, during summer and early fall. NMFS concludes that the upper Willamette River has probably never supported a substantial anadromous population of cutthroat trout; the primary life-history types that exist above Willamette Falls appear to be the non-migratory and freshwater migratory forms, which appear to be relatively rare below the falls.

Upper Willamette River coastal cutthroat trout exhibit a genetic structure consistent with the hypothesis that Willamette Falls is a strong reproductive barrier between populations above and below the falls. *C. shasta* existing in the Willamette River below the Marys River and high temperatures in the lower Willamette River in summer and fall probably limit the survival of the very few migrants that are known to drop over the falls. The river above Willamette Falls encompasses a large area with considerable habitat complexity, and this area supports several different populations of coastal cutthroat trout. Although these populations are highly heterogeneous (dissimilar) genetically, they do form a moderately coherent cluster of apparently isolated and semi-isolated populations.

The physical and genetic evidence for: (1) a barrier at Willamette Falls; (2) habitat and ecological differences above and below the Falls; (3) the lack of anadromous populations and the prevalence of freshwater migratory forms above the Falls; and (4) evidence for very few smolt outmigrants produced above the Falls leads NMFS to conclude that coastal cutthroat trout above Willamette Falls should be considered a separate ESU. Since cutthroat trout in this region do not conduct extensive migrations and remain primarily in the freshwater environment, The Services conclude that cutthroat trout in this ESU fall under the jurisdiction of FWS. As previously noted, overall ESA jurisdiction of all coastal cutthroat trout ESUs remains to be determined.

(5) Oregon Coast ESU

The proposed boundaries of this ESU are similar to those identified for coho and chinook salmon and steelhead (Weitkamp *et al.*, 1996; Myers *et al.*, 1998; and Busby *et al.*, 1996) and include coastal cutthroat trout populations from the mouth of the Columbia River south to Cape Blanco, Oregon. Genetic data indicate marked differences between coastal cutthroat trout populations from coastal Oregon and those in the Columbia River and along the Washington coast. Samples of coastal cutthroat trout south of the Columbia River indicate a large, heterogeneous group of populations along the Oregon coast. Furthermore, several ecological differences exist between rivers along the Oregon coast and those farther north. The Oregon coast is characterized by a strong maritime influence, including relatively high precipitation, moderate temperatures, and short, low gradient streams with few migration barriers. Tagging studies in Alaska and elsewhere indicate that anadromous cutthroat trout follow shorelines when in seawater; thus, the known migratory patterns of this species are consistent with the hypothesis that the Columbia River, which is several miles wide and relatively deep at its mouth, is a migratory barrier between coastal populations in Oregon and those in Washington.

Although genetic data provide some evidence for a split between populations north or south of Cape Blanco, Oregon, biological and ecological data provide even greater support for such a split. The Cape Blanco area is a major biogeographic boundary for many marine and terrestrial species, and has been identified as an ESU boundary for chinook and coho salmon and steelhead on the basis of strong genetic, life-history, ecological, and habitat differences north and south of this landmark. Meristic data (measurements of physical characteristics) also point to a difference between coastal cutthroat trout populations north and south of Cape Blanco.

Previously, NMFS concluded that cutthroat trout in the Umpqua River Basin constituted an ESU (Johnson *et al.*, 1994; 61 FR 41514, August 9, 1996). However, new genetic information collected during the coastwide status review indicates that cutthroat trout populations in the Umpqua River Basin are part of a larger coastal ESU that includes populations in Oregon coastal drainages from the mouth of the Columbia River to Cape Blanco. As discussed later in this document, NMFS proposes to revise the Umpqua River cutthroat trout listing determination consistent with these findings (see ''Proposed Determinations'').

(6) Southern Oregon/California Coasts ESU

This proposed ESU includes populations of coastal cutthroat trout from Cape Blanco, Oregon, south to the southern extent of the subspecies' range, currently considered the Mattole River, south of Cape Mendocino, California. Although meristic information lends support for a separate ESU of coastal cutthroat trout populations south of Cape Blanco, genetic and ecological data do not strongly support such a conclusion. In addition, the limited dispersal capability of coastal cutthroat trout and anecdotal evidence for marked differences in population dynamics for populations north and south of Cape Blanco support a split at that landmark. Finally, the majority of river systems in this ESU are relatively small and steep, with limited estuaries, and are heavily influenced by a maritime climate. Many of these systems are characterized by seasonal physical and thermal barriers to movement by anadromous fish; notable exceptions without such barriers are the larger river basins such as the Eel, Klamath, and Rogue Rivers.

Summary of Factors Affecting the Species

Section 2(a)(1) of the ESA states that various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and

conservation. Section 4(a)(1) of the ESA and the Services' regulations (50 CFR part 424) set forth procedures for listing species. The Secretaries of Commerce and the Interior (Secretaries) must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence.

Several recent documents describe in more detail the impacts of various factors contributing to the decline of cutthroat trout and other salmonids (Bryant and Lynch, 1996; NMFS, 1997; and NMFS, 1998b). These reports, available upon request (see **ADDRESSES**), conclude that all of the factors identified in section 4(a)(1) of the ESA have played a role in the decline of salmonids on the West Coast. Specifically, these reports identify destruction and modification of habitat, overutilization for recreational purposes, and natural and human-made factors as being the primary reasons for the decline of anadromous salmonids, including coastal cutthroat trout. The following discussion summarizes findings regarding the principle factors for decline across the range of coastal cutthroat trout.

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Habitat degradation and impacts associated with logging and related land management activities, in particular, have likely contributed to the decline of coastal cutthroat trout. Removal of forest canopy can cause an increase in both the maximum and the diurnal fluctuation of water temperatures, leading to disease outbreaks, altered timing of migration, and accelerated maturation. The removal of streamside vegetation can deplete the bank area of potential new woody debris, which provides cover for cutthroat trout. Lack of cover may increase predation rates on cutthroat trout. In addition, loss of riparian areas can result in decreased invertebrate production and detritus sources, both of which are key components of the species' food chain. Siltation, often caused by certain logging practices, may hinder fry emergence from the gravel and limit production of benthic invertebrates. Dissolved oxygen content of both surface and intragravel water can decrease as a result of logging operations, reducing egg and fry survival rates. Logging can also cause changes in stream flow regimes, resulting in potentially adverse water velocity and depth characteristics.

In addition to degradation of freshwater habitats, degradation of estuarine habitats has likely contributed to the decline of this species. Estuarine areas are highly productive habitats and play an important role in the life cycle of cutthroat trout (Hall, 1997). Dredging, filling, and diking of estuarine areas for agricultural, commercial, or municipal uses have resulted in the loss of many estuarine habitats.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Cutthroat trout are not harvested commercially, and scientific and educational programs have probably had little or no impact on these populations. However, cutthroat trout are a popular gamefish throughout the Pacific Northwest, and available information indicates that recreational fishing may have contributed to the general decline of cutthroat trout populations (Gresswell and Harding, 1997). In addition, coastal cutthroat trout are especially susceptible to hooking mortality and incidental catch in recreational and commercial fisheries targeting Pacific salmon and steelhead. Also, poaching may pose a significant threat to depressed populations of cutthroat trout in some areas.

C. Disease or Predation

Disease may be a factor contributing to the decline of cutthroat trout populations. For example, ODFW believes that *C. shasta* is a factor of decline for cutthroat trout populations in the Columbia and Willamette Rivers (ODFW, 1998). The extent to which this and other diseases affect cutthroat trout populations in other areas is unknown.

Several non-native fish species are known to prey on or compete with salmonids; however, no specific information exists regarding predation impacts by these or by native fishes on cutthroat trout. Pinnipeds, especially harbor seals and California sea lions, are increasing on the West Coast. However, the extent to which pinniped predation is a factor causing the decline of coastal cutthroat trout is unknown.

D. Inadequacy of Existing Regulatory Mechanisms

1. Federal Land Management Practices

The Northwest Forest Plan (NFP) is a Federal management policy with important benefits for salmonids, including cutthroat trout. While the NFP covers a very large area, the overall effectiveness of the NFP in conserving cutthroat trout is limited by the extent of Federal lands and by the fact that Federal land ownership is not uniformly distributed in watersheds within the affected ESUs. The extent and distribution of Federal lands limits the NFP's ability to achieve its aquatic habitat restoration objectives at watershed and river basin scales and highlights the importance of complementary salmon habitat conservation measures on non-Federal lands within the subject ESUs.

2. State Land Management Practices

The Washington Department of Natural Resources implements and enforces the State of Washington's forest practice rules (WFPRs) that are promulgated through the Forest Practices Board. These WFPRs contain provisions that can be protective of salmonids if fully implemented. WFPRs are based on adaptive management of forest lands through watershed analysis, development of site-specific land management prescriptions, and monitoring. Watershed Analysis prescriptions can exceed WFPR minima for stream and riparian protection.

However, NMFS believes the WFPRs, including watershed analysis, do not provide properly functioning riparian and instream habitats. Specifically, the base WFPRs do not adequately address large woody debris (LWD) recruitment, tree retention to maintain stream bank integrity and channel networks within floodplains, and chronic and episodic inputs of coarse and fine sediment-processes which are critical to maintaining properly functioning habitat for all life stages of cutthroat trout.

Similarly, the Oregon Forest Practices Act (OFPA), while modified in 1995 and improved over the previous OFPA, does not adequately protect salmonid habitat. In particular, the current OFPA does not provide adequate protection for the production and introduction of LWD to medium, small, and non-fish bearing streams. Small non-fish bearing streams are vitally important to the quality of downstream habitats. These streams carry water, sediment, nutrients, and LWD from upper portions of the watershed. The quality of downstream

habitats is determined, in part, by the timing and amount of organic and inorganic materials provided by these small streams (Chamberlin *et al.*, in Meehan, 1991). Given the existing depleted condition of most riparian forests on non-Federal lands, the time needed to attain mature forest conditions, the lack of adequate protection for non-riparian LWD sources in landslide-prone areas and small headwater streams (which account for about half the wood found naturally in stream channels) (Burnett and Reeves, 1997, citing Van Sickle and Gregory, 1990; McDade *et al.*, 1990; and McGreary, 1994), and current rotation schedules (approximately 50 years), there is a low probability that adequate LWD recruitment could be achieved under the current requirements of the OFPA. Also, the OFPA neither adequately manages timber harvest and road construction on sensitive, unstable slopes subject to mass wasting; nor does it address cumulative effects.

3. Dredge, Fill, and Inwater Construction Programs

The Army Corps of Engineers (COE) regulates removal/fill activities under section 404 of the Clean Water Act (CWA), which requires that the COE not permit a discharge that would ''cause or contribute to significant degradation of the waters of the United States.'' One of the factors that must be considered in this determination is cumulative effects. However, the COE guidelines do not specify a methodology for assessing cumulative impacts or how much weight to assign them in decision-making. Furthermore, the COE does not have in place any process to address the additive effects of the continued development of waterfront, riverine, coastal, and wetland properties.

4. Water Quality Programs

The Federal CWA is intended to protect beneficial uses, including fishery resources. To date, implementation has not been effective in adequately protecting fishery resources, particularly with respect to non-point sources of pollution.

Sections 303(d)(1)(C) and (D) of the CWA requires states to prepare Total Maximum Daily Loads (TMDLs) for all water bodies that do not meet state water quality standards. TMDLs are a method for quantitatively assessing environmental problems in a watershed and identifying pollution reductions needed to protect drinking water, aquatic life, recreation, and other use of rivers, lakes, and streams. TMDLs may address all pollution sources, including such point sources as sewage or industrial plant discharges, and such non-point discharges as runoff from roads, farm fields, and forests.

The CWA gives state governments the primary responsibility for establishing TMDLs. However, the Environmental Protection Agency (EPA) is required to establish TMDLs if a state does not do so. State agencies in Oregon are committed to completing TMDLs for coastal drainages within 4 years, and all impaired waters within 10 years. Similarly ambitious schedules are in place, or are being developed for Washington and Idaho. The ability of these TMDLs to protect cutthroat trout and salmonids should be significant in the long term; however, it will be difficult to develop them quickly in the short term, and their efficacy in protecting salmonid habitat will be unknown for years to come.

5. Hatchery and Harvest Management

In an attempt to mitigate the loss of habitat, hatchery programs have been implemented throughout the range of coastal cutthroat trout. While some of these programs have succeeded in providing fishing opportunities, the impacts of these programs on native, naturally spawned stocks are not well understood. Competition, genetic introgression, and disease transmission resulting from hatchery introductions may significantly reduce the production and survival of native, naturally spawned cutthroat trout.

Historically, cutthroat trout were one of the most broadly distributed salmonids in western North America (Behnke, 1979 and 1992). They were often the only salmonid present (sometimes the only fish) in many lakes and streams throughout the interior American west, and they were far more broadly distributed than steelhead, rainbow trout, or other salmonids (Behnke, 1979 and 1992). In recent years, they have been replaced by rainbow trout or other introduced species in many parts of their range (Gresswell, 1988; and Young, 1995). Perhaps most destructive was the widespread release of hatchery rainbow trout (*O. mykiss*) throughout the native range of interior cutthroat trout (Gresswell 1988; Young 1995). The two species readily hybridize, often to the extreme detriment of *O. clarki*, and it has been estimated that ''just within the last century perhaps 99 percent of the unique cutthroat strains of interior drainages have been lost forever'' (Willers, 1991). Furthermore, in less than 100 years after the first settlements in the West, cutthroat trout vanished from most of its vast range (Behnke, 1988). Because of this hybridization with rainbow trout, and because of habitat degradation and other reasons, many of these inland subspecies have declined in numbers to an extent that they are now protected by state and Federal endangered species legislation (Johnson, 1987).

Other potentially important impacts of hatchery practices are the negative consequences of interactions between coho salmon fry released from hatcheries and coastal cutthroat trout. Coho salmon fry have often been released into streams in very high numbers, and they can compete with cutthroat trout for feeding and rearing habitat.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Climatic conditions have exacerbated the problems associated with degraded and altered riverine and estuarine habitats. Persistent drought conditions have reduced the already limited spawning, rearing, and migration habitat. Climatic conditions appear to have resulted in decreased ocean productivity (Francis and Sibley 1991; Francis et al. 1992), which may compound the effects of degraded freshwater habitat conditions on salmonid productivity.

Hybridization between coastal cutthroat trout and *O. mykiss* may pose serious risks for this species. A recent NMFS/WDFW survey of genetic variation among populations indicated that hybridization was widespread in the Pacific Northwest. Hybridization appears to occur naturally in some areas where coastal cutthroat trout and *O. mykiss* overlap and may be accelerated by transplants of *O. mykiss* into areas where coastal cutthroat trout occur naturally. Hybridization can reduce the success of coastal cutthroat trout populations by lowering the genetic fitness of hybrid individuals. Hybrids appear to be intermediate in performance to either parental species, but some life-history traits in hybrids may be detrimental to their survival. The extent of the risk of hybridization due to human activities is unknown.

Efforts Being Made To Protect Coastal Cutthroat Trout

Section 4(b)(1)(A) of the ESA requires the Secretaries of Commerce and the Interior to make listing determinations solely on the basis of the best scientific and commercial data available and after taking into account efforts being made to protect the species. Therefore, in making listing determinations, we first

assess the status of the species and identify factors that have led to the decline of the species. We then assess existing conservation measures to determine if such measures sufficiently ameliorate risks to the species.

In judging the efficacy of existing conservation efforts, NMFS considers the following: (1) The substantive, protective, and conservation elements of such efforts; (2) the degree of certainty such that efforts will be reliably implemented; and (3) the presence of monitoring provisions that permit adaptive management (Bryant and Lynch, 1996). In some cases, conservation efforts may be relatively new and may not have had time to demonstrate their biological benefits. In such cases, provisions for adequate monitoring and funding of conservation efforts are essential to ensure that intended conservation benefits are realized.

During its coastal cutthroat trout status review, NMFS reviewed an array of protective efforts underway for cutthroat trout and other salmonids, ranging in scope from broad regional strategies to local watershed initiatives. NMFS has summarized some of the major efforts applicable to salmonids in a document entitled ''Steelhead Conservation Efforts: A Supplement to the Notice of Determination for West Coast Steelhead under the Endangered Species Act'' (NMFS, 1996). NMFS has identified additional conservation measures in the States of Washington, Oregon, and California that are not specifically addressed in this earlier report. We summarize these additional conservation measures here.

State of Washington Conservation Measures

The State of Washington is currently in the process of developing a statewide strategy to protect and restore naturally spawned steelhead and other salmon and trout species. In May of 1997, the Governor of Washington and other state officials signed a Memorandum of Agreement creating the Joint Natural Resources Cabinet (Joint Cabinet). This body is composed of state agency directors or their equivalents from a wide variety of agencies whose activities and constituents influence Washington's natural resources. The goal of the Joint Cabinet is to restore healthy salmon, steelhead, and trout populations by improving those habitats on which the fish rely. The Joint Cabinet's current activities include development of the Lower Columbia Steelhead Conservation Initiative (LCSCI), which is intended to comprehensively address protection and recovery of steelhead in the lower Columbia River area.

The scope of the LCSCI includes Washington's steelhead stocks in two ESUs that contain habitat in both Washington and Oregon. The initiative area includes the Lower Columbia River area (Cowlitz to Wind rivers) and portions of southwestern Washington. Although the initial focus of the LCSCI was on steelhead recovery, the state and local governments are exploring ways to expand the LCSCI into a multi-species recovery effort that would be consistent with Oregon's plan. When completed, conservation and restoration efforts in the LCSCI area will form a comprehensive, coordinated, and timely protection and rebuilding framework with benefits to steelhead and other salmonids (including coastal cutthroat trout) in the LCSCI area.

WDFW performed advance work on the initiative, emphasizing harvest and hatchery issues and related conservation measures. Consistent with creation of the Joint Cabinet, conservation planning has recently been expanded to include major involvement by other state agencies and stakeholders and to address habitat and tributary dam/hydropower components.

The LCSCI should provide a framework to describe concepts, strategies, opportunities, and commitments that will be critically needed to maintain the diversity and long term productivity of salmonids in the lower Columbia River for future generations. The initiative does not represent a formal watershed planning process; rather, it is intended to be complementary to such processes as they may occur in the future. The LCSCI details a range of concerns, including natural production and genetic conservation, recreational harvest, hatchery strategies, habitat protection and restoration goals, monitoring of stock status and habitat health, evaluation of the effectiveness of specific conservation actions, and an adaptive management structure to implement and modify the plan's trajectory as time progresses. It also addresses improved enforcement of habitat and fishery regulations and strategies for outreach and education.

The LCSCI is currently a ''work-in-progress'' and will evolve and change over time as new information becomes available. Input will be obtained through continuing outreach efforts by local governments and other stakeholders. Further refinements to strategies, actions, and commitments will occur using public and stakeholder review and input and continued interaction with the State of Oregon, tribes, and other government entities, including NMFS. The LCSCI will be subjected to independent technical review. In sum, these input and coordination processes will play a key role in determining the extent to which the eventual conservation package will benefit naturally spawned salmonids.

NMFS intends to continue working with the State of Washington and stakeholders involved in the formulation of the LCSCI. Ultimately, when more fully developed and implemented, this conservation effort may ameliorate risks facing many salmonids in this region.

State of Oregon Conservation Measures

In April 1996, the Governor of Oregon completed and submitted to NMFS a comprehensive conservation plan directed specifically at coho salmon stocks on the coast of Oregon. This plan, termed the Oregon Plan for Salmon and Watersheds (OPSW) (formerly known as the Oregon Coastal Salmon Restoration Initiative) was later expanded to include conservation measures for coastal steelhead stocks (Oregon, 1998). For a detailed description of the OPSW, refer to the May 6, 1997, listing determination for Southern Oregon/Northern California coho salmon (62 FR 24602). The essential tenets of the OPSW include the following:

1. The OPSW is comprehensive, addressing many factors for decline of coastal coho salmon and steelhead, most notably, those factors relating to harvest, habitat, and hatchery activities.

2. Under the OPSW, all state agencies whose activities affect salmon are held accountable for coordinating their programs in a manner that conserves and restores the species and their habitat. This is essential since salmon and steelhead have been affected by the actions of many different state agencies.

3. The OPSW includes a framework for prioritizing conservation and restoration efforts.

4. The OPSW includes a comprehensive monitoring plan that coordinates Federal, state, and local efforts to improve our understanding of freshwater and marine conditions, determine populations trends, evaluate the effects of artificial propagation, and rate the OPSW's success in restoring the salmon.

5. The OPSW recognizes that actions to conserve and restore salmon must be worked out by communities and landowners—those who possess local knowledge of problems and those who

have a genuine stake in the outcome. Watershed councils, soil and water conservation districts, and other grassroots efforts are the vehicles for getting this work done.

6. The OPSW is based upon the principles of adaptive management. Through this process, there is an explicit mechanism for learning from experience, evaluating alternative approaches, and making needed changes in the programs and measures.

7. The OPSW includes an Independent Multi-disciplinary Science Team (IMST). The IMST's purpose is to provide an independent audit of the OPSW's strengths and weaknesses. They will aid the adaptive management process by compiling new information into a yearly review of goals, objectives, and strategies, and by recommending changes to the OPSW.

8. The OPSW requires that a yearly report be made to the Governor, the legislature, and the public. This will help the agencies make the adjustments described for the adaptive management process.

As with the State of Washington's LCSCI process discussed earlier, NMFS intends to continue working with the State of Oregon and stakeholders involved in the formulation of the OPSW. Ultimately, when more fully developed and implemented, this conservation effort may ameliorate risks facing cutthroat trout and the other salmonid species in this region.

State of California Conservation Measures

The July, 1997, Executive Order W–159–97 of the Governor of California created the Governor's Watershed Restoration and Protection Council (WPRC). The WPRC, chaired by the Secretary of Resources, is an umbrella body consisting of all state agencies that have programs addressing anadromous salmonid protection and restoration. Under State law, the WPRC is charged with (1) providing oversight of all state activities aimed at watershed protection and enhancement, including the conservation and restoration of anadromous salmonids in California; and (2) directing the development of a Watershed Protection Program that provides for anadromous salmonid conservation in the State. The WPRC has established a 12-member, multi-disciplinary science review panel to advise it in the development of the watershed protection program.

The WPRC is currently reviewing and evaluating existing statewide regulatory and non-regulatory programs protecting anadromous salmonids and their habitat, as well as state and local restoration program efforts that are ongoing or proposed. A compilation of management, implementation, and monitoring improvements that are necessary to protect and conserve anadromous salmonids and their habitat will be an important outcome of this comprehensive review. NMFS reviewed and commented on early work products generated by this review process and will continue to participate in the review and the development of the watershed protection program.

NMFS is encouraged by California initiation of a comprehensive, watershed-based approach to salmon management and restoration. However, the WPRC process is still in progress, and a Watershed Protection Program has yet to be developed. The 1998 Memorandum of Agreement (MOA) signed by NMFS, California's Secretary of Resources, and the Director of the California Department of Fish and Game (CDFG) (NMFS/California MOA, 1998) ensures that NMFS will substantively participate in the development of this program, including participation on the scientific review panel that will advise the WPRC in the development of the Program. An important focus of this scientific review panel will be an assessment of the adequacy of California's forest practice regulations, including their implementation and enforcement.

In 1997, the California State legislature enacted SB 271, which provides CDFG with $43 million over 6 years for habitat restoration and watershed planning in coastal watersheds. This new funding allows CDFG to significantly expand its existing habitat restoration program in coastal watersheds, including areas in Northern California. SB 271 requires that 87.5 percent of the $43 million in funding be spent on project grants for habitat restoration, watershed planning, and related programs, and permits CDFG to use the remainder for contract administration activities and biological support staff necessary to achieve the restoration objectives of the legislation. SB 271 also specifies that funded projects: (1) emphasize the development of coordinated watershed improvement activities; (2) give highest priority to funding projects that restore habitat for salmon and/or steelhead that are eligible for protection as listed or candidate species under the State or Federal ESA, (3) treat causes of fish habitat degradation; and (4) are designed to restore the structure and function of fish habitat. As part of this program, CDFG is funding $7.0 million per year in new projects for 5 years beginning in FY 1998–99 (starting July 1998). In addition, CDFG will use SB 271 funding to support several new permanent positions that will assist in administering the program and will provide technical support in the development of watershed plans and habitat restoration projects.

NMFS has reviewed the SB 271 program and concludes that its implementation will benefit salmonids, including cutthroat trout, by promoting the development of watershed protection plans and the restoration of degraded habitat conditions (NMFS, 1998c). The NMFS/California MOA provides additional assurances that the SB 271 program will provide these benefits. First, the MOA allows NMFS to serve as an ex-officio member of the Advisory Committee that will oversee implementation of SB 271, including the allocation of funds. Second, the MOA commits CDFG to direct a major portion of the new personnel and fiscal resources provided by SB 271 to watershed restoration efforts (NMFS/California MOA, 1998). Finally, the MOA establishes a close working relationship between the State and NMFS that should enable continued improvements in a variety of sectors affecting at-risk salmonids.

Proposed Status of Coastal Cutthroat Trout ESUs

Section 3 of the ESA defines the term ''endangered species'' as ''any species which is in danger of extinction throughout all or a significant portion of its range.'' The term ''threatened species'' is defined as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' Thompson (1991) suggested that conventional rules of thumb, analytical approaches, and simulations may all be useful in making this determination. In previous status reviews, NMFS identified a number of factors that should be considered in evaluating the level of risk faced by an ESU, including (1) absolute numbers of fish and their spatial and temporal distribution; (2) current abundance in relation to historical abundance and current carrying capacity of the habitat; (3) trends in abundance; (4) natural and human-influenced factors that cause variability in survival and abundance; (5) possible threats to genetic integrity (e.g., from strays or outplants from hatchery programs); (6) diversity of life-history forms; and (7) recent events (e.g., a drought or changes in harvest

management) that have predictable short-term consequences for abundance of the ESU.

During the coastwide status review for coastal cutthroat trout, NMFS evaluated both quantitative and qualitative information to determine whether any cutthroat trout ESUs are threatened or endangered according to the ESA. The types of information used in these assessments are described in NMFS' status review document (NMFS, 1998a). The following is a summary of NMFS' conclusions regarding the status of identified cutthroat trout ESUs.

(1) Puget Sound ESU

Few data exist concerning historical and present abundance of coastal cutthroat trout in the Puget Sound ESU region, and almost no estimates of adult population sizes existed for this ESU. The exceptions are a WDFW estimate of the 1997 spawning escapement in the Skagit River Basin of 13,000 fish, and counts of cutthroat adults at an upstream migrant trap designed to target coho salmon on the Deschutes River in southern Puget Sound (5-year geometric mean = 74 coastal cutthroat trout). Anecdotal reports suggest low abundance of coastal cutthroat trout in southwestern Puget Sound streams. In general, NMFS remains concerned with the lack of information regarding the distribution and abundance of coastal cutthroat trout throughout the Puget Sound region. However, some data indicate that juvenile coastal cutthroat trout are relatively well distributed in the Skagit and Stillaguamish River Basins and along the Strait of Juan de Fuca.

Few trend data are available for this ESU; these include downstream migrant counts from streams in eastern Hood Canal, the Skagit River Basin, and in southern Puget Sound (up to 1987 only); adult counts on the Deschutes River; and catch-per-unit effort (CPUE) data for adults over the past 2 to 7 years in three northern Puget Sound River Basins.

Trends in smolt numbers were mixed in both Hood Canal and southern Puget Sound. Unfortunately, no information exists regarding smolt-to-adult survival in this ESU, so interpretation of the significance of smolt trends for overall risk to these populations is difficult. Increases in coastal cutthroat trout smolt numbers in some eastern Hood Canal streams coincided with declines in coho salmon abundance. A negative correlation between the abundances of coastal cutthroat trout and coho salmon suggests that interspecific interactions between these two species may be reducing the abundance of coastal cutthroat trout in some streams. In those streams with reduced coho salmon numbers, it is possible that a relaxation of competition has occurred, allowing for an increase in coastal cutthroat trout abundance.

The CPUE data for the Stillaguamish and Snohomish River populations showed increasing trends; the Skagit River CPUE has been declining. However, the short time frames (2 to 7 years) over which these data have been collected, and the possibility that significant declines in abundance occurred before data collection began, limits the usefulness of these trends in assessing population status. In addition, WDFW biologists feel that the variation in the adults caught may be due, in part, to annual variation in fish sampling conditions.

In addition to information about population sizes and trends in abundance for coastal cutthroat trout in this ESU, NMFS considered another important risk factor—the potential loss of life-history diversity. In particular, the anadromous life-history type appears to be declining in some streams containing coastal cutthroat trout. However, NMFS concludes that risks to the integrity and long-term sustainability of the Puget Sound ESU due to loss of life-history diversity are relatively low compared to other coastal cutthroat trout ESUs, in which there are more streams with documented declines in anadromous life-history types.

The influence of hatchery coastal cutthroat trout in the Puget Sound ESU is probably relatively low compared to the impacts of hatchery fish on the productivity of other Pacific salmonids. For example, the proportion of hatchery fish caught in the recreational fisheries for coastal cutthroat trout in Hood Canal is low indicating hatchery fish do not occur at significant levels in this area. On the other hand, there are some hatchery-related threats to naturally spawned coastal cutthroat trout populations in this ESU. WDFW considers some of the northern Puget Sound coastal cutthroat trout populations to be of mixed origin, indicating that fish of non-native origin may have contributed to the genetic composition of those populations (WDFW, 1998). Production in most streams within the ESU is considered to be ''wild'' (i.e., naturally spawned) by WDFW, indicating that WDFW does not believe that hatchery fish contribute significantly to natural spawning escapements (WDFW, 1998).

Listing Determination

While in general, little information exists to assess the status of this ESU, NMFS concludes available scientific information indicates the Puget Sound ESU does not warrant listing. Population levels in this ESU appear relatively stable over the past 10 to 15 years, although many of these populations are believed to be smaller relative to historic levels. Implementation of the NFP has likely reduced habitat risks on Federal lands within this ESU, which constitute about 30 percent of the total land area. However, NMFS remains concerned with habitat conditions on non-Federal lands throughout this ESU, including highly urbanized areas in the City of Seattle.

(2) Olympic Peninsula ESU

NMFS possesses little information to estimate population abundances for coastal cutthroat trout in the Olympic Peninsula ESU. However, limited trapping data support the opinions of state and tribal fisheries biologists that juveniles in this ESU are well distributed in streams along the western Strait of Juan de Fuca and northern Washington coast. Further, available data suggest that some highly productive cutthroat trout streams exist in this geographic region. For example, smolt abundances in Dickey Lake are high relative to numbers of smolts in Puget Sound and Hood Canal streams. On the other hand, ongoing habitat destruction, primarily due to logging and its associated activities (e.g., road building and stream blockages by culverts), continue to be a source of risk to coastal cutthroat trout in many Olympic Peninsula streams.

The quantitative data available for the Olympic Peninsula ESU are counts of downstream migrants on Clearwater River tributaries (from 1981 to present), Dickey River (1992–1994), Hoko River (1986–1989), and in Salt Creek along the Strait of Juan de Fuca (1998). The trends among Clearwater tributaries were mixed, suggesting that some tributary streams are good producers, while others are declining in migrant production. The absolute numbers of outmigrants in all streams trapped were encouraging; however, NMFS did not weigh trends from the Hoko River heavily in its risk determinations because these data are not current. In addition, the Dickey River trends were based on only 3 years of trapping designed to estimate coho salmon production. It is difficult to interpret the outmigrant data, partly because smolt-to-adult survival estimates are lacking

and because declines in production may have occurred before data collection began in 1981. Given the continued demonstrations of consistent smolt production from outmigrant trapping, the general consensus among scientists is that coastal cutthroat trout are well represented in streams throughout the Olympic Peninsula.

NMFS judges that the risks to the Olympic Peninsula ESU from losses of life-history diversity are lower than those for any other coastal cutthroat trout ESU. Risks associated with hatchery coastal cutthroat trout are probably low in this ESU. However, hatchery releases of coho salmon fry occur in some areas on the Olympic Peninsula, which may result in increased stress on coastal cutthroat trout due to elevated levels of interspecific competition relative to what occurs naturally.

Listing Determination

NMFS concludes the Olympic Peninsula ESU does not warrant listing at this time. However, BRT scientists were highly uncertain about their risk assessment due to the lack of quantitative data for this ESU. NMFS believes that there is adequate productive cutthroat trout habitat to support this ESU; however, data are not available to confirm such a conclusion. Consistent smolt production in the Dickey River and the general consensus among scientists that coastal cutthroat trout are well distributed in streams throughout the Olympic Peninsula support this conclusion. Implementation of the NFP has likely reduced risks associated with habitat quality and quantity on Federal lands, which constitute about 38 percent of the land area within this ESU.

(3) Southwestern Washington/Columbia River ESU

According to WDFW, the southwestern Washington-lower Columbia River region historically supported healthy, highly productive coastal cutthroat trout populations. Coastal cutthroat trout, especially the freshwater forms, may still be well distributed in most river basins in this geographic region, although probably in lower numbers relative to historical population sizes. However, severe habitat degradation throughout the lower Columbia River area has contributed to dramatic declines in anadromous coastal cutthroat trout populations and two near extinctions of anadromous runs in the Hood and Sandy Rivers. NMFS remains concerned about the extremely low population sizes of anadromous coastal cutthroat trout in lower Columbia River streams, indicated by low incidental catch of coastal cutthroat trout in salmon and steelhead recreational fisheries, and by low trap counts in a number of tributaries throughout the region. Although efficiencies for these traps in catching coastal cutthroat trout are not known, numbers of adults returning to traps have been consistently below 10 fish in most streams included in this ESU over each of the past 6 years. In contrast, NMFS believes that, even though information on the distribution of freshwater forms of coastal cutthroat trout in this region was mostly anecdotal, it probably was an accurate reflection of their widespread occurrence in streams throughout the region.

Trends in anadromous adults and outmigrating smolts in the southwestern Washington portion of this ESU are all declining. NMFS is aware that WDFW considers streams in this region to have a relatively good coastal cutthroat trout habitat; however, available data do not support the idea that the anadromous coastal cutthroat trout in this area are at low risk. Returns of both naturally and hatchery produced anadromous coastal cutthroat trout in almost all lower Columbia River streams have declined markedly over the last 10 to 15 years. Indeed, the only anadromous coastal cutthroat trout population in the lower Columbia River to show increases in abundance over the last 10 years is the North Fork Toutle River population, which is thought to be recovering from the effects of the Mt. Saint Helens eruption in 1980. Despite its increasing trend, WDFW states that its population numbers are still critically low (approximately 100 total adults in run).

A significant risk factor for coastal cutthroat trout in this ESU is the reduction in life-history diversity. Serious declines in the anadromous form have occurred throughout the lower Columbia River, and it has been nearly extirpated in at least two rivers on the Oregon side of the basin. Available information suggests that, in many streams, the freshwater forms of coastal cutthroat trout are well distributed and occur in relatively high abundance in comparison to the anadromous coastal cutthroat trout in the same stream. ODFW and WDFW presented evidence that freshwater coastal cutthroat trout can produce smolts that migrate to saltwater. Although this possibility could act to mitigate risks to anadromous forms of coastal cutthroat trout, the observation that sea-run cutthroat trout population sizes have remained consistently low in many areas is a cause for concern. Reduced abundance of anadromous fish will tend to restrict connectivity of populations in different watersheds, which can increase genetic and demographic risks.

In summary, even if freshwater forms of coastal cutthroat trout have been producing occasional smolts, this production has not resulted in demonstrably successful re-establishment of anadromous forms. Habitat degradation in stream reaches accessible to anadromous coastal cutthroat trout, and poor ocean and estuarine conditions, likely have combined to severely deplete this life-history form throughout the lower Columbia River Basin. Without the appropriate freshwater and estuarine habitat for the expression of anadromous life history, a greater risk of extinction may occur. The significance of this reduction in life-history diversity to the both the integrity and the likelihood of this ESU's long-term persistence is a major concern to NMFS.

Negative effects of hatchery coastal cutthroat trout may be contributing to the risks facing naturally spawned coastal cutthroat trout in this ESU. The lower Columbia River tributaries are the only streams in Washington still receiving hatchery-origin coastal cutthroat trout, although the total numbers of released hatchery fish have recently been substantially curtailed. In the early 1980s, an estimated 50 to 80 percent of the recreational catch for coastal cutthroat trout in the lower Columbia River was composed of hatchery fish. Biologists familiar with coastal cutthroat trout feel that recreational catch data reflect true trends in coastal cutthroat trout abundance (Hooton, 1997). Furthermore, the largest returns of coastal cutthroat trout in this region are to the Cowlitz River Basin, and existing information is consistent with the interpretation that a significant proportion of those fish are of hatchery origin (WDFW, 1998). The ultimate effects of hatchery fish depend on the relative sizes of hatchery and naturally spawned populations, the spatial and temporal overlap of hatchery and naturally spawned fish throughout their life cycles, and the actual extent to which hatchery fish spawn naturally and interbreed with naturally produced fish. In addition, the extent to which naturally spawned coastal cutthroat trout are incidentally harvested in fisheries targeting hatchery coastal cutthroat trout and other salmonids of hatchery origin also affects the

magnitude of the risks to coastal cutthroat trout from hatchery fish.

Listing Determination

NMFS concludes the Southwestern Washington/Columbia River ESU warrants listing as a threatened species. The degree of scientific certainty in this conclusion is somewhat higher than that for the other cutthroat trout ESUs. NMFS is particularly concerned about the widespread declines in abundance and the small population sizes of anadromous cutthroat trout throughout the lower Columbia River, as exemplified by near extinctions of anadromous cutthroat trout runs in the Hood and Sandy rivers. The severe reductions in abundance of this life-history form could have deleterious effects on the ability of this ESU to recover from widespread declines. Reductions in the quantity and quality of estuarine and riverine habitat have probably contributed to declines, but the relative importance of these risk factors is not well understood. However, NMFS is encouraged by recent steps taken by the States of Washington and Oregon to reduce mortality due to directed and incidental harvest of coastal cutthroat trout. Also, the apparent widespread distribution of non-migratory cutthroat trout in this ESU may help buffer extinction risks to some degree.

Recent conservation planning efforts by the States of Washington and Oregon may reduce risks faced by cutthroat trout in this ESU; however, these efforts are still in their formative stages. Specifically, the State of Washington's LCSCI is still in a developmental stage, and various technical and financial aspects of the plan need to be addressed. Furthermore, this effort is currently limited to lower Columbia River areas. The OPSW, while substantially implemented and funded on the Oregon Coast, has not yet reached a similar level of development in inland areas. Implementation of the NFP has likely reduced habitat risks on Federal lands, which constitute about 20 percent of the land area within this ESU.

(4) Upper Willamette River ESU

The conservation status of this ESU was not formally evaluated by NMFS. As stated earlier, the Services concluded that FWS retained ESA jurisdiction for cutthroat trout populations occurring above Willamette Falls. The conservation status of this ESU will be evaluated by FWS.

(5) Oregon Coast ESU

Coastal cutthroat trout in the Oregon coastal region occur mostly in small populations that are relatively well distributed. Most of the abundance information considered by NMFS for this ESU consists of juvenile and smolt abundance information, with the prominent exception of the adult counts at Winchester Dam on the North Umpqua River. In general, NMFS is encouraged by the number of juveniles in coastal streams with relatively large basins. Since the available data covers only the last 2 years, the accuracy in which these juvenile counts translate into adult abundances or longer-term population trends is uncertain. The estimated pre-1970s abundance of anadromous coastal cutthroat trout in the largest river basin contained within this ESU, the Umpqua River, is 30,000 adults. A recent estimate of total run size, based on expansions of observed numbers of adults from snorkel surveys, is similar. (However, NMFS remains concerned about the assumptions underlying expansion methods using snorkel survey data for the freshwater forms of coastal cutthroat trout in the Umpqua Basin.)

Conflicting information about the abundance and distribution of coastal cutthroat trout in the South Umpqua River Basin suggest that there is insufficient information to reliably determine the status of coastal cutthroat trout in that drainage. The number of adults returning to the North Umpqua River has been critically low in recent years (5-year geometric mean = 18 fish), although for the past 3 years, 79, 81, and 110 (through October, 1998) adult coastal cutthroat trout have been counted at Winchester Dam.

Smolt production in two small drainages (Cummins and Tenmile Creeks) in central Oregon shows an increasing trend over the past 7 years. However, the percentage of repeat spawners has declined in both drainages relative to estimates in the early 1970s. All other streams on the Oregon coast for which data are available are experiencing moderate declines in adults and juveniles. In some areas, declines may have occurred primarily in anadromous coastal cutthroat trout populations. For example, in the Alsea and Siuslaw River Basins, declines in anadromous runs have occurred as indicated by recreational catch data, but ODFW believes there is no evidence for similar declines in the freshwater forms of coastal cutthroat trout in those same basins.

NMFS remains concerned about reductions in anadromous life-history forms throughout this ESU. Available information indicates that sea-run cutthroat trout are suffering more serious declines than are freshwater forms along Oregon coastal streams. ODFW suggests that these freshwater forms may be producing smolts in several coastal streams. However, NMFS does not have the estimates of adult anadromous coastal cutthroat trout in those streams, so it is difficult to evaluate the possibility that freshwater forms could buffer anadromous forms from further declines.

Risks due to interactions with hatchery coastal cutthroat trout are probably moderately low in this ESU. Nevertheless, the widespread releases of Alsea River Hatchery broodstock in Oregon coastal streams have stopped only relatively recently. Genetic samples indicate that hatchery coastal cutthroat trout from the Alsea River broodstock have influenced the genetic composition of several coastal cutthroat trout populations in the Coquille River drainage. Hybrids between coastal cutthroat trout and steelhead/rainbow trout were detected in genetic samples from the Coquille River Basin and a few other streams in this ESU. As discussed earlier, some degree of hybridization between *O. mykiss* and coastal cutthroat trout may occur naturally without the direct influence of hatchery-origin fish.

Listing Determination

NMFS concludes that the Oregon Coast coastal cutthroat trout ESU does not warrant listing at this time but considers it a candidate for future listing. The BRT scientists were evenly split as to whether this ESU faced risk of endangerment. NMFS remains concerned with habitat degradation in this region, and the overall scarcity of abundance information for major drainages limited NMFS' efforts to conduct a risk evaluation.

Hatchery records indicate that the Alsea River coastal cutthroat trout stock was widely released in streams throughout the Oregon coastal region. Recent reductions in releases of hatchery-origin cutthroat trout and coho salmon fry, coupled with a statewide catch-and-release recreational fishery policy for naturally spawned coastal cutthroat trout, may reduce risks associated with these factors. NMFS notes that reduced nearshore ocean habitat quality is likely a significant threat to cutthroat trout in this region, but quantifying those effects on cutthroat trout abundance is difficult. Finally, NMFS remains concerned about

incidental mortality of coastal cutthroat trout in this ESU due to fishing pressure on Pacific salmonids. Recent changes in ODFW's harvest regulations may mitigate this concern to some degree.

Recently implemented state conservation efforts have likely reduced the degree of risk facing this species. Furthermore, implementation of the NFP has likely reduced habitat risks on Federal lands within this ESU, which constitute about 35 percent of the land area. However, NMFS remains concerned about the overall lack of abundance and trend information for this ESU, as evidenced by its scientists' level of uncertainty regarding the status of this ESU. An additional concern for this ESU is increased fragmentation of populations due to the loss of anadromous fish, which can increase genetic and demographic risks. NMFS believes additional monitoring of this ESU is necessary before it is eliminated from ESA consideration. Therefore, NMFS concludes that this ESU warrants classification as a candidate species. NMFS will revisit the status of this ESU within the next 4 years to determine whether ESA protection is warranted.

(6) Southern Oregon/California Coasts ESU

Coastal cutthroat trout in this ESU appear widely distributed in many small populations. Two possible exceptions are populations in the Rogue and Smith River Basins where the abundance of coastal cutthroat trout may be comparatively high. Smolt abundance in Lobster Creek, a Rogue River tributary, was estimated to be over 800 fish in 1998. In addition, fishery biologists familiar with the Rogue River Basin feel that it supports many well-distributed coastal cutthroat trout populations. Historical estimates indicated that the sea-run cutthroat trout population size in the Smith River Basin was 8,500 fish. Expansion estimates of fish greater than 25 cm in the three major forks of the Smith River indicate that each fork supports at least 300 coastal cutthroat trout. In addition, Mill Creek, one of the most productive coastal cutthroat trout tributaries in the Smith River Basin, has had between 1,000 and 4,000 outmigrating smolts over each of the past 4 years. Again, lack of information on smolt-to-adult survival and trap efficiencies makes interpreting smolt abundance estimates in the Rogue and Smith River Basins difficult. Population sizes are thought to be relatively small in other streams throughout this region, partly because it is the southern limit of this subspecies.

NMFS believes that severe habitat degradation has occurred in this region primarily due to activities associated with agriculture, flood control, logging, road construction, and some local development, which have contributed to a reduction in habitat capacity relative to historical levels. In addition, seasonal dewatering of stream mouths occurs naturally in northern California, resulting in sporadic blockages of access to the sea for anadromous fish in some streams. Also, large water withdrawals in several of the larger coastal river basins (e.g., Rogue, Klamath/Trinity, and Eel Rivers) and several of the smaller coastal rivers have reduced the quantity and quality of the remaining riverine and estuarine environments in this ESU.

Biologists familiar with this region believe, and anecdotal evidence suggests, that major declines in coastal cutthroat trout populations have occurred since historical times and that some populations appear to have been relatively stable or increasing in size since that time. The data available to NMFS indicate increasing short-term trends in smolt abundance in Mill Creek and increasing short-term trends in adult abundance in the lower Klamath River tributaries and its estuary and in the Smith River Basin. Exceptions include recent declines in the incidence of coastal cutthroat trout in Redwood Creek.

Risks due to interactions with hatchery coastal cutthroat trout are probably low in this ESU. Other risks NMFS notes for coastal cutthroat trout in this region are possible deleterious interactions with naturally occurring or hatchery-derived coho salmon and steelhead in Oregon and incidental catch of coastal cutthroat trout in sport fisheries targeting steelhead and coho salmon. NMFS is encouraged by recent changes in harvest regulations in both Oregon and California aimed at reducing risks to natural trout from direct and indirect harvest mortality.

Listing Determination

NMFS concludes the Southern Oregon/California Coasts ESU does not warrant listing at this time. Although the majority of the BRT scientists concluded this ESU does not warrant listing, these scientists were uncertain regarding this conclusion. As with many other ESUs for coastal cutthroat trout, NMFS is hindered in its assessment by the scarcity of abundance information for this ESU. However, continuing threats to the quality of freshwater and estuarine habitat for cutthroat trout in this region are sources of concern.

NMFS believes that existing conservation efforts implemented by the States of Oregon and California have likely reduced threats to this species. For example, recent harvest regulations aimed at reducing risks to natural trout from direct and indirect harvest mortality have likely reduced risks to coastal cutthroat trout. NMFS also believes that biological risks associated with habitat modification and degradation on Federal lands have declined in recent years with the implementation of the NFP, coupled with the consultation requirements associated with the listing of coho salmon as a threatened species in this region in 1997. Although NMFS remains concerned about habitat conditions on non-federal lands in this ESU, the majority of habitat in this area (about 53 percent) is under Federal management.

Proposed Determination

Based on NMFS' assessment of available scientific and commercial information obtained during the coast wide status review of coastal cutthroat trout, the Services are issuing a proposed determination that Southwestern Washington/Columbia River cutthroat trout (*O. clarki clarki*) constitute a ''species'' under the ESA and should be listed as threatened. The listed ESU for Southwestern Washington/Columbia River cutthroat trout is defined as all naturally spawned population(s) of coastal cutthroat trout in the Columbia River and its tributaries downstream from the Klickitat River in Washington and Fifteenmile Creek in Oregon (inclusive) as well as those in the Willamette River and its tributaries downstream from Willamette Falls. The ESU also includes cutthroat trout in Washington coastal drainages between the Columbia River and Grays Harbor (inclusive). The natural population consists of all fish that are progeny of naturally spawning fish residing below long-term, natural barriers (i.e., waterfalls in existence for hundreds or thousands of years). The offspring of all fish taken from the natural population after the date of listing are also part of the listed ESU.

NMFS concludes that the current Umpqua River cutthroat trout ESU, previously listed as an endangered species in 1996 (61 FR 41541, August 9, 1996; 61 FR 48412, September 13, 1996), is part of the larger Oregon Coast coastal cutthroat trout ESU that extends from the mouth of the Columbia River south to Cape Blanco, Oregon. NMFS concludes that the best available scientific information indicates the Oregon Coast ESU does not warrant

listing at this time. Therefore, through this notification, the Services propose to revise the Umpqua River cutthroat trout ESU and include it in the larger Oregon Coast ESU. This proposed revision results in a proposed delisting of the Umpqua River cutthroat trout ESU.

Prohibitions and Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. Section 9 prohibitions apply automatically to endangered species as described in the following discussion; this is not the case for threatened species.

Section 4(d) of the ESA directs the Secretaries to implement regulations ''to provide for the conservation of [threatened] species,'' that may include extending any or all of the prohibitions of section 9 to threatened species. Section 9(a)(1)(g) also prohibits violations of protective regulations for threatened species implemented under section 4(d). Therefore, in the case of threatened species, the Services have discretion under section 4(d) to adopt protective regulations based in part on the contents of available conservation measures. NMFS has already adopted 4(d) rules that except a limited range of activities from section 9 take prohibitions. For example, the interim 4(d) rule for Southern Oregon/Northern California coho salmon (62 FR 38479, July 18, 1997) excepts habitat restoration activities conducted in accordance with approved plans and fisheries conducted in accordance with approved state management plans. In appropriate cases, 4(d) rules could contain a broader range of exceptions for activities such as forestry, agriculture, and road construction when such activities are conducted in accordance with approved state or tribal plans.

These examples show that NMFS may apply section 9 prohibitions narrowly if there are strong protections provided in a state or tribal plan. There may be other circumstances as well in which NMFS would use the flexibility of section 4(d). For example, in some cases there may be a healthy population of salmon or coastal cutthroat trout within an overall ESU that is listed. In such a case, it may not be necessary to apply the full range of prohibitions available in section 9. The Services intend to use the flexibility of the ESA to respond appropriately to the biological condition of the proposed ESU and the populations within it and to the strength of state and tribal plans in place to protect them. Therefore, after further analysis, NMFS and/or the FWS will issue protective regulations pursuant to section 4(d) for the Southwestern Washington/Columbia River coastal cutthroat trout ESU.

Section 7(a)(4) of the ESA requires that Federal agencies confer with us on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions likely to result in the destruction or adverse modification of proposed critical habitat. Federal agencies should confer with NMFS on the proposed Southwestern Washington/Columbia River coastal cutthroat trout ESU. For listed species, section 7(a)(2) requires Federal agencies to ensure that the activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the appropriate Service.

Examples of Federal actions likely to affect coastal cutthroat trout in the proposed ESU include authorized land management activities of the U.S. Forest Service and U.S. Bureau of Land Management, as well as operation of hydroelectric and storage projects of the Bureau of Reclamation and the COE. Such activities include timber sales and harvest, hydroelectric power generation, and flood control. Federal actions, including the COE section 404 permitting activities under the CWA, COE permitting activities under the River and Harbors Act, National Pollutant Discharge Elimination System permits issued by the EPA, highway projects authorized by the Federal Highway Administration, Federal Energy Regulatory Commission licenses for non-federal development and operation of hydropower, and Federal salmon hatcheries, may also require consultation. These actions will likely be subject to ESA section 7 consultation requirements that may result in conditions designed to achieve the intended purpose of the project and avoid or reduce impacts to coastal cutthroat trout and its habitat within the range of the proposed ESU.

Sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA provide us with the authority to grant exceptions to the ESA's ''taking'' prohibitions (see regulations to be codified at 50 CFR 222.301 through 222.308 for NMFS, 64 FR 14051 through 14066, and 50 CFR 17.22 and 17.32 for FWS). Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) conducting research that involves a directed take of listed species.

NMFS has issued section 10(a)(1)(A) research or enhancement permits for other listed species (e.g., Snake River chinook salmon and Sacramento River winter-run chinook salmon) for a number of activities, including trapping and tagging, electroshocking to determine population presence and abundance, removing fish from irrigation ditches, and collecting adult fish for artificial propagation programs. These and other research efforts could provide critical information regarding cutthroat trout distribution and population abundance.

We can issue section 10(a)(1)(B) incidental take permits to non-federal entities performing activities that may incidentally take listed species. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include the operation and release of artificially propagated fish by state or privately operated and funded hatcheries, state or university research on listed species not receiving Federal authorization or funding, the implementation of state fishing regulations, and timber harvest activities on non-Federal lands.

Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the ESA include recognition, recovery actions, Federal agency consultation requirements, and prohibitions on taking. Recognition through listing promotes public awareness and conservation actions by Federal, state, and local agencies, private organizations, and individuals.

Several conservation efforts are underway that may help reverse the decline of coastal cutthroat trout and other salmonids. These include the NFP (on Federal lands within the range of the northern spotted owl), Oregon's OPSW, Washington's LCSCI, and California's WPRC and SB 271 programs. We are encouraged by these efforts and believe they constitute significant strides in the region's endeavor to develop a scientifically well grounded conservation plan for these stocks. Other efforts, such as the Willamette River Conservation Planning process, are at various stages of development, but show promise to ameliorate risks facing coastal cutthroat trout. We intend to support and work closely with these efforts—staff and resources permitting—in the belief that

they can play an important role in the recovery planning process.

Based on information presented in this proposed rule, general conservation measures that could be implemented to help conserve coastal cutthroat trout are listed here. This list is not exhaustive and does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA.

1. Measures could be taken to promote land management practices that protect and restore cutthroat trout habitat. Land management practices affecting cutthroat trout habitat include timber harvest, road building, agriculture, livestock grazing, gravel mining, and urban development.

2. Evaluation of existing harvest regulations could identify any changes necessary to protect cutthroat trout populations.

3. Artificial propagation programs could be required to incorporate practices that minimize impacts upon natural populations of cutthroat trout.

4. Efforts could be made to ensure that existing and proposed dam facilities are designed and operated in a manner that lessens adverse effects on cutthroat trout populations.

5. Water diversions could have adequate headgate and staff gauge structures installed to control and monitor water usage accurately. Water rights could be enforced to prevent irrigators from exceeding the amount of water to which they are legally entitled. As necessary, instream flow studies could be conducted, and existing water rights re-adjudicated as necessary to ensure adequate instream flows to support cutthroat trout.

6. Irrigation diversions affecting downstream migrating cutthroat trout could be screened according to appropriate anadromous fish screen criteria. A thorough review of the impact of irrigation diversions on cutthroat trout could be conducted.

We recognize that, to be successful, protective regulations and recovery programs for cutthroat trout will need to be developed in the context of conserving aquatic ecosystem health. We intend that Federal lands and Federal activities play a primary role in preserving listed populations and the ecosystems upon which they depend. However, throughout the range of the ESU proposed for listing, cutthroat trout habitat occurs and can be affected by activities on state, tribal, or private land. Agricultural, timber, and urban land management activities on non-federal land could and should be conducted in a manner that minimizes adverse effects to cutthroat trout habitat.

We encourage non-Federal landowners to assess the impacts of their actions on potentially threatened or endangered salmonids. In particular, we encourage the establishment of watershed partnerships to promote conservation in accordance with ecosystem principles. These partnerships will be successful only if state, tribal, local governments, landowner representatives, and Federal and non-Federal biologists all participate and share the goal of restoring cutthroat trout to the watersheds.

Critical Habitat Determination

Critical habitat is defined in section 3 of the ESA as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, the Services designate critical habitat concurrently with a determination that a species is endangered or threatened. Our regulations (50 CFR 424.12(a)) state that critical habitat is not determinable if information sufficient to perform required analysis of the impacts of designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the ESA requires us to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretaries may exclude any area from critical habitat if they determine that the economic benefits of such exclusion outweigh the conservation benefits, unless to do such would result in the extinction of the species. When a ''not determinable'' finding is made, we must, within 2 years of the publication date of the original proposed rule, designate critical habitat, unless designation is found to be not prudent.

Prior to proposing critical habitat for this species, the Services must identify geographic areas occupied by the species, as well as areas outside the current species range, which contain important physical or biological features essential for the conservation and recovery of the species, and must consider the economic and other impacts of designating critical habitat. Given this species' complex life history and the high degree of scientific uncertainty associated with it, NMFS has not yet had time to complete analyses necessary for designating critical habitat. Further, due to statutory time limitations, NMFS has not yet consulted with affected Indian tribes regarding the designation of critical habitat in areas that may impact tribal trust resources, tribally-owned fee lands, or the exercise of tribal rights. Such consultation is required by the recently implemented Secretarial Order entitled ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act.''

Given these remaining unresolved scientific and tribal issues, the Services find that critical habitat is not now determinable for the proposed ESU. During the comment period for this listing proposal, the Services also seek additional agency and public input on critical habitat, along with information on the proposed listing. We will use this and other information in formulating a determination on critical habitat for the Southwestern Washington/Columbia River ESU. The Services will also engage in government-to-government consultations with affected Indian tribes as required by the Secretarial Order.

NMFS Policies on Endangered and Threatened Fish and Wildlife

On July 1, 1994, the Services published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270) and a policy to identify, to the maximum extent possible, those activities that would or would not constitute a violation of section 9 of the ESA (59 FR 34272).

Role of Peer Review

The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. Prior to a final listing, NMFS will solicit the expert opinions of three qualified specialists, concurrent with the public comment period. Independent peer reviewers will be selected from the academic and scientific community, tribal and other

Native American groups, Federal and state agencies, and the private sector.

Identification of Those Activities That Would Constitute a Violation of Section 9 of the ESA

The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the range of coastal cutthroat trout. NMFS or the FWS will publish a proposed 4(d) rule in the future applying section 9 prohibitions and exceptions. However, to provide guidance prior to publication of this proposed rule, the following is a list of actions NMFS believes will not result in a violation of section 9:

(1) Possession of cutthroat trout acquired lawfully by permit issued by the appropriate Service pursuant to section 10 of the ESA, or by the terms of an incidental take statement pursuant to section 7 of the ESA.

(2) Federally approved projects that involve activities such as silviculture, grazing, mining, road construction, dam construction and operation, discharge of fill material, stream channelization or diversion for which consultation has been completed, and when such activity is conducted in accordance with any terms and conditions given by NMFS or the FWS in an incidental take statement accompanied by a biological opinion.

Activities that NMFS believes could potentially harm the cutthroat trout and result in ''take'', include, but are not limited to:

(1) Unauthorized collecting or handling of the species. Permits to conduct these activities are available for purposes of scientific research or to enhance the propagation or survival of the species.

(2) Unauthorized destruction/alteration of the species' habitat such as removal of large woody debris or riparian shade canopy, dredging, discharge of fill material, draining, ditching, diverting, blocking, or altering stream channels or surface or ground water flow.

(3) Discharges or dumping of toxic chemicals or other pollutants (i.e., sewage, oil, and gasoline) into waters or riparian areas supporting the species.

(4) Violation of discharge permits.

(5) Interstate and foreign commerce (commerce across state lines and international boundaries) and import/export without prior obtainment of an endangered species permit.

This list is not exhaustive; rather, it is provided to give you some examples of activities that may be considered by NMFS as constituting a ''take'' of coastal cutthroat trout under the ESA and associated regulations. Questions regarding whether specific activities constitute a violation of section 9 and general inquiries regarding prohibitions and permits, should be directed to NMFS (see **ADDRESSES**).

Public Comments Solicited

To ensure that the final action resulting from this proposal will be as accurate and effective as possible, we are soliciting comments and suggestions from the public, other governmental agencies, the scientific community, industry, and any other interested parties. We will hold public hearings in the areas affected by this proposal; details regarding locations, dates, and times will be published in a forthcoming **Federal Register** notification. We recognize that there are serious limits to the quality of information available, and, therefore, NMFS has executed its best professional judgement in developing this proposal. We request additional information regarding coastal cutthroat trout, in particular: (1) Biological or other relevant data concerning any threat to cutthroat trout; (2) the range, distribution, and population size of coastal cutthroat trout in the proposed and candidate ESUs; (3) current or planned activities in the subject areas and their possible impact on the proposed and candidate species; (4) cutthroat trout escapement, particularly escapement data partitioned into natural and hatchery components; (5) the proportion of naturally reproducing fish that were reared as juveniles in a hatchery; (6) homing and straying of natural and hatchery fish; (7) the reproductive success of naturally reproducing hatchery fish (i.e., hatchery-produced fish that spawn in natural habitat) and their relationship to the proposed and candidate ESUs; and (8) efforts being made to protect native, naturally reproducing populations of coastal cutthroat trout in Washington, Oregon, and California.

We also request quantitative evaluations describing the quality and extent of freshwater and marine habitats for juvenile and adult cutthroat trout as well as information on areas that may qualify as critical habitat in Washington and Oregon. Areas that include the physical and biological features essential to the recovery of the species should be identified. We recognize there are areas within the proposed boundaries of these ESUs that historically constituted cutthroat trout habitat, but that may not be currently occupied by cutthroat trout. We request information about cutthroat trout in these currently unoccupied areas and whether these habitats should be considered essential to the recovery of the species or excluded from designation. Essential features include, but are not limited to (1) habitat for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of the species.

For areas potentially qualifying as critical habitat, we request information describing (1) the activities that affect the area or could be affected by the designation, and (2) the economic costs and benefits of additional requirements of management measures likely to result from the designation.

We will consider all public comments and additional information regarding the status and critical habitat of the cutthroat trout ESUs prior to issuing a final determination. The availability of new information may cause us to reassess the status of cutthroat trout ESUs in the final determination.

Public Hearings

Joint Commerce-Interior ESA implementing regulations require us to promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list a species or to designate critical habitat (see 50 CFR 424.16(c)(3)). In a forthcoming **Federal Register** notification, we will announce the dates and locations of public hearings on this proposed rule to provide the opportunity for the public to give comments and to permit an exchange of information and opinion among interested parties. We encourage the public's involvement in such ESA matters.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**).

Classification

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F.2d 825 (6th Cir. 1981), NMFS categorically excludes all ESA listing actions from

environmental assessment requirements of the National Environmental Policy Act (NEPA) under NOAA Administrative Order 216–6. FWS also determined that an environmental assessment need not be prepared in connection with regulations adopted pursuant to section 4 of the ESA and published a notice in the **Federal Register** on October 25, 1983 (48 FR 49244), outlining its reasons.

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered in determinations regarding the status of species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act (RFA) are not applicable to the listing process. In addition, this proposed rule is exempt from review under E.O. 12866.

At this time we are not proposing protective regulations pursuant to ESA section 4(d). In the future, prior to finalizing its 4(d) regulations for the threatened ESU, we will comply with all relevant NEPA and RFA requirements.

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

List of Subjects

50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

50 CFR Part 223

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

50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

50 CFR Part 226

Endangered and threatened species.

For the reasons set out in the preamble, 50 CFR parts 17, 223, 224, and 226 are proposed to be amended as follows:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following in alphabetical order under ''Fishes'', to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Trout, coastal cutthroat.	Oncorhynchus clarki clarki.	U.S.A. (AK, CA, OR, WA) Canada.	Southwestern WA/Columbia R.—(USA—OR, WA)—naturally spawning populations (and their progeny) below natural barriers in Columbia R. and its tributaries downstream from Klickitat R. (WA) and Fifteenmile Cr. (OR), inclusive, including Willamette R. downstream from Willamette Falls, and in coastal drainages between Columbia R. and Grays Harbor (WA), inclusive.	T	.....	NA	NA
*	*	*	*	*	*	*	

3. Amend § 17.11(h) by removing the entry for ''Trout, Umpqua River cutthroat'' under ''Fishes'' from the List of Endangered and Threatened Wildlife.

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

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

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

5. In § 223.102, paragraph (a)(20) is added to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(a) * * *

(20) Southwestern Washington/Columbia River coastal cutthroat trout (*Oncorhynchus clarki clarki*). Includes all naturally spawned populations of coastal cutthroat trout (and their progeny) residing below long-standing, naturally impassable barriers in the Columbia River and its tributaries downstream from the Klickitat River in Washington and Fifteenmile Creek in Oregon (inclusive), including the Willamette River and its tributaries downstream from Willamette Falls, as well as those populations in Washington coastal drainages from the Columbia River to Grays Harbor (inclusive).

* * * * *

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

6. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

§ 224.101 [Amended]

7. In § 224.101, in paragraph (a), remove the words ''Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*)''.

PART 226—DESIGNATED CRITICAL HABITAT

8. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

§ 226.206 [Removed]

9. Section 226.206 is removed.

§§ 226.207 through 226.209 [Redesignated as §§ 226.206 through 226.208]

10. Sections 226.207 through 226.209 are redesignated as §§ 226.206 through 226.208, respectively.

Table 4 to part 226 [Removed]

11. Table 4 to part 226 is removed.

Dated: March 29, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

Dated: March 22, 1999.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 99–8195 Filed 4–2–99; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 981228324–8324–01; I.D. 121697A]

RIN 0648–AJ70

Magnuson-Stevens Fishery Conservation and Management Act; Amendment of Foreign Fishing Regulations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend the foreign fishing regulations to provide for the issuance of certain transshipment permits under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act (SFA). NMFS also proposes to make additional minor changes in the foreign fishing regulations to update permit application and issuance procedures applicable to all types of foreign fishing permits issued under the Magnuson-Stevens Act. These proposed actions are necessary to maintain the foreign fishing regulations in a current and complete manner.

DATES: Comments must be received on or before May 5, 1999.

ADDRESSES: Send comments to Gary C. Matlock, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, 301–713–2276.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 600, subpart F, govern foreign fishing under the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Among other things, the regulations establish procedures for permit application and issuance under section 204(b) of the Magnuson-Stevens Act. Under these regulations, foreign fishing vessels may be permitted to fish in the U.S. Exclusive Economic Zone (EEZ). Until the SFA (Pub. L. 104–297) established section 204(d) of the Magnuson-Stevens Act, all foreign fishing applications were submitted under section 204(b) of the Magnuson-Stevens Act.

Section 204(d) of the Magnuson-Stevens Act authorizes the Assistant Administrator for Fisheries (AA) to issue transshipment permits authorizing foreign vessels to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the EEZ or, with the concurrence of a state, within the boundaries of that state, to a point outside the United States. Issuance of a permit to a foreign vessel to receive fish or fish products at sea within the boundaries of a state is subject to certain conditions and restrictions and contingent upon the concurrence of the involved state. Until section 204(d) was added to the Magnuson-Stevens Act, transshipments of this nature at points at sea within the boundaries of a state were prohibited.

For consistency of process with permits issued under section 204(b) of the Magnuson-Stevens Act, NMFS proposes to make minor changes in the regulations at 50 CFR part 600, subpart F, to accommodate applications submitted under section 204(d) of the Magnuson-Stevens Act and to provide for the issuance of permits under section 204(d).

NMFS proposes to amend § 600.501(d) to provide that application forms for permits issued under section 204(d) be available from NMFS, and submitted to the AA. NMFS proposes that the application fee submitted for a permit under section 204(d) of the Magnuson-Stevens Act be the same as for applications submitted under section 204(b) of the Magnuson-Stevens Act. Currently this fee amount is $354.00 per vessel. This fee was determined in accordance with the procedures for determining administrative costs of each special product or service contained in the NOAA Finance Handbook. However, in accordance with section 204(d)(7) of the Magnuson-Stevens Act, this fee will be waived for applications under section 204(d) of the Magnuson-Stevens Act if the applicant provides satisfactory documentation to the AA indicating that the foreign nation under which the applicant vessel is registered does not collect a fee from vessels of the United States engaged in similar activities in the waters of such foreign nation. NMFS proposes that the documentation presented (e.g., copy of foreign fishing regulations applicable to vessels of the United States) must clearly exempt vessels of the United States from such a fee. NMFS proposes to publish, as appropriate, a notice of receipt in the **Federal Register** to notify interested parties of the opportunity to review and/or comment on applications. NMFS suggests that applicants allow 90 days for processing applications submitted under section 204(b) and (d) of the Magnuson-Stevens Act.

Following consideration of all recommendations, comments and any other factors pertinent to an application, the AA may issue an appropriate permit to a foreign vessel authorizing transshipments under provisions of section 204(d) if the AA determines that to do so would be in accordance with section 204(d)(3) of the Magnuson-Stevens Act. It is proposed that activity code 10 be established at § 600.501(c) to denote transshipment activities under section 204(d) of the Magnuson-Stevens Act. It is proposed that § 600.501(e)(2) be amended to provide for issuance of permits for activity code 10 directly to applicants and to provide that permits for activity codes 1 through 9 will be provided to the official representative of the applicant foreign nation by the Department of State (DOS). It is proposed that in § 600.508, a new paragraph (g) regarding transshipment operations be added.

NMFS also proposes that additional minor changes be made in the foreign fishing regulations at 50 CFR part 600, subpart F, to make vessels operating under permits issued in accordance with section 204(d) of the Magnuson-Stevens Act subject to the same requirements as vessels operating under permits issued in accordance with section 204(b) of the Magnuson-Stevens Act.

NMFS also proposes to amend § 600.501(e)(2) to reflect the fact that permit holders no longer have to enter any data in ''blank permit forms.'' All necessary information will appear on the permit provided by the DOS (in the case of activity codes 1 through 9) or the NMFS (in the case of activity code 10). In order to delete references to outdated

permit processes, NMFS also proposes to delete § 600.501(k)(2) through (k)(5).

NMFS also proposes to update a reference to section 201 of the Magnuson-Stevens Act at § 600.506(a) and an address at § 600.506(b).

Lastly, NMFS proposes to delete several references to the Fishing Vessel and Gear Damage Compensation Fund program due to the discontinuance of the program. The cessation of this program was announced in a notice published in the **Federal Register** at 61 FR 34798, July 3, 1996.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act defines ''small business'' by reference to the Small Business Act (SBA). The SBA definition of the term small business is implemented through regulations at 13 CFR part 121. Those regulations define small business as meaning ''a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy, through payment of taxes or use of American products, materials or labor.'' None of the entities affected by this proposed rule meet that definition. Further, section 204(d)(3)(D) of the Magnuson-Stevens Act provides that an application may not be approved until the Secretary determines that ''no owner or operator of a vessel of the United States which has the capacity to perform the transportation for which the application is submitted has indicated * * * an interest in performing the transportation at fair and reasonable rates.'' Therefore, no U.S. firms will be impacted. As a result, an initial regulatory flexibility analysis was not prepared.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the PRA, unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This rule contains two collection-of-information requirements subject to the Paperwork Reduction Act (PRA), both of which have been approved by the OMB. The collections of information are as follows:

(1) *Approved under OMB control number 0648–0089*—Application form for foreign fishing permits, including those to be issued under section 204(d) of the Magnuson-Stevens Act; estimated at 45 minutes per response.

(2) *Approved under OMB control number 0648–0075*—Reporting by vessels operating under foreign fishing permits, including those issued under section 204(d) of the Magnuson-Stevens Act; estimated at 6 minutes per response.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing, Foreign relations, Intergovernmental relations.

Dated: March 29, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Chapter VI is proposed to be amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

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

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.501, paragraph (c) introductory text, and paragraphs (d)(1), (d)(4), (e) and (k) are revised, and paragraph (c)(10) is added to read as follows:

§ 600.501 Vessel permits.

* * * * *

(c) *Activity codes*. Permits to fish under this subpart may be issued by the Assistant Administrator for the activities described in this paragraph, but the permits may be modified by regulations of this subpart and by the conditions and restrictions attached to the permit (see paragraphs (e)(1)(v) and (l) of this section). The Assistant Administrator may issue a permit, as appropriate, for one or more of the activity codes listed. Only vessels of nations having a GIFA with the United States may be issued permits for activity codes 1 through 9. A GIFA is not required for a vessel to be issued a permit for activity code 10. The activity codes are described as follows:

* * * * *

(10) *Activity Code 10*. Transshipping at sea for the purpose of transporting fish or fish products from a point within the EEZ or, with the concurrence of a state, within the boundaries of that state, to a point outside the United States.

(d) *Application*. (1) Applications for FFV permits authorizing activity codes 1 through 9 must be submitted by an official representative of a foreign nation to the DOS. Applications for permits authorizing activity codes 1 through 9 are available from, and should be submitted to, DOS, OES/OMC, Washington, DC 20520. Applications for FFV permits authorizing activity code 10 may be submitted by any person to the Assistant Administrator. Applications for permits authorizing activity code 10 are available from NMFS, Attn: International Fisheries Division, 1315 East West Highway, Silver Spring, Maryland 20910. All applicants should allow 90 days for review and comment by the public, involved governmental agencies, and appropriate Councils and for processing before the anticipated date to begin fishing. The permit application fee must be paid at the time of application according to § 600.518.

* * * * *

(4) Each applicant may request to substitute one FFV for another of the same flag by submitting a new application form and a short explanation of the reason for the substitution to the appropriate address listed at paragraph (d)(1) of this section. Each substitution is considered a new application, and a new application fee must be paid. NMFS will promptly process an application for a vessel replacing a permitted FFV that is disabled or decommissioned, once the appropriate Council(s) and governmental agencies have been notified of the substituted application.

(e) *Issuance*. (1) Permits may be issued to an FFV by the Assistant Administrator after—

(i) The Assistant Administrator determines that the fishing described in the application will meet the requirements of the Magnuson-Stevens Act and approves the permit application.

(ii) The applicant has paid the fees and provided any assurances required by the Secretary in accordance with the provisions of § 600.518.

(iii) The applicant has appointed an agent.

(iv) The applicant has identified a designated representative.

(v) The applicant has accepted the general ''conditions and restrictions'' of receiving permits, as required by section 204(b)(7) of the Magnuson-Stevens Act, and any ''additional restrictions'' attached to the permit for the conservation and management of fishery resources or for the prevention of significant impairment of the national defense or security interests.

(2) The DOS will provide permits for activity codes 1 through 9 to the official representative of the applicant foreign nation. The Assistant Administrator will provide permits for activity code 10 directly to the applicant.

(3) An approved permit will contain—

(i) The name and IRCS of the FFV and its permit number. (ii) The permitted fisheries and/or activity codes.

(iii) The date of issuance and expiration date, if other than December 31.

(iv) All conditions and restrictions, and any additional restrictions and technical modifications appended to the permit.

(4) Permits are not issued for boats that are launched from larger vessels. Any enforcement action that results from the activities of a launched boat will be taken against the permitted vessel.

* * * * *

(k) *Change in application information*. The applicant must report, in writing, any change in the information supplied under paragraph (d) of this section to the Assistant Administrator within 15 calendar days after the date of the change. Failure to report a change in the ownership from that described in the current application within the specified time frame voids the permit, and all penalties involved will accrue to the previous owner.

* * * * *

3. In § 600.502, paragraph (a) is revised, and a new paragraph (h) is added, to read as follows:

§ 600.502 Vessel reports.

(a) The operator of each FFV must report the FFV's activities to the USCG and NMFS as specified in this section.

* * * * *

(h) *Alternative reporting procedures*. As an alternative to the use of the specific procedures provided, an applicant may submit proposed reporting procedures for a general type of fishery operation (i.e., transshipments under Activity Code 10) to the appropriate Regional Administrator and the USCG commander (see tables 1 and 2 to § 602.502 of this chapter). With the agreement of the USCG commander, the Regional Administrator may authorize the use of alternative reporting procedures.

4. In § 600.505, paragraphs (a)(8), (a)(9), and (b)(1) are revised to read as follows:

§ 600.505 Prohibitions.

(a) * * *

(8) Engage in any fishing activity within the EEZ without a U.S. observer aboard the FFV, unless the requirement has been waived by the Assistant Administrator or appropriate Regional Administrator;

(9) Retain or attempt to retain, directly or indirectly, any U.S. harvested fish, unless the FFV has a permit for Activity Codes 4, 6, or 10;

* * * * *

(b) * * *

(1) Within the boundaries of any state, unless:

(i) The fishing is authorized by the Governor of that state as permitted by section 306(c) of the Magnuson-Stevens Act to engage in a joint venture for processing and support with U.S. fishing vessels in the internal waters of that state; or

(ii) The fishing is authorized by, and conducted in accordance with, a valid permit issued under § 600.501, and the Governor of that state has indicated concurrence to allow fishing consisting solely of transporting fish or fish products from a point within the boundaries of that state to a point outside the United States; or

* * * * *

5. In § 600.506, the last sentence in paragraph (a) and the first sentence in paragraph (b) are revised to read as follows:

§ 600.506 Observers.

(a) * * * Except as provided for in section 201(h)(2) of the Magnuson-Stevens Act, no FFV may conduct fishing operations within the EEZ unless a U.S. observer is aboard.

(b) *Effort plan*. To ensure the availability of an observer as required by this section, the owners and operators of FFV's wanting to fish within the EEZ will submit to the appropriate Regional Administrator or Science and Research Director and also to the Chief, Financial Services Division, NMFS, 1315 East West Highway, Silver Spring, MD 20910 a schedule of fishing effort 30 days prior to the beginning of each quarter.* * *

* * * * *

6. In § 600.508, paragraph (g) is added to read as follows:

§ 600.508 Fishing operations.

* * * * *

(g) *Transshipping*. Each FFV with Activity Code 1, 2, 3, 4, 5, 6, 7, 8, or 10 may transship in accordance with this subpart and the vessel's permit.

7. In § 600.518, paragraph (c) is removed, paragraphs (d) and (e) are redesignated as paragraphs (c) and (d) respectively, and paragraphs (a), (b)(1) introductory text, (b)(2) heading, and (b)(2)(i) introductory text are revised to read as follows:

§ 600.518 Fee schedule for foreign fishing.

(a) *Permit application fees*. Each vessel permit application submitted under § 600.501 must be accompanied by a fee. The amount of the fee will be determined in accordance with the procedures for determining administrative costs of each special product or service contained in the NOAA Finance Handbook. The fee is specified with the application form. At the time the application is submitted, a check for the fees, drawn on a U.S. bank, payable to the order of ''Department of Commerce, NOAA,'' must be sent to the Assistant Administrator. The permit fee payment must be accompanied by a list of the vessels for which the payment is made. In the case of applications for permits authorizing activity code 10, the permit application fee will be waived if the applicant provides satisfactory documentary proof to the Assistant Administrator that the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation. The documentation presented (e.g., copy of foreign fishing regulations applicable to vessels of the United States) must clearly exempt vessels of the United States from such a fee.

(b) *Poundage fees*. (1) *Rates*. If a Nation chooses to accept an allocation, poundage fees must be paid at the rate specified in the following table.

* * * * *

(2) *Method of payment of poundage fees and observer fees*.

(i) If a Nation chooses to accept an allocation, a revolving letter of credit (L/C) must be established and maintained to cover the poundage fees for at least 25 percent of the previous year's total allocation at the rate in paragraph (b)(1) of this section, or as determined by the Assistant Administrator, plus the

observer fees required by paragraph (c) of this section. The L/C must—

* * * * *

[FR Doc. 99–8180 Filed 4–2–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 031999E]

Tilefish Fishery; Intent to Prepare an Environmental Impact Statement

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

ACTION: Notification of intent to prepare an environmental impact statement (EIS); request for scoping comments.

SUMMARY: NMFS announces its intention to prepare, in cooperation with the Mid-Atlantic Fishery Management Council (Council), an EIS to assess potential effects on the human environment of changes to the management regime for tilefish (*Lopholatilus chamaeleonticeps*) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended. Management would be accomplished by developing and implementing a Tilefish Fishery Management Plan (FMP) that would include appropriate management measures.

In addition, the Council announces a public process for determining the scope of issues to be addressed and for identifying the significant issues related to developing management measures for tilefish. The intended effect of this notice is to alert the interested public of the commencement of a scoping process and to provide for public participation. This action is necessary to comply with Federal environmental documentation requirements.

DATES: Written comments will be accepted until April 30, 1999. The scoping meeting will be held at 7 p.m. on Tuesday, April 27, 1999.

ADDRESSES: Send scoping comments to Mr. Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, DE 19904–6790. The scoping meeting will be held at the Atlantic City Sheraton, 6821 Black Horse Pike, Atlantic City West, NJ.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, 302–674–2331 (FAX 302–674–5399).

SUPPLEMENTARY INFORMATION:

Problems Discussed for this FMP

1. Overfishing Must Be Ended and the Stock Biomass Must Be Rebuilt

Results from the recently completed (February 1999) NMFS Northeast Fishery Science Center (NEFSC) stock assessment indicate that the tilefish stock (north of North Carolina) is at a low biomass level and is likely overexploited. Total biomass in 1997 was estimated to be 7.3 million lb (3.311 million kg), which is about 36 percent of the biomass that would produce maximum sustainable yield (MSY) (B_{MSY}). Biomass-based fishing mortality was estimated to be 0.55, which is about 2.8 times higher than F_{MSY} of 0.20. Total landings in 1997 were slightly under 4.0 million lb and roughly the estimated MSY. One projection indicates that the stock can rebuild to B_{MSY} in 10 years if fished at a biomass-based fishing mortality of 0.16 for the next 10 years. This rate of fishing mortality equates to annual landings of about 1.7 million lb (0.77 million kg). Current fishing mortality rates are unsustainable. There has been a shift in the exploitation pattern towards smaller fish.

2. Overcapitalization Should Be Avoided

The tilefish fishery takes place year-round. However, it is most intense from October to June when market values and catch rates are the highest. Tilefish vessels are usually of steel construction and range in length from 50 to 100 ft (15.24 to 30.48 m). Although the number of vessels targeting tilefish has decreased since the peak in the early 1980s, the approximate dozen vessels currently in the fishery have more than adequate capacity to harvest the MSY level. Reductions in fishing effort for most of the New England and Mid-Atlantic fisheries (i.e. groundfish, scallops, and summer flounder) could result in additional fishing effort on the tilefish resource, as displaced vessels could enter this fishery.

3. Need for Better Data

National Standard 2 of the Magnuson-Stevens Act states that ''measures shall be based upon the best scientific information available.'' The 14th NEFSC Stock Assessment Workshop noted that the weighout interview coverage of the fishery was low and that other data, which would allow for detection of changes in abundance would be useful to corroborate trends observed in the abundance indices. This workshop also called for the collection of size samples from landings. These data are important to assess the impacts and effectiveness of management measures, as well as, monitor fishing mortality and changes in stock size to determine if additional management measures for the FMP may be necessary.

4. Identification and Description of Essential Fish Habitat

Pursuant to the 1996 requirements of the Sustainable Fisheries Act, which amended the Magnuson-Stevens Act, the Council is required to identify and describe essential habitat for tilefish in the western Atlantic Ocean north of North Carolina. Therefore, the Council solicits comments from the public on the identification of and threats to essential habitat for tilefish during the scoping process.

5. Possible Management Objectives and Proposed Management Measures

The current proposed management unit is all tilefish under U.S. jurisdiction in the Atlantic Ocean north of North Carolina. Tilefish south of the Virginia/North Carolina border are currently managed as part of the Snapper-Grouper Fishery Management Plan by the South Atlantic Fishery Management Council and NMFS.

The intended purpose and possible objectives of the FMP are to: (1) End overfishing and rebuild the resource to the MSY level; (2) prevent overcapitalization; (3) limit new entrants; and (4) collect data to develop, monitor, and assess biological, economic, and social impacts of management measures designed to prevent overfishing.

Possible proposed management measures include: (1) Minimum fish size, (2) minimum hook size, (3) closed seasons, (4) closed areas, (5) quotas, (6) moratorium on vessels, (7) dealer and vessel permits, (8) dealer and vessel reports, (9) operator permits, (10) gear restrictions, (11) gear limits, (12) trip limits, and (13) other measures to reduce effort.

It is likely that any of the measures that are actually implemented would be frameworked. A Monitoring Committee, made up of representatives of the Councils and NMFS, would annually review the condition of the fishery and adjust the measures (e.g., trip limits, quotas, etc.) to achieve the desired goals.

6. Permitting and Reporting

It is anticipated that permits would be required for vessels landing tilefish for

sale, dealers purchasing tilefish from permitted vessels, and operators of permitted commercial vessels. Vessels landing tilefish for sale would need to submit logbook reports and dealers purchasing this species from permitted commercial vessels would need to submit reports.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid Office of Management and Budget control number.

Under the Paperwork Reduction Act, burden hour estimates were calculated by NMFS for Amendment 2 to the Summer Flounder Fishery Management Plan. Burden hours for tilefish should be minimal as the fishery is somewhat seasonal (mostly October to June) and is currently prosecuted by only about 12 vessels. Using the same approach as was taken in summer flounder, it is anticipated that the 12 vessels would make three trips per month for 9 months—thus, a total of 324 reports from the fishermen (12 X 3 X 9). At 0.08 hours per report response, there would be a total of 27 burden hours per year. At a maximum, the same number of burden hours would be required for the tilefish processors.

7. Timetable for EIS Preparation and Decision Making

The Council has adopted a tentative preparation, review, and approval schedule for this FMP. Under this schedule, the draft EIS is planned for completion in May 1999 so that a special Council meeting dedicated exclusively to this FMP can be convened. If an acceptable draft is completed, the Council would decide at that meeting whether to submit the draft EIS for public review. Oral comments to the Council on their decision could be made at that meeting. If the Council's decision is affirmative, public review of the draft EIS would occur during 45 days in June and July 1999. At its August 1999 meeting, the Council would decide on revisions to the management of tilefish. Again, oral comments on this decision could be made to the Council at this meeting. If the Council's decision is affirmative, the EIS would be made final and submitted with the FMP recommendations and other rulemaking documents to the Secretary of Commerce (Secretary) for review and approval. The Council reserves the right to modify or abandon this schedule if deemed necessary.

Under the Magnuson-Stevens Act, Secretarial review and approval of an FMP includes concurrent public comment periods on the FMP and proposed regulations. If approved by the Secretary under this schedule, the tilefish management measures could be effective early in 2000.

Dated: March 26, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–8194 Filed 4–2–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 64
Monday, April 5, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Upper Blue Stewardship Project; White River National Forest, Summit County, Colorado

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement in conjunction with planning the Upper Blue Stewardship Project (hereafter referred to as the Stewardship Project).

SUMMARY: The USDA Forest Service, White River National Forest, gives notice of the agency's intent to prepare an environmental impact statement (EIS) to disclose the environmental effects of timber harvest, prescribed fire, watershed rehabilitation, road construction/re-construction/closure/obliteration, trail reconstruction, non-system trail obliteration, historic site interpretation, a 4 cfs water diversion from the Miner's Creek drainage to the North Barton Gulch, and a hut site location in conjunction with designing the Stewardship Project for the Dillon Ranger District of the White River National Forest. These proposed actions are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25). This notice describes the proposed actions, environmental issues considered, estimated dates for filing the environmental impact statement, information concerning public participation, and the names and addresses of the agency officials who can provide additional information.

Poject Area: The Stewardship Project is using an interdisciplinary approach to manage 14,000 acres between the towns of Frisco, CO to the north and Breckenridge, CO to the south, Highway 9 to the east, and the top of the Tenmile Range to the west. The area is located in T5S, R77W, Sec. 31. T6S, R78W, Sec. 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36 on the Dillon Ranger District of the White River National forest, Summit County, CO. The elevation in the area is between 9,000–12,933 feet.

Background: The project area was heavily logged during the mining era (1860–1940). Many trees were removed &/or burned, particularly Douglas-fir and ponderosa pine due to their superior lumber qualities. The result is a dense, even-aged forest between 80–140 years old that is dominated by lodgepole pine. The forest lacks diversity of tree species, age classes, structure (mixed-size forests, young stands, old growth), and understory species. The lack of diversity affects both forest health (it is more susceptible to insects, disease and fire), and habitat for wildlife species.

Preliminary issues: Issues identified to date include: proximity of the proposal to private property, commercial harvest of trees in a recreation setting, quantity of system and non-system roads and trails, water quality, RARE II roadless area, riparian condition, impacts to heritage resources, existing and potential impacts to visual quality, potential spread of noxious weeds, air quality impacts from burning, potential hut site locations, recreation user conflicts, water depletions, providing a ditch for the Town of Breckenridge water diversion, and affects on threatened, endangered, sensitive and management indicator species.

Purpose & Need: This Stewardship Project aims to improve forest health, visual quality, wildlife habitat, and fire resilience through greater species and structural diversity; to promote responsible recreation use; and to evaluate a ditch permit application from the Town of Breckenridge. The Project uses a variety of techniques to improve the health of the forest and species diversity, while protecting and enhancing the heritage, recreation, visual, watershed and wildlife resources. The Forest Service hopes to develop a strong partnership with local government, private land owners and forest users to help implement the necessary treatments on the ground.

The EIS will tier to the Land and Resource Management Plan for the White River National Forest 2nd Printing Updated through 08/01/90.

Proposed Action: Three-quarters-mile of new road construction may be needed. No road construction is planned within the Rare II roadless boundary. A total of 1.5 miles of system road and 5.5 miles of non-system roads will be closed or obliterated. Non-system trails will be obliterated or added to the system, depending upon public input.

The Summit Huts master plan of 1989 approved a conceptual location of an overnight hut in the Gold Hill area. This analysis will look at site specific impacts of the Gold Hill location, and 3–4 alternative sites. All five of the possible hut sites are within RARE II (roadless area review and evaluation) identified areas, though three of the sites are in former timber sale areas. All of the five possible hut sites are within 1B management prescription which emphasizes downhill or cross country skiing opportunities.

The Town of Breckenridge proposes to divert up to 4 cfs of water from the Miners Creek drainage to the North Barton drainage, in order to draw more water from the Blue River while maintaining minimum stream flow. This will involve using 2,400 feet of an existing ditch built in the early 1900's, constructing approximately 1500 feet of new ditch, and running the water down an existing tributary of the Blue River.

Interpretive sites are planned along major trails. Riparian areas may be expanded by 50 acres through removal of encroaching conifers.

All vegetation management units will follow visuals mitigation, where possible, by modifying existing and created openings to be irregular in shape, mimicking natural openings (including utilities corridors). Edges will be feathered at varying densities, to reduce sharp transition between openings and forest. Slash treatment will emphasize the tops of the trees where fine fuels exist. These activity fuels exist. These activity fuels will be treated by lopping and scattering, piling and burning or broadcast burning. Activity fuels will be treated to be less than 10 tons per acre near private property and less than 20 tons per acre in lodgepole units. Higher fuel levels will be allowed in areas that are surrounded by lower fuels areas.

Noxious weed management will include an integrated approach including preventative measures such as

re-seeding and cleaning equipment to prevent spread, as well as treatment of existing populations through mechanical, cultural, biological, and chemical methods based on the species to be treated, extent of infestation, and site specific conditions.

Aspen Units—Increase aspen by 300 acres over a 1,600 acre area by removing conifer overstory to promote aspen understory &/or aspen sprouting. Look for opportunities to increase aspen near private property boundaries, and existing clearcuts and utilities corridors. Openings created will be no larger than 10 acres. Removal of the conifers can be done by commercial, or noncommercial sale of the logs, force account felling or girdling of the trees, burning, &/or Christmas tree sales. There are two methods to do this, aspen release and aspen regeneration.

Aspen release will remove the conifer overstory to allow aspen understory to dominate the site. A young aspen forest will remain. Conifer islands (where 10–15 trees are grouped together) will be left to enhance landscape mosaic and increase structural diversity. Around the unit boundary, up to a 30 meter strip will be cleared, to allow for aspen colonization.

Aspen regeneration will occur in areas where few live, and some dead aspens remain. Group selection cuts will be made in areas where aspen root still exist, so the aspen can recolonize the site.

Spruce/Fir Units—Increase spruce/fir forests by 1,000 acres over a 1,880 acre area by removing lodgepole pine overstory to promote spruce/fir understory. A young spruce/fir forest will remain. A patchy, mosaic effect will be created. Trees will be harvested commercially, collected for firewood, felled or girdled and left on site for nutrient cycling. Tin, 1,000 acres of spruce/fir—lodgepole pine mix through a combination of prescribed fire, force account, and commercial harvest.

Ponderosa Pine Units—Increase ponderosa pine by 150 acres over a 190 acre area, at or below 9,200 ft. in elevation. Some existing clearcuts will be planted with ponderosa pine. Approximately 80 acres of new habitat for ponderosa pine will be created using clearcutting &/or burning, and planting ponderosa pine in several areas. Remove lodgepole commercially, for public firewood, or by felling and burning.

Douglas-Fir Units—Increase Douglas-fir to be present in 250 acres over a 270 acre area. Thin the lodgepole and underplant Douglas-fir in areas where remanent Douglas-fir trees have been found. Lodgerpole will be removed by force account or commercially. If areas are found where Douglas-fir is already present, clear an area of 1 tree height around it to allow for natural regeneration of Douglas-fir.

Lodgepole Pine Units—Create more early seral stage (young stands) and mixed age classes by treating 1,740 acres over a 2,680 acre area. Regenerate approximately 25% of each unit. Regenerate by removing overstory conifers in up to 2 acre patches. The remaining units will be thinned, with variable tree spacing of 8–16 feet between each remaining tree. Trees will be removed by commercial harvest, collected for firewood, burned, felled or girdled and left on site for nutrient cycling.

Involving the Public: Pursuant to Part 36b Code of Federal Regulations (CFR) 219.10(g), the Forest Supervisor for the agency's intent to prepare an environmental impact statement for the Stewardship Project described above. The Forest Service is seeking information, comments, and assistance from individuals, organizations and federal, state, and local agencies who may be interested in or affected by the proposed action (36 CFR 219.6).

Public participation will be solicited by notifying in person and/or by mail known interested and affected publics. News releases will be used to give the public general noticed, and public scoping meeting will occur. Public participation activities will include (but are not limited to) requests for written comments, open houses, and field trips. The public is invited to help identify issues and define the range of alternatives to be considered in the environmental impact statement.

A reasonable range of alternatives will be evaluated and reasons will be given for eliminating some alternatives from detailed study. A ''no-action alternative'' is required, meaning that management will not change the present condition. Alternatives will provide different ways to address and respond to public issues, management concerns, and resource opportunities identified during the scoping process. Scoping comments and existing condition reports will be used to develop preliminary alternatives; however, additional public involvement and collaboration will be done for final alternative development.

DATES: An **issue identification (scoping) meeting is scheduled for April 20, 1999** from 4:00–7:00 PM. An **alternative development meetings will be held May 20, 1999** from 5:00–8:00 PM. Both meetings will be in the Buffalo Mountain Room at the Summit County Commons Building off of Highway 9 (37 CR 1005) in Frisco, CO 80443. **Comments concerning the scope of the analysis should be received in writing by May 3, 1999.** In June and July a field trip(s) can be scheduled to look at particular concerns or alternatives in the field (such as non-system trail closures). Please respond if you are interested in attending field trip(s).

ADDRESSES: Send written comments to: Upper Blue Stewardship Project, Dillon Ranger District P.O. Box 620, Silverthorne, CO 80498.

FOR FURTHER INFORMATION CONTACT: Kathleen Phelps, Gwenan Stephens, or Alissa Roeder D'Onofrio, at (970) 468–5400. For road and trail questions and concerns, contact Angela Glenn (970) 262–3446.

Release and Review of the EIS

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public comment in December 1999. At that time, the EPA will publish a notice of availability for the DEIS in the **Federal Register**. The comment period on the DEIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions; *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but are not raised until after completion of the Final Environmental Impact Statement (FEIS) may be waived or dismissed by the courts; *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.*, v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed actions, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statements. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the DEIS, comments will be analyzed, considered, and responded to by the Forest Service in preparing the Final EIS. The FEIS is scheduled to be completed in February 2000. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making decisions regarding these revisions. The responsible official will document the decisions and reasons for the decisions in a Record of Decision for the revised Plan. The decision will be subject to appeal in accordance with 36 CFR 217.

Responsible Official

Martha J. Ketelle, Forest Supervisor, White River National Forest, PO Box 948, Glenwood Springs, CO. 81602–0948 ''As the Responsible Official, I will decide which, if any, of the proposed projects will be implemented. I will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations.''

Dated: March 22, 1999.

Daniel Hormaechea,

Acting Forest Supervisor, White River National Forest.

[FR Doc. 99–7977 Filed 4–2–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1032]

Grant of Authority for Subzone Status Tosco Refining Compnay (Oil Refinery) Los Angeles, California, Area

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, the Foreign-Trade Zones Act provides 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,'' and authorizes the Foreign-Trade Zones Board 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, the Los Angeles Board of Harbor Commissioners, grantee of Foreign-Trade Zone 202, has made application to the Board for authority to establish special-purpose subzone status at the oil refinery complex of Tosco Refining Company, located in the Los Angeles, California, area (FTZ Docket 37–98, filed 7/8/96);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 38368, 7/16/98); 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 would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 202C) at the oil refinery complex of Tosco Refining Company, located in the Los Angeles, California, area, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000—# 2710.00.1050, #2710.00.2500, and #2710.00.4510 which are used in the production of:

—petrochemical feedstocks and refinery by-products (examiners report, Appendix C);
—products for export; and,
—products eligible for entry under HTSUS #9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 19th day of March 1999.

Robert S. LaRussa,

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

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–8220 Filed 4–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1033]

Expansion of Foreign-Trade Zone 26 Atlanta, Georgia, Area

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, the Georgia Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 26, submitted an application to the Board for authority to expand FTZ 26 to include the Peachtree City Industrial Park (Site 2) in Peachtree City, Georgia, within the Atlanta Customs port of entry (FTZ Docket 22–98; filed 4/16/98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 23720, 4/30/98) and the application has been processed pursuant to the FTZ Act and the Board's regulations; 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 the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 26 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the Board's standard 2,000-acre activation limit.

Signed at Washington, DC, this 19th day of March 1999.

Robert S. LaRussa,

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

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–8221 Filed 4–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1031]

Grant of Authority for Subzone Status Diamond Shamrock Refining Company, L.P. (Oil Refinery), Three Rivers, Texas

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, the Foreign-Trade Zones Act provides 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,'' and authorizes the Foreign-Trade Zones Board 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, the Port of Corpus Christi Authority, grantee of Foreign-Trade Zone 122, has made application to the Board for authority to establish special-purpose subzone status at the oil refinery complex of Diamond Shamrock Refining Company, L.P., located in Three Rivers, Texas (FTZ Docket 35–98, filed 6/30/98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 37515, 7/13/98); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 122M) at the oil refinery complex of Diamond Shamrock Refining Company, L.P., located in Three Rivers, Texas, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000—#2710.00.1050, #2710.00.2500, and #2710.00.4510 which are used in the production of:

—petrochemical feedstocks and refinery by-products (examiners report, Appendix C);
—products for export; and,
—products eligible for entry under HTSUS #9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 19th day of March 1999.

Robert S. LaRussa,

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

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–8219 Filed 4–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032499C]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Socioeconomic Panel (SEP).

DATES: A meeting of the SEP will be held beginning at 8:30 a.m. on Thursday, April 15, and will conclude by 4:00 p.m. on Friday April 16, 1999.

ADDRESSES: The meeting will be held at the Tampa Airport Hilton Hotel, 2225 Lois Avenue, Tampa, FL 33607; telephone: 813–877–6688.

FOR FURTHER INFORMATION CONTACT: Antonio B. Lamberte, Economist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION:

The SEP will meet to review available social and economic information on the Gulf migratory group of king and Spanish mackerels and to determine the social and economic implications of the levels of acceptable biological catches recommended by the Council's Mackerel Stock Assessment Panel (MSAP). The SEP may recommend to the Council total allowable catch (TAC) levels for the 1999–2000 fishing year and certain management measures associated with achieving the TACs.

Although other issues not contained in this agenda may come before the SEP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by April 8, 1999.

Dated: March 25, 1999.

Gary C. Matlock,

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

[FR Doc. 99–8193 Filed 4–2–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032499D]

Mid-Atlantic Fishery Management Council (MAFMC); Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council and the New England Fishery Management Council will hold a Joint Dogfish Committee meeting.

DATES: The meeting will be held on Wednesday, April 21, 1999, from 10:00 a.m. until 4:00 p.m.

ADDRESSES: This meeting will be held at the E. Boston Holiday Inn (at Logan Airport), 225 McClellan Highway, E. Boston, MA, telephone: 617–569–5250.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, and New England Fishery Management Council, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext.

19, or Paul Howard, Executive Director, New England Fishery Management Council; telephone: 781–231–0422.

SUPPLEMENTARY INFORMATION: Agenda items for this meeting are: Interim management measures for seasonal quota period for fishing year 1999–2000; measures to allow increases in yield while achieving female spawning stock rebuilding targets; limited entry alternatives; develop tasks for Dogfish Technical Committee including evaluations of biological reference points and data needs and analytical requirements for setting management measures for fishing year 2000–01.

Although other issues not contained in this agenda may come before the Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

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

Dated: March 25, 1999.

Gary C. Matlock,

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

[FR Doc. 99–8224 Filed 4–2–99; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (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 requirement on respondents can be properly assessed. Currently, the Corporation is soliciting comments concerning its request for approval of five new information collection from clients, family members/caregivers, comparison group members, and agencies that are affiliated with the Senior Companion Program (SCP) under the sponsorship of Corporation grants. This information will be used by the Corporation to evaluate the nature and effectiveness of the programs.

Copies of the proposed information collection request may be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by June 4, 1999.

ADDRESSES: Send comments to the Corporation for National and Community Service Attn: Charles Helfer, Office of Evaluation, 1201 New York Avenue, N.W., 9th floor, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Charles Helfer, (202) 606–5000, ext. 248.

SUPPLEMENTARY INFORMATION:

Background

One of the missions of the Corporation is to provide ''opportunities for low-income persons aged 60 or over to serve as 'senior companions' to persons with exceptional needs'' (42 U.S.C. 5013). The Senior Companion taps the skills and experience of America's growing senior population and provides more older Americans with the chance to serve their country and help meet pressing social needs. The Corporation currently supports senior companions in over 190 projects throughout the United States.

The Corporation is dedicating a significant portion of its resources to providing support to frail older adults living in the community who have difficulty with daily living tasks. It is an agency priority to evaluate these efforts. This data collection will assess the impact of the Corporation's Senior Companion Programs on clients, family members/caregivers, and agencies served.

Current Action

The Corporation seeks approval of five survey forms for the evaluation of the Corporation's Senior Companion Programs that it supports through grants. It will allow for the assessment of the impact of the SCP on clients, family members/caregivers and agencies served. It will also help the Corporation to determine effective practices in the use of Senior Companions by agencies that are affiliated with the program.

Part I. SCP Client and Comparison Group Baseline Survey

This survey is designed to assess baseline characteristics of SCP clients, and comparison group members in order to determine the health and functional status of older adults at entry into the program, their extent of social support, psychological well-being, need for medical and health care services, and their expectations for future care.

Type of Review: New approval.

Agency: Corporation for National and Community Service.

Title: SCP Client Baseline Survey.

OMB Number: None.

Agency Number: None.

Affected Public: SCP clients and comparison group members (at baseline).

Total Respondents: Approximately 1,800.

Frequency: One time.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 900 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Part II. SCP Client and Comparison Group Follow-up Survey

This survey is designed to assess changes in physical and functional status, extent of social support, psychological well-being, need for health and medical care services, and satisfaction with SCP and SCP-like

services among SCP clients and comparison group subjects at 3-month and 6-month follow-up.

Type of Review: New approval.

Agency: Corporation for National and Community Service.

Title: SCP Client Follow-up Survey.

OMB Number: None.

Agency Number: None.

Affected Public: SCP clients and comparison group members (at 3- and 6-month follow-up).

Total Respondents: Approximately 1,350 at 3-month follow-up and approximately 1,013 at 6-month follow-up.

Frequency: Two times.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 675 hours at 3-month follow-up, and 507 hours at 6-month follow-up.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Part III. SCP Family Member/Caregiver and Comparison Group Baseline Survey

This survey is designed to assess the baseline characteristics of family members/caregivers associated with SCP clients, and comparison group members, and to determine their attitude toward caregiving, perceptions of the unmet needs of their older relatives/family members, and their expectations of future care for SCP clients/comparison group subjects. Family members/caregivers also will be asked to answer health and functional status questions on behalf of SCP clients and comparison group members when clients/comparison group subjects are unable to speak on their own behalf.

Type of Review: New approval.

Agency: Corporation for National and Community Service.

Title: SCP Family Member/Caregiver Baseline Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Family members/caregivers and comparison group members affiliated with the SCP (at baseline).

Total Respondents: Approximately 800.

Frequency: One time.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 400 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Part IV. SCP Family Member/Caregiver and Comparison Group Follow-up Survey

This survey is designed to assess the changes in the characteristics of family member/caregivers associated with SCP clients, and comparison group members at 3-month and 6-month follow-up, and to document changes in attitudes toward caregiving, perceived unmet neets of relatives/family members, change in family member/caregiver well-being, and satisfaction with SCP and SCP-like services received. Changes in health and functional status of SCP clients and comparison group members also will be assessed from family members/caregivers on behalf of SCP clients and comparison group members who respond on behalf of SCP clients/comparison group subjects.

Type of Review: New approval.

Agency: Corporation for National and Community Service.

Title: SCP Family Member/Caregiver Follow-up Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Family members/caregivers and comparison group members affiliated with the SCP (at 3- and 6-month follow-up).

Total Respondents: Approximately 544 at 3-month follow-up and approximately 462 at 6-month follow-up.

Frequency: Two times.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 272 hours at 3-month follow-up, and 231 hours at 6-month follow-up.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Part V. Agency Cross-Sectional Survey

This survey is designed to document the types of agencies that are affiliated with the SCP, examine the types of roles and activities performed by senior companions and received by agency clients, assess the costs and benefits of having senior companions associated with participating agencies, and to determine agency satisfaction with SCP services. Agency representatives also will be asked to assess the impact of the SCP on the communities that they serve, and to suggest ways in which the SCP could be improved over time.

Type of Review: New approval.

Agency: Corporation for National and Community Service.

Title: SCP Agency Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Agency supervisors who oversee Senior Companions at their agencies.

Total Respondents: Approximately 160.

Frequency: One time.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 80 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operation/maintenance): None.

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: March 29, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–8173 Filed 4–2–99; 8:45 am]

BILLING CODE 6050–28–V

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–10]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99–10, with attached transmittal, policy justification and Sensitivity of Technology.

Dated: March 29, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

23 MAR 1999
In reply refer to:
I-99/02509

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-10, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to the Netherlands for defense articles and services estimated to cost $360 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A.R. Keltz

A.R. KELTZ
ACTING DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 99-10

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Netherlands**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$325 million
Other	$ 35 million
TOTAL	$360 million

(iii) **Description of Articles or Services Offered: Two hundred forty-two JAVELIN anti-tank missile systems (consisting of 242 JAVELIN command launch units, 3,190 JAVELIN missile rounds, and 60 lot acceptance missiles), simulators, support equipment, spare and repair parts, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support.**

(iv) **Military Department: Army (VZX)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.**

(vii) **Date Report Delivered to Congress: 23 MAR 1999**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Netherlands - JAVELIN Anti-tank Missile Systems

The Government of the Netherlands has requested a possible sale of 242 JAVELIN anti-tank missile systems (consisting of 242 JAVELIN command launch units, 3,190 JAVELIN missile rounds, and 60 lot acceptance missiles), simulators, support equipment, spare and repair parts, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support. The estimated cost is $360 million.

This proposed sale will contribute to the foreign policy and national security of the United States by improving the military capabilities of Netherlands and enhancing weapon system standardization and interoperability of this important NATO ally.

The Netherlands will use these JAVELIN anti-tank missile systems to enhance their anti-tank ground forces and to increase interoperability with U.S. forces. The Netherlands will have no difficulty absorbing these systems into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be JAVELIN Joint Venture (Raytheon and Lockheed Martin), Orlando, Florida One or more proposed offset agreements may be related to this proposed sale.

Implementation of this proposed sale will require the assignment of a U.S. Government Quality Assurance Team to the Netherlands for two weeks to assist in the delivery and deployment of the missiles. Two contractor representatives will be required in-country for two years to perform maintenance services.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 99-10

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The JAVELIN anti-tank missile system provides a man-portable, medium anti-tank capability to infantry, scouts, and combat engineers. JAVELIN is comprised of two major tactical components; a reusable Command Launch Unit (CLU) and a missile sealed in a disposable launch tube assembly. The CLU incorporates an integrated day/night sight and provides target engagement capability in adverse weather and countermeasure environments. The CLU may also be used in the stand-alone mode for battlefield surveillance and target detection. JAVELIN's key technical feature is the use of fire-and-forget technology which allows the gunner to fire and immediately take cover. Additional special features are the top attack and/or direct fire modes (for targets under cover), integrated day/night sight, advanced tandem warhead, imaging infrared seeker, target lock-on before launch, and soft launch from enclosures or covered fighting positions. The JAVELIN weapon system is intended to replace the DRAGON. At this time, there are no hardware differences in the missile rounds for the U.S. Army and export customers. The difference between U.S. Forces and export customers is in the missile software that is loaded into the Command Launch Unit and is downloaded to the missile prior to launch. If the software was compromised it could result in the sensitive technology being lost and reveal the performance capabilities of the JAVELIN Missile System. Reverse engineering of the software would require a substantial effort.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the Netherlands can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 99–8228 Filed 4–2–99; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee Meeting Notice

AGENCY: U.S. Army Training and Doctrine Command (TRADOC).

ACTION: Notice of Meeting.

SUMMARY: In accordance with Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name of Committee: Distance Learning/Training Technology Subcommittee of the Army Education Advisory Committee.

Date: 20 April 1999.

Place: Fort Monroe, Virginia.

Time: 0830–1630.

Proposed Agenda: Review status of Army Distance Learning and Classroom XXI and prepare briefing of Subcommittee recommendations.

Purpose of the Meeting: The members will advise the Assistant Deputy Chief of Staff (ADCST), HQ Training and Doctrine Command (TRADOC), on matters pertaining to education and training technologies to be used for Army Distance Learning and resident instruction. Recommendations prepared during this briefing will be presented to Army leadership at a date to be determined.

FOR FURTHER INFORMATION CONTACT: All communications regarding this subcommittee should be addressed to Mr. Richard Karpinski, at Commander, Headquarters TRADOC, ATTN: ATTG–CF (Mr. Karpinski), Fort Monroe, VA 23651–5000; telephone number (757) 728–5531.

SUPPLEMENTARY INFORMATION: Meeting of the advisory committee is open to the public. Because of restricted meeting space, attendance will be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intention to attend. Contact Mr. Karpinski (757) 728–5531 for meeting agenda and specific locations.

Any member of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentations or oral statements at the meeting.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–8253 Filed 4–2–99; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy

AGENCY: United States Military Academy, West Point, New York, DoD.

ACTION: Notice of Open Meeting.

SUMMARY: In accordance with Section 10 (a)(2) of the Federal Advisory Committee Act (Pub.L. 92–463), announcement is made of the following meeting:

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: 3 May 1999.

Place of Meeting: Superintendent's Conference Room, Taylor Hall, United States Military Academy, West Point, New York.

Start Time of Meeting: Approximately 9:00 a.m.

Proposed Agenda: Review of the Academic, Military and Physical Programs at USMA. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: For further information, contact Lieutenant Colonel Joseph A. Dubyel, United States Military Academy, West Point, NY 10996–5000, (914) 938–4200.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–8232 Filed 4–2–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patents for non-exclusive, partially exclusive or exclusive licensing. All of the listed patents have been assigned to the United States of America as represented by the Secretary of the Army, Washington, D.C.

These inventions cover a group of ferroelectric devices, materials and processes and other technical arts.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99–502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the inventions listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by these inventions.

Title: Microwave Ferroelectric Phase Shifters and Methods for Fabricating the Same.

Inventors: Richard W. Babbitt, Thomas E. Koscica and William C. Drach.

Patent Number: 5,334,958.

Issued Date: August 2, 1994.

Title: Temperature Calibration System For A Ferroelectric Phase Shifting Array Antenna.

Inventors: Dale M. Didomenico, Thomas E. Koscica and William C. Drach.

Patent Number: 5,680,141.

Issued: October 21, 1997.

Title: Ceramic Ferroelectric Composite Material—BSTO–MGO.

Inventors: Louise Sengupta, Eric Ngo, Steven Stowell, Michelina O'Day and Robert Lancto.

Patent Number: 5,427,988.

Issued: June 17, 1995.

Title: Ferroelectric Thin Film Composites Made By Metallo-Organic Decomposition.

Inventors: Somnath Sengupta, Steven Stowell, Louise Sengupta, Pooran C. Joshi, Sasangan Ramanathan and Seshu B. Desu.

Patent Number: Patent Application ARL Docket No.: ARL 97–01.

Issued:

Title: Ceramic Ferrite Ferroelectric Composite Material.

Inventors: Louise Sengupta and Somnath Sengupta.

Patent Number: Patent Application ARL Docket No.: ARL 97–12.

Issued:

Title: Ceramic Ferroelectric Composite Material With Enhanced Electric Properties, BSTO/MG Based Compound—Rare Earth Oxide.

Inventors: Luna H. Chiu, Louise Sengupta, Steven Stowell, Somnath Sengupta and Jennifer Synowczynski.

Patent Number: Patent Application ARL Docket No.: ARL 98–47.

Issued:

FOR FURTHER INFORMATION CONTACT: Michael Rausa, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Aberdeen Proving Ground, MD 21005–5055, tel: (410) 278–5028; fax: (410) 278–5820.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–8231 Filed 4–2–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974: Computer Matching Program

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, DoD.

ACTION: Notice of a computer matching program.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended (5 U.S.C. 552a), requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The Department of Defense (DoD), as the matching agency under the Privacy Act, is hereby giving notice to the record subjects of a computer matching program between the Department of Health and Human Services (HHS) and DoD that their records are being matched by computer.

DATES: This proposed action will become effective May 5, 1999, and the matching may commence unless changes to the program are required due to public comment or by Congressional or by the Office of Management and Budget objections. Any public comments must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr. at (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the DoD and the HHS have concluded an agreement to conduct a computer matching. The purpose of this Matching Program is to fulfill one of the objectives of Executive Order 12953. In order to establish the Executive Branch of the Federal Government as a model employer in promoting and facilitating the establishment and enforcement of child support owed by its civilian and Uniformed Services' work force, periodic matches will be conducted to help in identifying current and retired (non-Postal) Federal civilian employees and active and retired Uniformed Services personnel (including reservist) who may owe delinquent child support.

A copy of the computer matching agreement between the HHS and the DoD is available upon request to the public. Requests should be submitted to the address above or to Ms. Ella Lawson, Parental Information Systems Specialist, Division of Program Operations, Office of Child Support Enforcement, 370 L'Enfant Promenade, SW, 4th Floor East, Washington, DC 20447.

Set forth below is a notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published on June 19, 1989, at 54 FR 25818.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on March 22, 1999, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 29, 1999.

Patricia L.Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

COMPUTER MATCHING PROGRAM BETWEEN THE ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE DEPARTMENT OF DEFENSE

A. *Participating Agencies:* Participants in this computer matching program are the Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF) of the Department of Health and Human Services (HHS) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The HHS is the source agency, i.e., the agency disclosing the records for the purpose of the match. The DMDC is the specific recipient agency or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the Match:* The purpose of this Matching Program is to fulfill one of the objectives of Executive Order 12953. In order to establish the Executive Branch of the Federal Government as a model employer in promoting and facilitating the establishment and enforcement of child support owed by its civilian and Uniformed Services' work force, periodic matches will be conducted to help in identifying current and retired (non-Postal) Federal civilian employees and active and retired Uniformed Services personnel (including reservists) who may owe delinquent child support. The list of hits will be forwarded to appropriate State Child Support Enforcement (CSE) agencies to determine, in each instance, whether wage withholding or other enforcement actions should be commenced. Neither DoD nor HHS intend to take any direct adverse financial, personnel, or disciplinary action as a result of such hits.

C. *Authority for Conducting the Match:* Legal authority for conducting matches for the general purpose of locating parents who are not paying child support, so that State CSE agencies can take action to secure such child support payments, is contained in section 453 of the Social Security Act, 42 U.S.C. 653. Specific authority directing Federal agencies to conduct this crossmatch is contained in section 304 of Executive Order 12953 February 27, 1995 (60 FR 11013, February 28, 1995).

D. *Records to be Matched:* The systems of records maintained by the respective agencies under the Privacy Act, from which records will be disclosed for the proposed computer match are as follows:

The Department of Health and Human Services will use records from a system identified as 09–09–0074, entitled 'The Federal Parent Locator and Federal Tax Refund Offset System (FPLS), DHHS/OCSE', last published on October 2, 1997, at 62 FR 51663.

DMDC will use records from a system identified as S322.10 DMDC, entitled 'Defense Manpower Data Center Data Base', last published on September 14, 1998 at 63 FR 49095.

E. *Description of Computer Matching Program:* On a periodic basis, but no more frequently than monthly, ACF will transmit to DoD the Master File of delinquent obligors submitted by State CSE agencies for Federal offset purposes. This file will be matched with DoD files, consisting of extracts of personnel records or current and retired (non-Postal) civilian employees and active and retired members of the Uniformed Services (including reservists).

Upon receipt of the OCSE information, ACF will submit to DMDC the following information: Noncustodial parent's (NCP's) Social Security Number (SSN), NCP's last name, other ACF or OCSE data as required for identification purposes. DMDC will match the data provided by ACF against its database and provide OCSE with the following information on individuals where hits (i.e., a match between the compared

data elements) occur: NCP name, NCP's SSN, NCP's date of birth, NCP's home address (if available), employer's name, employer's address (if available), type of employment (if available) and annual salary. If the disclosure of any DMDC information violates national policy or security interests of the United States or the confidentiality of Census data, such information shall not be transmitted and DMDC shall notify OCSE immediately.

F. *Inclusive Dates of the Matching Program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If the mandatory 30 day period for public comment has expired and if no objections are raised by either Congress or the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program becomes effective and the respective agencies may begin the exchange of data at a mutually agreeable time on a monthly basis. By agreement between the Department of Health and Human Services and DoD, the matching program will be in effect and continue for 18 months with an option to extend for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for Receipt of Public Comments or Inquiries:* Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 99–8229 Filed 4–2–99; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Uniformed Services University of the Health Sciences

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:30 a.m. to 4:00 p.m., May 14, 1999.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

May 14, 1999

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

8:30 a.m. Meeting—Board of Regents

(1) Approval of Minutes—February 9, 1999
(2) Faculty Matters
(3) Departmental Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of Regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary of the Board of Regents, (301) 295–3116.

Dated: March 31, 1999.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–8344 Filed 3–31–99; 4:44 pm]

BILLING CODE 5000–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 4, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address Pat__Sherrill@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 30, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: ''What Works'' Study for Adult ESL Literacy Students.

Frequency: On occasion.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 640.

Burden Hours: 1613.

Abstract: This study will examine the outcomes of instruction to adult ESL literacy students by comparing instructional activities that focus on literacy development with activities that focus on English acquisition. Instructional activities will be coded through a structured classroom observation guide and through information provided by teachers. Adult ESL literacy students will be assessed at

intake, after three months of instruction and nine months after enrollment using standardized tests of speaking, reading and writing and through a structured interview of literacy practices. Teachers, policymakers and teacher trainers will use the information from the study to develop more effective instruction.

[FR Doc. 99–8227 Filed 4–2–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATES AND TIMES: Tuesday, April 27, 1999, beginning at 8:30 a.m. and ending at approximately 5 p.m.; and Wednesday, April 28, 1999, beginning at 8:30 a.m. and ending at approximately 2 p.m.

ADDRESSES: The University of Mississippi, Triplett Alumni Center, the Butler Auditorium, Alumni Drive, in Oxford, Mississippi 38677.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue, SW., Suite 601, Washington, DC 20202–7582 (202) 708–7439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee serves as an independent source of advice and counsel to the Congress and the Secretary of Education on student financial aid policy. Since its inception, the Committee has been charged with providing technical expertise with regard to systems of need analysis and application forms, making recommendations that result in the maintenance of access to postsecondary education for low- and middle-income students; conducting a study of institutional lending in the Stafford Student Loan Program; assisting with activities related to the 1992 reauthorization of the Higher Education Act of 1965; conducting a third-year evaluation of the Ford Federal Direct Loan Program (FDLP) and the Federal Family Education Loan Program (FFELP) under the Omnibus Budget Reconciliation Act (OBRA) of 1993; and assisting Congress with the 1998 reauthorization of the Higher Education Act.

The congressional mandate requires the Advisory Committee to conduct objective, nonpartisan, and independent analyses on important aspects of the student assistance programs under Title IV of the Higher Education Act. The Committee traditionally approaches its work from a set of fundamental goals: promoting program integrity, eliminating or avoiding program complexity, integrating delivery across the Title IV programs, and minimizing burden on students and institutions.

Reauthorizaton of the Higher Education Act has provided the Advisory Committee with a significantly expanded agenda in six major areas, such as, Performance-based Organization (PBO); Modernization; Technology; Simplification of Law and Regulation; Distance Education; and Early Information and Needs Assessment. In each of these areas, Congress has asked the Committee to: monitor progress toward implementing the Amendments of 1998; conduct independent, objective assessments; and make recommendations for improvement to the Congress and the Secretary. Each of these responsibilities flows logically from and effectively implements one or more of the Committee's original statutory functions and purposes.

The proposed agenda includes: (a) discussion sessions on implementing the provisions of the Higher Education Amendments of 1998 and their impact of all Title IV programs in the 21st century, in particular, college cost and student aid, need-based aid vs. merit-based aid; and (b) the impact of distance education on access and new initiatives in early intervention. In addition, the Committee will discuss its plans for the remainder of fiscal year 1999 and address other Committee business. Space is limited and you are encouraged to register early if you plan to attend. You may register through Internet at ADV__COMSFA@ED.gov or Tracy__Deanna__Jones@ED.gov. Please include your name, title, affiliation, complete address (including Internet and e-mail—if available), and telephone and fax numbers. If you are unable to register through Internet, you may mail or fax your registration information to the Advisory Committee staff office at (202) 401–3467. Also, you may contact the Advisory Committee staff at (202) 708–7439. The registration deadline is Friday, April 16, 1999.

The Advisory Committee will meet in Washington, DC on April 27, 1999, from 8:30 a.m. until approximately 5 p.m., and on April 28, from 8:30 a.m. until approximately 2 p.m.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue, SW., Suite 601, Washington, DC from the hours of 9 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: March 30, 1999.

Dr. Brian K. Fitzgerald,

Staff Director, Advisory Committee on Student Financial Assistance.

[FR Doc. 99–8214 Filed 4–2–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

[FE Docket Nos. 50849–1613–07–82 and 50849–1613–08–82]

Application for Rescission of a Prohibition Order Issued Pursuant to the Powerplant and Industrial Fuel Use Act of 1978 Montaup Electric Company and Somerset Power LLC

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Application.

SUMMARY: Montaup Electric Company (Montaup) and Somerset Power LLC (Somerset) have requested that DOE rescind a prohibition order issued for Boiler Nos. 7 and 8 (Unit's 5 and 6, respectively) at Montaup's Somerset Generating Station pursuant to the Powerplant and Industrial Fuel Use Act of 1978 (FUA).

DATES: Comments, protests or requests to intervene must be submitted on or before April 20, 1999.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import and Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350.

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202–586–4708 or Michael T. Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: On March 25, 1999, Montaup and Somerset filed a

joint application with the Office of Fossil Energy (FE) of the Department of Energy for rescission of a Prohibition Order issued in Docket Nos. 50849–1613–07–82 and 50849–1613–08–82 on January 27, 1986 (51 FR 4421, February 4, 1986), pursuant to section 301(c) of FUA and 10 CFR 504.8. The order took effect on April 7, 1986 and prohibited the use of petroleum or natural gas as a primary energy source in Boiler Nos. 7 and 8 (Unit Nos. 5 and 6, respectively) at Montaup's Somerset Generating Station located in Somerset, Massachusetts, in excess of the amounts equivalent to operation of each of the boilers using petroleum or natural gas for thirty (30) percent of their respective annual operating hours.

On October 15, 1998, Montaup and NRG Energy, Inc. (NRG) signed an Asset Purchase Agreement to sell the Somerset Generating Station to NRG. NRG has assigned its rights under that agreement to Somerset Power LLC, which will acquire the Somerset Generating Station and associated property. Transfer of ownership of the station is scheduled to occur by April 1, 1999. Therefore, Montaup and Somerset Power LLC have filed this application jointly.

Pursuant to 10 CFR 501.102(b), Montaup and Somerset filed this application based on a substantial change in the circumstances upon which the Prohibition Order was originally issued. The applicants note a provision of the existing order which states:

> ''* * * changes in the * * * relative economics of coal * * * as a fuel source * * * will be deemed to constitute ''significantly changed circumstances'' pursuant to 10 CFR 501.102(b) sufficient to provide a basis for rescission or modification of the specific prohibitions contained in this Order.''

Montaup and Somerset claim that the price of oil is now significantly below the price of coal currently used in the Somerset Generating Station and that the continued use of coal would impair the facility's competitive position within the electric power market. The applicants also state that the deregulation of natural gas prices since the issuance of the original Prohibition Order and the prominence gained by natural gas as a viable alternative fuel source make the continued prohibition or limitation on the use of natural gas serve no just purpose. The applicants also note that the use of natural gas can offer significant environmental benefits over the burning of coal in the Somerset facility. For these reasons, Montaup and Somerset request that DOE rescind the Prohibition Order issued for the Somerset Generating Station.

Procedural Matters

Any party or person desiring to be heard or to protest this application for rescission should file five copies of any comments, protests or petitions to intervene at the address provided above. Filings should be clearly marked with the above docket numbers. Any request for a public hearing must be made within the public comment period. In making its decision regarding the requested rescission action, DOE will consider all relevant information submitted or otherwise available to it.

The public file containing a copy of this rescission application is available, upon request, at the address above.

DOE has granted the applicant's request for an expedited notice and comment period of fifteen (15) days due to the absence of any comments, protests or requests for a hearing having been filed in the original proceeding.

Issued in Washington, DC, on March 30, 1999.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Fossil Energy.

[FR Doc. 99–8287 Filed 4–2–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Floodplain Involvement for the Constructed Wetlands Treatment of the A–01 Outfall Effluent at the Savannah River Site (SRS), Aiken, South Carolina

AGENCY: Savannah River Operations Office, Department of Energy (DOE).

ACTION: Notice of floodplain involvement.

SUMMARY: The process water effluent from the A–01 outfall located on SRS has consistently not met proposed South Carolina Department of Health and Environmental Control (SCDHEC) National Pollutant Discharge Elimination System (NPDES) permit limits which will become effective on October 1, 1999. DOE needs to reduce the copper and chronic toxicity levels in this effluent to ensure compliance when these proposed outfall limits go into effect. Based on extensive existing research in the use of wetlands to treat wastewater, DOE proposes to build and operate an artificial wetland facility to treat the effluent to meet the new discharge limits. This proposed treatment facility would be constructed within the 100-year floodplain of Tims Branch drainage corridor. In accordance with 10 CFR 1022, DOE will prepare a floodplain assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain.

DATES: Comments on the proposed action are due on or before April 20, 1999.

ADDRESSES: For further information, including a site map and/or copy of the floodplain assessment, or to submit comments regarding this notice, contact Andrew R. Grainger, National Environmental Policy Act (NEPA) Compliance Officer, Savannah River Operations Office, Building 742–A, Room 183, Aiken, South Carolina 29808. The fax/phone number is (800) 881–7292. The e-mail address is nepa@srs.gov.

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

SUPPLEMENTARY INFORMATION: In 1996, SCDHEC issued a new NPDES permit for SRS. This permit, which will go into effect no later than October 1, 1999, established new limits for copper, lead, mercury, and chronic toxicity. Subsequent to SCDHEC issuing the new permit, samples taken at the relocated A–01 outfall have shown that the effluent consistently does not meet the new outfall limits for both copper and chronic toxicity. DOE needs to implement actions to reduce these concentrations prior to that time when the new outfall limits are scheduled to go into effect. Extensive research has indicated that an artificial wetland can be used to treat these constituents and reduce the concentrations below the new permit limits before the effluent reaches the NPDES compliance sampling point. Based on this, DOE proposes to build and operate artificial wetlands to treat the effluent to meet the new discharge limits.

The proposed action entails the following: (1) Relocating the compliance point from the current location to a new site approximately 0.92 kilometers (0.57 miles) below the present outfall (already approved by SCDHEC), and (2) creating a flow management basin and an artificial wetland facility within the drainage channel of Tims Branch into which the A–01 outfall effluent is currently being discharged. These activities would necessitate temporary heavy equipment access and

construction of the new facility within this drainage corridor.

In accordance with DOE regulations for compliance with floodplain and wetland environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain assessment for this proposed DOE action. The overall proposed action was previously evaluated under the NEPA process, with an environmental assessment (EA) (DOE/EA–1246) with a Floodplain Statement of Findings and a finding of no significant impact (FONSI) being issued in October of 1998. However, in an effort to reduce the total project cost, the proposed location for the flow management basin and artificial wetland facility was relocated from that site described in the EA to the new area within the A–01 outfall discharge channel. This facility relocation enabled the elimination of the entire piped collection system, thereby eliminating the cost and environmental impacts associated with that portion of the previous scope of the proposed action. A biological evaluation and wetlands determination of the new project location have not identified either any potential impacts to protected species or the presence of any jurisdictional wetlands. Based on the floodplain assessment to be conducted on the revised project scope, a floodplain statement of findings will be included in any revised FONSI that is issued pursuant to this proposed action or may be issued separately.

Issued in Aiken, SC, on March 17, 1999.

Lowell E. Tripp,

Director, Engineering and Analysis Division, Savannah River Operations Office.

[FR Doc. 99–8286 Filed 4–2–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Golden Field Office; Supplemental Announcement to the Broad Based Solicitation for Financial Assistance Applications Involving Research, Development and Demonstration for the Office of Energy, Efficiency and Renewable Energy; Photovoltaics for Utility Scale Applications (PVUSA)

AGENCY: U.S. Department of Energy.

ACTION: Supplemental Announcement 06 to the Broad Based Solicitation for Financial Assistance Applications DE–PS36–99GO10383.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.8, is announcing its intention to solicit applications for Photovoltaics for Utility Scale Applications. The financial assistance award issued under this Supplemental Announcement will be a cooperative agreement.

DATES: The solicitation will be issued on or about March 31, 1999.

ADDRESSES: Copies of the Solicitation once issued, can be obtained from the Golden Field Office Home page at http://www.eren.doe.gov/golden/solicitations.html.

SUPPLEMENTARY INFORMATION: DOE is soliciting Applications to: maintain and operate the PVUSA California test site, located in Davis, California; provide performance assessments of the individual systems; and disseminate information to utilities and other users. PVUSA's primary objective is to evaluate a wide range of promising PV module and balance of system (BOS) technologies. PVUSA is a national public-private partnership composed of private industry, local governments, utilities, utility-related industries, and Federal entities. The partnership is conducting a project that assesses and demonstrates the viability of utility-scale photovoltaic (PV) electric generating systems and recent developments in module technology and encourages commercialization of promising PV technologies. DOE, as a participant of PVUSA, is supporting the operation and maintenance of the PVUSA California test site. At the PVUSA California test site, PV systems and components are evaluated and the information disseminated to utilities, manufacturers, National laboratories, and industry. The project offers manufacturers feedback on component reliability, availability, and standardization which may lead to cost reductions. The fielded systems represent mature module technologies that have the potential to produce low-cost energy and meet the Operation and Maintenance (O&M), power quality, reliability, and lifetime requirements necessary for a wide variety of applications, from remote power to utility applications. This project also exposes the PV industry to commercial procurement and construction practices. For more information about PVUSA, see the PVUSA web site at *http://www.pvusa.com*. The award under this Supplemental Announcement will be a Cooperative Agreement with a term of up to 36 months. Subject to the availability of funding, DOE anticipates selecting one application for award with funding not to exceed $600,000 per year. A minimum cost share of 50% of the total project cost is required. Solicitation Number DE–PS36–99GO10383, in conjunction with this Supplemental Announcement-06, will include complete information on the program including technical aspects, funding, application preparation instructions, application evaluation criteria, and other factors that will be considered when selecting projects for funding. Issuance of the Supplemental Announcement is planned for the week of March 29, 1999, with responses due on May 6, 1999. Questions should be submitted in writing to: John P. Motz, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393; transmitted via facsimile to John P. Motz at (303) 275–4788; or electronically to john__motz@nrel.gov.

FOR FURTHER INFORMATION CONTACT: John Motz, Contract Specialist, at 303–275–4737, e-mail john__motz@nrel.gov, or Robert Martin, Project Officer, at 303–275–4763, e-mail robert__martin@nrel.gov.

Issued in Golden, Colorado, on March 26, 1999.

Ruth E. Adams,

Acting Procurement Director, GO.

[FR Doc. 99–8284 Filed 4–2–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, April 19, 1999, 6:30 p.m.–9:30 p.m.

ADDRESSES: College Hill Library, (Front Range Community College), 3705 West 112th Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

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

Tentative Agenda:

1. Second part of discussion on low-level waste disposition issues; responses to questions, comments, and inquiry

requests from the Board; begin to formulate position statement.

2. Other Board business will be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on March 29, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–8283 Filed 4–2–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Kirtland Area Office (Sandia). The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, April 21, 1999: 6:00 p.m.–9:00 p.m. (MST).

ADDRESSES: Palo Duro Senior Center, 5221 Palo Duro NE, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845–4094.

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:

6:00 p.m. Call to Order/Roll Call—Hubert Joy, Chair

6:10 p.m. Presentations

- Sandia National Laboratory (SNL) Budget Status—John Arthur
- An Overview of Risk Issues and Concerns—SNL

7:40 p.m. Break

7:50 p.m. Administrative Issues

8:45 p.m. Public Comments

9:00 p.m. Adjourn

A final agenda will be available at the meeting Wednesday, April 21, 1999.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The 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 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on March 29, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–8285 Filed 4–2–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC99–11–001; FERC Form No. 11]

Information Collection Submitted for Review and Request for Comments

March 30, 1999.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of November 30, 1998 (63 FR 65768) and has made this notation in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received within 30 days of this notification.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 726 Jackson Place, NW, Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street, NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by E-mail at mike.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. Collection of Information: FERC Form 11 ''Natural Gas Pipeline Company Quarterly Statement of Monthly Data.''

2. Sponsor: Federal Energy Regulatory Commission.

3. Control No.: OMB No. 1902–0032. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. There is an increase in the reporting burden due to an increase in the number of entities that submit this quarterly report. This is a mandatory information collection requirement.

4. Necessity of Collection of Information: Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the provisions of the Natural Gas Act (NGA), 15 U.S.C. 717–717w and the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432. Both the NGA and NGPA authorize the Commission to prescribe rules and regulations requiring natural gas pipeline companies whose gas was either transported or stored for a fee and exceeds 50 million Dekatherms in each of the three previous calendar years to submit FERC Form No. 11. The form provides monthly data on a quarterly basis on certain revenue and expenditure items of major pipelines, and also provides some volume data on their operations. Additionally, the monthly data collected on the FERC Form No. 11 allows for analysis of seasonal variation in throughput.

5. Respondent Description: The respondent universe currently comprises on average, 55 companies subject to the Commission's jurisdiction.

6. Estimated Burden: 660 total burden hours, 55 respondents, 4 responses annually, 3 hours per response (average).

7. Estimated Cost Burden to Respondents: 660 hours ÷ 2,080 hours per year × $109,889 per year = $34,869, average cost per respondent = $634.

Statutory Authority: Sections 10(a), 16, and 21(b) of the Natural Gas Act (NGA), 15 U.S.C. 717–717w, and the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8263 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–223–001]

Columbia Gas Transmission; Notice of Compliance Filing

March 30, 1999.

Take notice that on March 25, 1999, Columbia Gas Transmission Corporation (Columbia) made its filing in compliance with the Commission's March 10, 1999 letter order. In that order, the Commission conditionally accepted two of Columbia's filed tariff sheets (Sheet Nos. 518 and 538), subject to Columbia explaining how its proposed rate discount provision added to its pro forma service agreements would apply to its SIT Rate Schedule and PAL Rate Schedule services.

Columbia states that copies of its compliance filing have been mailed to parties on the official service list to this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 99–8268 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR99–4–001]

Consumers Energy Company; Notice of Amended Petition for Rate Approval

March 30, 1999.

Take notice that on March 26, 1999, Consumers Energy Company (CECo) filed pursuant to section 284.123(b)(2) of the Commission's regulations, an amended petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.1061 per Dth, plus 2.26 percent for fuel used and lost and unaccounted for gas, for interruptible transportation service performed under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA). This amendment represents a prospective decrease from the rate of $0.1072 per Dth, plus fuel retainage of 2.4%, CECo requested in this docket on November 23, 1998.

CECo, formerly Consumers Power Company, is a Hinshaw pipeline organized under the laws of the State of Michigan and subject to the jurisdiction of the Michigan Public Service Commission.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed with the Secretary of the Commission on or before April 5, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8265 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–126–011]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

March 30, 1999.

Take notice that on March 26, 1999, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets. The proposed effective dates of these revised tariff sheets are as noted.

Effective August 31, 1998;

Second Substitute Nineteenth Revised Sheet No. 4

Second Substitute Eighth Revised Sheet No. 5

Effective November 1, 1998:

Second Substitute Twentieth Revised Sheet No. 4

Substitute Twenty-first Revised Sheet No. 4

Substitute Twenty-second Revised Sheet No. 4

Effective January 1, 1999:

Substitute Twenty-third Revised Sheet No. 4

Iroquois asserts that the filing is in compliance with the Commission's order issued in the captioned proceeding on March 11, 1999. Iroquois states that the instant filing would permit it to (1) restate its rates and (2) surcharge customers, both to implement the Commission's grant of rehearing in the March 11 Order on the issue of the appropriate capital structure to use in establishing Iroquois' rates.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8266 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

March 30, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major License.

b. *Project No.:* 2161–006.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Rhinelander Paper Company.

e. *Name of Project:* Rhinelander Hydroelectric Project.

f. *Location:* On the Wisconsin River in the townships of Tomahawk, Newbold, Pine Lake, and Pelican and in the county of Oneida, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Bruce Olson, Utility Superintendent, Rhinelander Paper Company, 515 West Davenport Street, Rhinelander, WI 54501, (715) 369–4244.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address michael.spencer@ferc.fed.us, or telephone 202–219–2846.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of that document on that resource agency.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the project:* The project consists of the following existing facilities: (1) a main dam comprised of 370 feet of earth embankments, in two sections to the left and right of a spillway section containing two 10.7-foot-wide steel roller gates; (2) a 965-foot-long power canal, with a single 36-foot-wide Taintor gate spillway structure located downstream of a 14-gate canal inlet structure, located adjacent to the right embankment of the dam; (3) a 8.5-mile-long, 3,576-acre impoundment with a normal water surface elevation of 1,555.45 feet above mean sea level (msl), and a normal storage capacity of 21,500 acre-feet; (4) a powerhouse located at the downstream end of the power canal, containing three, horizontal Francis turbine units for a total installed capacity of 2,120 kilowatts (kW) and an average annual energy production of 10.692 gigawatt-hours (GWh); (5) switchgear connections with the adjacent paper mill; and (6) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 First Street, N.E., Room 2A-1, Washington, DC 20426. this filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8271 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–272–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application to Abandon

March 30, 1999.

Take notice that on March 26, 1999, Transcontinental Gas Pipe Line Corporation (Transco), 2800 Post Oak Blvd., Houston, Texas 77056, filed under Section 7(b) of the Natural Gas Act, for authority to abandon, a firm sales service provided to Philadelphia Gas Works (PGW) under Transco's Rate Schedule FS. This information is more fully set forth in the application which is on file with the Commission and open to public inspection. The application may also be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance.

Transco states that it entered into firm sales agreements with PGW on August 1, 1991, under which Transco sells gas to PGW under Rate Schedule FS, with a Daily Sales Entitlement of 14,493 Mcf per day. Under the agreement Transco delivers gas PGW at various upstream points of delivery. Transco seeks authorization to abandon the FS Agreement, effective March 31, 2000, pursuant to PGW's request to terminate the Agreement.

Any person desiring to be heard or make any protest with reference to said application should on or before April 20, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211)

and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required, or if the Commission on its own review of the matter finds that permission and approval of the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc 99–8262 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–54–000, et al.]

Power City Partners, L.P., et al.; Electric Rate and Corporate Regulation Filings

March 29, 1999.

Take notice that the following filings have been made with the Commission:

1. Power City Partners, L.P.

[Docket No. EC99–54–000]

Take notice that on March 23, 1999, Power City Partners, L.P. (Power City) tendered for filing with the Federal Energy Regulatory Commission an application for authorization to transfer facilities under Section 203 of the Federal Power Act, in connection with a sale-leaseback of facilities associated with Power City's generating facility in Massena, New York.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Citizens Power LLC and CL Power Sales Ten, L.L.C.

[Docket No. EC99–56–000]

Take notice that on March 23, 1999, Citizens Power LLC and CL Power Sales Ten, L.L.C. filed an application for an order authorizing the proposed sale of Citizens Power LLC's 25% equity interest in CL Power Sales Ten, L.L.C. to W. John Fair.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company

[Docket No. EL98–46–002]

Take notice that on March 22, 1999, Pacific Gas and Electric Company (PG&E) tendered for filing a form of Interconnection Agreement Between Pacific Gas and Electric Company and Laguna Irrigation District (Agreement), replacing in its entirety the form submitted to the Commission on December 1, 1998. This amended form of the Agreement revises some minor typographical errors in the draft form previously submitted. PG&E's December 1, 1998 filing was made pursuant to a ''Proposed Order Directing Interconnection and Establishing Further Procedures,'' issued in this case on September 16, 1998 (Proposed Order).

Copies of PG&E's filing have been served upon Laguna and all other parties to this proceeding.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Flathead Electric Cooperative, Inc.

[Docket No. EL99–48–000]

Take notice that on March 22, 1999, Flathead Electric Cooperative, Inc. tendered for filing a request for a disclaimer of jurisdiction that it is not a public utility under the Federal Power Act and a waiver of the reciprocity requirement, or in the alternative, a waiver of the requirements of Order Nos. 888 and 889 and certain regulations.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Advantage Energy, Inc.

[Docket No. ER97–2758–005]

Take notice that on March 24, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/ online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

6. Avista Corporation

[Docket No. ER99–55–000]

Take notice that on March 24, 1999, Avista Corporation (Avista Corp.), refiled the Revised Ancillary Services Market Study, and explanatory letter, filed on March 15, 1999, in this docket, to reflect both public and confidential versions of the material.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Western Resources, Inc.

[Docket No. ER99–1399–000]

Take notice that on March 24, 1999, Western Resources, Inc., (Western Resources), tendered for filing an unbundling of the demand and energy charges under the electric interconnection agreement with the City of McPherson, Kansas, Board of Public Utilities.

Western Resources requests waiver of the Commission's notice requirements to the extent necessary to permit the effective date of February 6, 1997.

Copies of the filing were served upon McPherson and the Kansas Corporation Commission.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Tenaska Frontier Partners, Ltd.

[Docket No. ER99–2219–000]

Take notice that on March 22, 1999, the above-referenced public utility filed their quarterly transaction report for the quarter ending December 31, 1998.

Comment date: April 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Northeast Utilities Service

[Docket No. ER99–2236–000]

Take notice that on March 24, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with Bangor Hydro-Electric Company (BHE) under the NU System Companies' System Power Sales/ Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to BHE.

NUSCO requests that the Service Agreement become effective February 25, 1999.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER99–2237–000]

Take notice that on March 24, 1999, New England Power Company (NEP), tendered for filing Service Agreements with Sithe Power Marketing, Inc., for service under NEP's FERC Electric Tariffs, Original Volumes Nos. 6, 10, and 11.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power & Light Company

[Docket No. ER99–2238–000]

Take notice that on March 24, 1999, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Avista Energy, Inc., for Short-Term Firm and Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on March 16, 1999.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Cambridge Electric Light Company; Commonwealth Electric Company

[Docket No. ER99–2239–000]

Take notice that on March 24, 1999, Cambridge Electric Light Company and Commonwealth Electric Company provided notice to the Commission that their open access transmission tariffs shall be considered modified by adopting the North American Electric Reliability Council Transmission Loading Relief Alternative Transmission Tariff Amendment.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Keys Electric Cooperative Association, Inc.

[Docket No. ER99–2240–000]

Take notice that on March 24, 1999, Florida Keys Electric Cooperative Association, Inc., tendered for filing a revised rate for non-firm transmission service provided to the City Electric System, Key West, Florida in accordance with the terms and conditions of the Long-Term Joint Investment Transmission Agreement between the Parties.

A copy of this filing has been served on CES and the Florida Public Service Commissioner.

FKEC respectfully requests an effective date for the revised non-firm transmission rate of April 1, 1999.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER99–2241–000]

Take notice that on March 24, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement (SCA) between the ISO and the Department of Water and Power of the City of Los Angeles for acceptance by the Commission.

The ISO is requesting a waiver of the 60-day prior notice requirement to allow the SCA to be made effective as of March 22, 1999.

The ISO states that this filing has been served on the Department of Water and Power of the City of Los Angeles and the California Public Utilities Commission.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. West Texas Utilities Company

[Docket No. ER99–2242–000]

Take notice that on March 24, 1999, West Texas Utilities Company (WTU), tendered for filing a Letter Agreement between WTU and the City of Coleman, Texas (Coleman). Under the agreement, WTU will make additional energy available to Coleman during the on-peak hours of the summer months of 1999, pursuant to a Supplemental Sales Agreement between WTU and Coleman, previously filed with the Commission.

WTU requests an effective date of June 1, 1999.

WTU states that copies of this filing have been served on Coleman and the Public Utility Commission of Texas.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Delmarva Power & Light Company

[Docket No. ER99–2243–000]

Take notice that on March 24, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing an executed umbrella service agreement with PP&L EnergyPlus Co., under Delmarva's market rate sales tariff.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Niagara Mohawk Power Corporation

[Docket No. ER99–2244–000]

Take notice that on March 24, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an amendment to Niagara Mohawk's open access transmission tariff. The amendment consists of a new Attachment J—Form of Service Agreement For Retail Transmission Service.

Niagara Mohawk requests an effective date of April 2, 1999, for the amendment.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Central Illinois Light Company

[Docket No. ER99–2245–000]

Take notice that on March 24, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Coordination Sales Tariff and one service agreement with one new customer, DukeSolutions, Inc. One customer has asked CILCO to terminate their service agreement, K N Energy, Inc.

CILCO requested an effective date of March 22, 1999.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Central Illinois Light Company

[Docket No. ER99–2246–000]

Take notice that on March 24, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and one service agreement with one new customer, DukeSolutions, Inc.

CILCO requested an effective date of March 22, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Avista Corporation

[Docket No. ER99–2247–000]

Take notice that on March 24, 1999, Avista Corporation, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.13, a Certificate of Concurrence in Puget Sound Energy, Inc.'s filing regarding the 1998–99 Operating Procedures under the Pacific Northwest Coordination Agreement Docket No. ER99–2026–000, previously noticed on March 5, 1999.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER99–2248–000]

Take notice that on March 24, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Firm Point-to-Point Transmission Service Agreement between NSP and Madison Gas & Electric Company.

NSP requests that the Commission accept both the agreements effective July 1, 1999, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Central Power and Light Company; West Texas Utilities Company; Public Service Company of Oklahoma; Southwestern Electric Power Co.

[Docket No. ER99–2249–000]

Take notice that on March 24, 1999, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies) tendered for filing service agreements under which the CSW Operating Companies will provide transmission and ancillary services to Cargill-Alliant, LLC (Cargill) in accordance with the CSW Operating Companies' open access transmission service tariff.

The CSW Operating Companies state that a copy of the filing has been served on Cargill.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–2250–000]

Take notice that on March 24, 1999, Alliant Energy Corporate Services, Inc., tendered for filing an executed Form of Service Agreement for Long-Term Firm Point-to-Point Transmission Service. The transmission customer is Wisconsin Power and Light Company an Alliant Energy subsidiary.

Alliant Energy Corporate Services, Inc., requests an effective date of January 1, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: April 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Consolidated Edison Company of New York, Inc.; Orange and Rockland Utilities, Inc.; Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.

[Docket No. ER99–2251–000, ER99–2252–000, EC98–62–000]

Take notice that on March 22, 1999, Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. tendered for filing proposed amendments to their existing market-based rate tariffs to enable them to sell power at cost-based rates in the wholesale market and to comply with mitigation measures approved by the Commission in Docket No. EC98–62–000.

Comment date: April 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–8261 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments

March 30, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2192–008.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Biron Hydroelectric Project.

f. *Location:* On the Wisconsin River, at river mile 219, in the townships of Biron, Wisconsin Rapids, Stevens Point, Plover, and Whiting, in Wood and Portage Counties, Wisconsin. There is one parcel of federal lands, partially occupied by Biron Dam, located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Mark Anderson, Consolidated Water Power Company, P.O. Box 8050, Wisconsin Rapids, WI 54495–8050, (715) 422–3927.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address, michael.spencer@ferc.fed.us, or telephone (202) 219–2846.

j. *Deadline for filing scoping comments:* May 13, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The project consists of the following existing facilities: (1) a 34-foot-high dam consisting of 3,572.3 feet of concrete gravity wall in five sections, three

spillway sections containing 22 Taintor gates, and 15,900 feet of earthen dikes; (2) a 2,078-acre reservoir at water surface elevation of 1,035.3 feet msl, and a storage capacity of 19,500 acre-feet; (3) a powerhouse, integral with the dam, containing two 1,450-kW turbine generators, and an adjacent industrial (grinder) building containing seven turbine generators, with a total project installed capacity of 6,710 kW and an average annual generation of 38.6 GWh; (5) generator leads; and (6) appurtenant electrical facilities necessary to interconnect with the transmission system.

m. *Locatoins of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address shown in item h.

n. *Scoping Process:* The Commission intends to prepare a multiple project Environmental Assessment (EA) for the proposed relicensing of the Biron Project, Stevens Point Project (FERC No. 2110), and Rhinelander Project (FERC No. 2161), in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed actions.

Scoping Meetings

The Commission will hold joint scoping meetings for the Biron and Stevens Point Projects, one in the daytime and one in the evening, to help us identify the scope of issues to be addressed in the EA.

The daytime scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Daytime Meeting

Wednesday, April 14, 1999, 1 p.m., Board Room, Plover Municipal Building, 2400 Post Road, Business Highway 51, Plover, Wisconsin.

Evening Meeting

Wednesday, April 14, 1999, 7 p.m., Stevens Point Holiday Inn, 1501 Northpoint Drive, Stevens Point, Wisconsin.

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EA to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meetings.

Site Visit

The applicant and Commission staff will conduct a project site visit on Tuesday, April 13, 1999. We will meet at the Power Service Building of Consolidated Papers, 610 High Street, Wisconsin Rapids, Wisconsin, at 2 p.m. If you would like to attend, please call Mark Anderson, Consolidated Water Power Company, at (715) 422–3927, no later than April 9, 1999.

Objectives

At the scoping meetings, the staff will: (1) summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission's proceeding on the project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to identify themselves clearly for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 99–8264 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted For Filing and Soliciting Motions To Intervene and Protests

March 31, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major License.

b. *Project No.:* 2110–003.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Stevens Point Hydroelectric Project.

f. *Location:* On the Wisconsin River in the town of Stevens Point, and in the county of Portage, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Mr. Kenneth K. Knapp, Vice President, Consolidated Water Power Company, P.O. Box 8050, Wisconsin Rapids, WI 54495–8050, 715–422–3073.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address michael.spencer@ferc.fed.us, or telephone 202–219–2846.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of that document on that resource agency.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the project:* The project consists of the following existing facilities: (1) a main dam comprised of 1,889 feet of concrete gravity walls in four sections, a spillway section containing 15 Taintor gates, and a total of 4,090 feet of earth dikes, on both the east and west banks of the river; (2) an auxiliary uncontrolled overflow

spillway (Rocky Run) and associated 5,000 feet of earth dikes, located about 1.25 miles upstream of the main dam; (3) a 12-mile-long, 3,915-acre impoundment with a normal water surface elevation of 1,087.0 feet above mean sea level (msl), and a maximum storage capacity of 27,000 acre-feet; (4) a powerhouse integral with the dam containing six vertical Francis turbine units for a total installed capacity of 3,840 kilowatts (kW) and an annual energy generation of 28.4 gigawatt-hours (GWh); (5) switchgear consisting of a single power transformer for the six units; and (6) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 First Street, NE, Room 2A–1, Washington, DC 20426. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8269 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments

March 31, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2110–003.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Stevens Point Hydroelectric Project.

f. *Location:* On the Wisconsin River, at river mile 236, in the town of Stevens Point, Portage County, Wisconsin. There are three parcels of federal lands, partially inundated islands totaling about 15.6 acres, within the project boundary.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. Mark Anderson, Consolidated Water Power Company, P.O. Box 8050, Wisconsin Rapids, WI 54495–8050, (715) 422–3927.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address, michael.spencer@ferc.fed.us, or telephone (202) 219–2846.

j. *Deadline for filing scoping comments:* May 13, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The project consists of the following existing facilities: (1) a 28-foot-high main dam comprised of 1,889 feet of concrete gravity walls in four sections, a spillway section containing 15 Taintor gates, and a total of 4,090 feet of earth dikes, on both the east and west banks of the river; (2) an auxiliary 2,000-foot-long concrete uncontrolled overflow spillway (Rocky Run) and associated 5,000 feet of earth dikes, located about 1.25 miles upstream of the main dam; (3) a 12-mile-long, 3,915–acre impoundment at the normal maximum water surface elevation of 1,087.4 feet msl, and a maximum storage capacity of 27,000 acre-feet; (4) a powerhouse integral with the dam containing six vertical Francis turbine units for a total installed capacity of 3,840 kW and an annual energy generation of 28.4 GWh; (5) switchgear consisting of a single power transformer for the six units; and (6) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address shown in item h.

n. *Scoping Process:* The Commission intends to prepare a multiple project Environmental Assessment (EA) for the proposed relicensing of the Stevens Point Project, Biron Project (FERC No. 2192), and Rhinelander Project (FERC No. 2161), in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed actions.

Scoping Meetings

The Commission will hold joint scoping meetings for the Stevens Point and Biron Projects, one in the daytime and one in the evening, to help us identify the scope of issues to be addressed in the EA.

The daytime scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Daytime Meeting

Wednesday, April 14, 1999, 1 p.m., Board Room, Plover Municipal Building, 2400 Post Road, Business Highway 51, Plover, Wisconsin.

Evening Meeting

Wednesday, April 14, 1999, 7 p.m., Stevens Point Holiday Inn, 1501 Northpoint Drive, Stevens Point, Wisconsin.

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EA to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meetings.

Site Visit

The applicant and Commission staff will conduct a project site visit on Wednesday, April 14, 1999. We will meet at the parking lot near the boat launch in Bukolt Park, off Bukolt Avenue, Stevens Point, at 9 a.m. If you would like to attend, please call Mark Anderson, Consolidated Water Power Company, at (715) 422–3927, no later than April 9, 1999.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the

resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission's proceeding on the project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to identify themselves clearly for the record.

Individuals, organizations and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8270 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–203–000]

Northern Natural Gas Company; Notice of Informal Settlement Conference

March 30, 1999.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10:00 a.m. on Tuesday, April 6, 1999, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, for the purpose of drafting a settlement document in the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Sandra J. Delude at (202) 208–0583, Bob Keegan at (202) 208–0158, or Edith A. Gilmore at (202) 208–2158.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8267 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meeting and Site Visit, ND Soliciting Scoping Comments

March 30, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License

b. *Project No.:* 2161–006

c. *Date Filed:* June 26, 1998

d. *Applicant:* Rhinelander Paper Company

e. *Name of Project:* Rhinelander Hydroelectric Project

f. *Location:* On the Wisconsin River, at river mile 357, in the townships of Tomahawk, Newbold, Pine Lake, and Pelican, Oneida County, Wisconsin. There are no federal lands located within the project area.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:*

Mr. Bruce Olson, Utility Superintendent, Rhinelander Paper Company, 515 West Davenport Street, Rhinelander, Wisconsin 54501, (715) 369–4244.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address, michael.spencer@ferc.fed.us, or telephone (202) 219–2846.

j. *Deadline for filing scoping comments:* May 15, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on the resource agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The project consists of the following existing facilities: (1) a main dam comprised of 370 feet of earth embankments, in two sections to the left and right of a spillway section containing two 10.7-foot-wide steel roller gates; (2) a 965-foot-long power canal, with a single 26-foot-wide Taintor gate spillway structure located downstream of a 14-gate canal inlet structure, located adjacent to the right embankment of the dam; (3) an 8.5-mile-long, 3,576-acre impoundment with a normal water surface elevation of 1,555.45 feet above mean sea level (msl), and a normal storage capacity of 21,500 acre-feet; (4) a brick powerhouse located at the downstream end of the power canal, containing three horizontal Francis turbine units for a total installed capacity of 2,120 kilowatts (kW) and an average annual energy production of 10.692 gigawatt-hours (GWh); (5) switchgear connections with the adjacent paper mill; and (6) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address shown in item h.

n. *Scoping Process:* The Commission intends to prepare a multiple project Environmental Assessment (EA) for the proposed relicensing of the Rhinelander Project, Stevens Point Project (FERC No. 2110), and Biron Project (FERC No. 2192), in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed actions.

Scoping Meetings

The Commission will hold scoping meetings, one in the daytime and one in the evening, to help us identify the scope of issues to be addressed in the EA.

The daytime scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Daytime Meeting

Friday, April 16, 1999, 9 a.m., Best Western Claridge Inn, 70 North Stevens

St., Highway 17 North, Rhinelander, Wisconsin.

Evening Meeting

Thursday, April 15, 1999, 7 p.m., Best Western Claridge Inn, 70 North Stevens St., Highway 17 North, Rhinelander, Wisconsin.

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EA to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meetings.

Site Visit

The applicant and Commission staff will conduct a project site visit on Thursday, April 15, 1999. We will meet at the guard desk in the Rhinelander Paper Company lobby, 515 West Davenport Street, at 1 p.m. If you would like to attend, please call Bruce Olson, Rhinelander Paper Company, at 715–369–4244, no later than April 9, 1999.

Objectives

At the scoping meetings, the staff will: (1) summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission's proceeding on the project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to identify themselves clearly for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8272 Filed 4–2–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6318–9]

Agency Information Collection Activities: Proposed Collection; Comment Request; Information Collection Request Number 801.12: Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest system, ICR No. 801.12, OMB No. 2050–0039, expires 9/30/99.

Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 4, 1999.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–1999–RWMP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA HQ), 401 M Street, SW., Washington, D.C. 20460. Comments may also be submitted electronically through the Internet to: rcradocket@epamail.epa.gov. Comments in electronic format should also be identified by the RCRA docket number F–1999–RWMP–FFFFF. All electronic comments must be submitted as a ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under a separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway 1, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $.15/page. The index and some supporting materials are available electronically.

The ICR is available on the Internet. Follow these instructions to access the information electronically:

WWW: http://www.epa.gov/epaoswer/hazwaste/gener/manifest/
FTP: ftp.epa.gov
Login: anonymous
Password: your Internet address
Files are located in /pub/epaoswer

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. EPA responses to comments, whether the comments are written or electronic, will be in a notice in the ''Federal Register.'' EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline 1–800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington metropolitan area, call 703–412–9810 or TDD 703–412–3323. For more detailed information on specific aspects of this rulemaking, contact Bryan Groce, Office of Solid Waste (5305W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, 703 308–8750, groce.bryan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those who generate, transport, or manage hazardous waste including those who store, treat, recycle, or dispose of hazardous waste.

Title: Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System, ICR No. 801, OMB No. 2050–0039, expiration date: 9/30/96.

Abstract: The Resource Conservation and Recovery Act (RCRA), as amended, establishes a national program to assure that hazardous waste management practices are conducted in a manner that is protective of human health and the environment. EPA's authority to

require compliance with the manifest system stems primarily from RCRA section 3002(a)(5). This section mandates a hazardous waste manifest ''system'' to assure that all hazardous waste generated is designated for and arrives at the appropriate treatment, storage, disposal facility. An essential part of this manifest system is the Uniform Hazardous Waste Manifest (Form 8700–22A). The manifest is a tracking document that accompanies the waste from its generation site to its final disposition. The manifest lists the wastes that are being shipped and the final destination of the waste.

The manifest system is a self-enforcing mechanism that requires generators, transporters, and owner/operators of treatment, storage, and disposal facilities to participate in hazardous waste tracking. In addition the manifest provides information to transporters and waste management facility workers on the hazardous nature of the waste, identifies wastes so that they can be managed appropriately in the event of an accident, spill, or leak, and ensures that shipments of hazardous waste are managed properly and delivered to their designated facilities.

This system does not ordinarily involve intervention on the part of EPA unless hazardous wastes do not reach their point of disposition within a specified time frame. In most cases, RCRA-authorized States operate the manifest system, and requirements may vary among authorized States.

EPA believes manifest requirements and the resulting information collection mitigate potential hazards to human health and the environment by ensuring that hazardous waste is sent to and received by appropriate treatment, storage, and disposal facilities, by initiating appropriate response actions if a shipment does not reach its intended destination, and by providing necessary emergency response information in the event of an accident, spill, or leak during transportation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA is soliciting comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement

The projected burden and cost for complying with manifest requirements are approximately 2,899,907 burden hours per year with an annual cost of $117,194,088.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Recordkeeping and Reporting Burden

Hazardous Waste Generators

The total estimated annual recordkeeping and reporting burden for hazardous waste generators is 922,411 hours. The Agency estimates that there are 18,514 large quantity generators (LQGs), 82,873 small quantity generators (SQGs), and 1,983 treatment storage and disposal facilities (TSDFs) acting as generators who are subject to the federal requirements for preparing a manifest. Hazardous waste generators prepare approximately 1,795,865 manifests annually for federally regulated hazardous waste.

The Agency believes that LQGs and SQGs take an average of 24 and 22.8 minutes respectively, to complete each manifest, and they are estimated to take 1.25 hours to read the manifest regulations once a year.

The estimated annual reporting burden related to manifesting for a SQG or LQG ranges from 3 to 90 minutes per generator. The variation in burden hours will depend on the nature of the shipment. For example, if a hazardous waste generator receives assistance in completing the manifest and experiences no problems with the shipment, the burden is likely to be as low as 3 minutes per manifest. If however, a generator does not receive a copy of the manifest returned by the TSDF the burden can be as high as 90 minutes to account for the time required to complete and submit an exception report.

EPA also estimates that there are 1,983 TSDFs who ship wastes offsite and that a TSDF who ships wastes offsite takes an average of 25.8 minutes to prepare a manifest. Of these TSDFs approximately 75 percent are captive TSDFs (i.e., TSDFs who receive waste from onsite sources only, or from onsite and offsite sources that are owned by the same company) and 25 percent are commercial TSDFs (i.e., facilities that manage waste from any generator or facility, or from a limited group of generators or facilities for commercial purposes). EPA estimates that the average commercial TSDF acting as a generator completes 292 manifests annually while the average captive TSDF acting as a generator completes 36 manifests annually. Approximately 144,832 manifests are completed annually by all commercial TSDFs acting as generators, and 53,532 manifests are completed annually by all captive TSDFs acting as generators. This results in a total of 198,364 manifests generated by TSDFs acting as generators each year.

In addition to reporting burden, hazardous waste generators are expected to incur a recordkeeping burden of between 10 and 20 minutes for time spent retaining the manifest, obtaining the signature of the first transporter, and dealing with any exception reports onsite.

Hazardous Waste Transporters

The estimated annual recordkeeping and reporting burden for hazardous waste transporters who handle the manifest is 633,119 hours. The Agency estimates that there are 500 hazardous waste transporter companies subject to the manifest system and that on average, each company will take 1.25 hours to read the manifest regulations once a year. Approximately 91 percent (1,623,317) of manifests will accompany highway shipments, 6 percent (107,032) will accompany rail shipments, and 3 percent (53,516) will accompany water shipments. EPA estimates that there are approximately 1,783,865 manifests

completed annually for domestic shipments and that there are an additional 12,000 manifests that accompany exports of hazardous wastes from the U.S.

The estimated annual reporting burden per manifest for hazardous waste transporters ranges from 10 to 90 minutes. The variation in burden hours for transporters will depend on the nature of the shipment and whether a discharge has occurred. If a discharge of hazardous waste occurs, the transporter is required to notify the authorities and will incur a higher burden.

In addition to reporting burden, hazardous waste transporters are expected to incur a recordkeeping burden of between 10 and 20 minutes per manifest to account for time spent retaining the manifest onsite, obtaining the signature of the next handler of the shipment, and relaying to that handler the remaining copies of the manifest.

Treatment Storage and Disposal Facilities

The estimated annual recordkeeping and reporting burden for designated TSDFs is 1,344,377 hours. Of the 2,584 TSDFs in the U.S., approximately 644 TSDFs receive hazardous waste shipments from offsite (e.g., they receive waste from any generator or facility, or from a limited group of generators or facilities for commercial purposes). The remaining TSDFs treat or store wastes from onsite sources only. EPA estimates that TSDFs who receive waste for treatment, storage, and disposal will take 1.25 hours to read the manifest regulations once a year.

These designated facilities are also expected to spend between 20 and 205 minutes fulfilling reporting requirements. For most TSDFs, reporting consists of completing and transmitting the manifest. Reporting of this type may require only 20 minutes per manifest. The Agency estimates that of the 1,795,685 manifests prepared by generators, 12,000 manifests are sent with shipments exported out of the U.S. and 178 manifests are lost in transport. These 12,178 manifests are not received or processed by designated TSDFs. The remaining 1,783,687 manifest are received by TSDFs. Of these, 7,135 (0.4%) manifests involve discrepancies. A TSDF who encounters a significant discrepancy may incur a burden as high as 205 minutes per manifest. This includes time for contacting the generator and completing the discrepancy reports.

In addition to reporting burden, designated TSDFs are expected to incur a recordkeeping burden of between five and 35 minutes per manifest to account for time spent retaining the manifest onsite and if needed, a discrepancy and unmanifested waste report, and relaying a signed copy confirming delivery of the shipment to the generator.

Costs

EPA estimates that generators, transporters, and TSDFs incur annual costs of $96,861,043. Of this total, $96,803,642 (99.9%) is attributable to labor costs and to operation and maintenance costs. Labor costs are estimated to be $96.16 per hour for legal staff, $71.50 per hour for managerial staff, $46.80 per hour for technical staff, and $24.48 per hour for clerical staff.

Additionally, capital costs for the hazardous waste manifest requirements are approximately $57,261. For this ICR, capital cost represents the cost of purchasing file cabinets to store paper copies of the manifest. The Agency anticipates that collectively the hazardous waste industry will need to keep copies of 7,872,069 manifests and reports annually and would need to purchase 492 standard size lateral file cabinets each year. In total, EPA estimates that the hazardous waste industry will need to pay an annual cost of $28,630 for the 492 file cabinets over each of the 15 years of the useful life of the file cabinet.

Because the exhibits in the ICR summarized in this notice present the average annual cost to respondents under the manifest system over the three-year life of the ICR, EPA has averaged the annual cost of purchasing file cabinets over three years. By averaging the annual payments for each of the three years, EPA has determined the total average annual cost to the industry to be approximately $57,261. Commenters should note that the above estimates reflect an overall increase in burden from the previous ICR. This increase is due primarily to adjustments to the number of manifests per shipment, to the amount of time required to read the regulations, and to the amount of time needed to prepare the manifest and process it during its transmission between various handlers.

The Agency is specifically interested in comments concerning the accuracy of the number of manifests estimated, the amount of time required to read the regulations and prepare the manifest, and elements of the manifest system that result in additional burden but are not included in the ICR.

Commenters should also be advised that EPA plans a more fundamental modification of the manifest system during the period of this ICR renewal. The Agency is interested in reducing the data elements and copy requirements of the current form, and moving perhaps to a more automated means of tracking and reporting hazardous waste movement data. Therefore, EPA also solicits comments suggesting those elements of the manifest system that are most amenable to change, and the burden reduction or other benefits that could result from the suggested changes. EPA also requests comments on the concept of automating the manifest system, and suggestions and concerns from the public on the automated approaches which EPA should consider in developing a new approach to tracking hazardous waste shipments. Send comments regarding the ICR and suggestions for reducing the burden to the address noted above in the section entitled **ADDRESSES**.

Dated: March 24, 1999.

Elizabeth Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 99–8254 Filed 4–2–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6319–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Final Authorization for Hazardous Waste Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Action (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Final Authorization for Hazardous Waste Management, OMB Control No. 2050–0041, expiration date March 31, 1999. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 5, 1999.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, or download off the Internet at *http://www.epa.gov/icr/icr.htm*, and refer to EPA ICR No.969.05.

SUPPLEMENTARY INFORMATION:

Title: Final Authorization for Hazardous Waste Management Programs (OMB Control No. 2050–0041, EPA ICR No. 969.05) expiring 3/31/99. This is a

request for an extension of a currently approved collection.

Abstract: In order for a State to obtain final authorization for a State hazardous waste program or to revise its previously authorized program, it must submit an official application to the EPA Regional office for approval. The purpose of the application is to enable EPA to properly determine whether the State's program meets the requirements of section 3006 of RCRA.

Either EPA or the approved State may initiate a revision to The authorized program. State program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. The State shall inform EPA of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, in accordance with section 271.21. If a State is proposing to transfer all or any part of any program from the approved State agency to any other agency, it must notify EPA in accordance with section 271.21 and submit revised organizational charts as required under section 271.6, in accordance with section 271.21. Further, whenever EPA has reason to believe that circumstances have changed with respect to a State program, EPA may request, and the State shall provide, a supplemental Attorney General's statement, program description, or such other documents or information as are necessary. These paperwork requirements are mandatory under section 3006(a). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on November 12, 1998 (63 FR 30275). Two comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1187 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Affected Entities: Authorized states and territories.

Estimated Number of Respondents: 18.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 21,357 hours.

Estimated Total Annualized Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following address. Please refer to EPA ICR No.969.05 and OMB Control No. 2050–0041 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OP Regulatory Information Division (2137), 401 M Street, SW, Washington,DC 20460 (or E-mail Farmer.Sandy@epamail.epa.gov); and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: March 30, 1999.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 99–8335 Filed 4–2–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6318–8]

National Volatile Organic Compound Emission Standards for Consumer and Commercial Products; Variance Requests for the Consumer Products Rule and the Automobile Refinish Coatings Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of opportunity for public hearing.

SUMMARY: This document provides a list of companies that have submitted requests for variances under the Consumer Products Rule and the Automobile Refinish Coatings Rule. The list includes variance requests received from December to early March, and includes the name of each requesting company, its location, and a brief summary of the request. The EPA will determine whether, and to what extent, and under what conditions to grant the requested variances from the requirements of the specific rules.

DATES: *Public Hearing.* A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the variance requests. If anyone contacts the EPA requesting to speak at a public hearing by April 26, 1999, a public hearing will be held on May 25, 1999, beginning at 9:00 a.m. Persons interested in attending the hearing should notify Janet Eck, (919) 541–7946, to verify that a hearing will occur and for notification of the location of the meeting.

Request to Speak at Hearing. Persons wishing to speak at the public hearing must contact Janet Eck at the EPA by April 26, 1999. Ms. Eck may be contacted at telephone number (919) 541–7946, or FAX number (919) 541–5689.

FOR FURTHER INFORMATION CONTACT: For general information on the variance provisions of the rules or information on specific variance requests, contact Bruce Moore (telephone: 919–541–5460; email: moore.bruce@epa.gov) or Mark Morris (telephone: 919–541–5416; email: morris.mark@epa.gov), Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: On September 11, 1998, the EPA promulgated National Volatile Organic Compound (VOC) Emission Standards for Consumer Products (63 FR 48819) and National VOC Emission Standards for Automobile Refinish Coatings (63 FR 48806). These standards established VOC limits for the products affected by the rules. The rules contain provisions that allow a regulated entity to apply for a temporary variance if the entity cannot comply with the requirements of the rule because of circumstances beyond its reasonable control.

Requests for variances must include:

(1) The specific grounds upon which the variance is sought,

(2) The proposed date by which the regulated entity will achieve compliance with the rule (no later than 5 years after the issuance of the variance), and

(3) A compliance plan detailing the method(s) by which the regulated entity will achieve compliance with the rule.

The rules state that the Administrator will issue a temporary variance if a regulated entity can demonstrate that

complying with the rule would be technologically or economically infeasible, and if the regulated entity proposes a plan by which compliance will be achieved as expeditiously as possible. A variance will cease to be effective upon the failure of an entity to comply with any term or condition of the variance. Upon the application of any party, the Administrator may review and, for good cause, modify or revoke a variance after holding a public hearing.

From December to early March, the EPA received twenty requests for variances from the two rules. Table 1 lists those companies requesting variances from the Consumer Products Rule. Table 2 lists those companies requesting variances from the Automobile Refinish Coatings Rule. These variance requests are currently undergoing review.

TABLE 1.—VARIANCE REQUESTS: CONSUMER PRODUCTS RULE

Company	Location	Summary of request
Waldwick Plastics Corporation	Waldwick, New Jersey	Waldwick requested a variance from the VOC limits for seven deodorizing products that would expire June 30, 1999.
Cul-Mac Industries, Inc	Wayne, Michigan	Cul-Mac requested a variance to modify dilution ratios for a windshield washer solvent. They requested a variance that would expire July 1999.
Taylor Labs, Inc	Chattanooga, Tennessee	Taylor Labs requested a 1 to 2 year variance from the date code requirements. They requested that dating the outer delivery packaging be acceptable rather than date coding individual packages within.
Selig Chemical Industries	Atlanta, Georgia	Selig requested a variance from the date coding requirements. They requested that, in lieu of data stamping their products, they be allowed to use hang tags until they obtain encoding equipment to date stamp their products. They have requested a variance that would expire November 1999.
Carroll Company	Garland, Texas	Carroll requested a variance that would expire January 2001 to allow sufficient time to purchase date coding equipment.
Ocean Coffee Company	Shreveport, LA	Ocean Coffee Company requested a five-year variance to acquire a supply of product in small quantities. They claim they are unable to find compliant products in quantities small enough to be economically feasible for them.
Chemtech	Monroe, Louisiana	Chemtech requested a variance that would expire September 1999 to allow them to manually calculate the VOC content of all of their product formulas.
ECP Incorporated	Oak Brook, Illinois	ECP requested a variance that would expire July 2000 to allow them to reformulate fabric protectors.
Pitt Penn Oil Company	Creighton, Pennsylvania	Pitt Penn requested a variance from the labeling requirements to allow them to deplete a large existing inventory of labels. Pitt Penn did not request a specific time by which compliance would be achieved.
Watkins, Inc	Winona, Minnesota	Watkins requested a five-year variance that would allow them to reformulate several products. Watkins has claimed the information in their request to be confidential.
Butcher	Alsip, Illinois	Butcher requested a variance that would expire December 1999 to allow them to reformulate several products. Butcher has claimed the information in their request to be confidential.
Amrep, Inc	Marietta, Georgia	Amrep requested a variance from the labeling requirements of the rule until April 1999.
North Carolina Department of Corrections.	Raleigh, North Carolina	The Department of Corrections requested a variance to reformulate a non-ammoniated glass cleaner and an ammoniated glass cleaner. They have requested a variance that would expire March 1999.
Central Products	Montgomery, Alabama	Central Products requested a 1-month variance from the labeling requirements.
MEDO Industries	Tarrytown, New York	MEDO requested a variance that would expire April 1999 to allow them to retrofit their date-coding equipment.
Wella	Richmond, Virginia	Wella requested a 1-month variance from the labeling requirements.
Atco International	Marietta, Georgia	Atco requested a variance from the VOC limits that would expire June 1999.

TABLE 2.—VARIANCE REQUESTS: AUTOMOBILE REFINISH COATINGS RULE

Company	Location	Summary of request
Finish Technologies	Walled Lake, Michigan	Finish Technologies has requested a 24-month variance from the rule because their coatings use a solvent which is expected to become an exempt compound.
Coventry Coatings, Inc	Garnerville, New York	Coventry Coatings has requested an 18-month variance to reformulate primer surfacers and clearcoats, and to deplete existing labels.
Grow Automotive	Troy, Michigan	Grow has requested a 6-month variance to develop product literature which will recommend the use of their products in a way that results in compliant coatings.

Authority: 42 U.S.C. 7511b(e).

March 29, 1999.

Robert Perciasepe,

Assistant Administrator, OAR.

[FR Doc. 99–8255 Filed 4–2–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6318–6]

Investigator-Initiated Grants: Request for Applications in the ''Supersites'' Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of request for Applications.

SUMMARY: This notice provides information on the availability of a fiscal year 1999 investigator-initiated grants solicitation for a Particulate Matter (PM) ''Supersites'' monitoring program. The areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth in the announcement. Cooperative agreement grants will be competitively awarded following peer review. This competition is jointly announced by the Office of Air and Radiation and the Office of Research and Development. A discussion of the program will take place on June 7, 1999, in Durham, NC.

DATES: The receipt date for applications is Wednesday, August 4, 1999, by 4:00 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research and Quality Assurance (8703R), 401 M Street SW, Washington DC 20460, telephone (800) 490–9194. The complete announcement can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa under ''announcements.''

SUPPLEMENTARY INFORMATION: In this Request for Applications (RFA) the U.S. Environmental Protection Agency (EPA), Office of Air and Radiation and Office of Research and Development, invites research cooperative agreement applications to support development of a ''Particulate Matter Supersites'' monitoring program that will provide information of value to the atmospheric sciences, human health, and human exposure research communities. The PM Supersites Program will be implemented through individual projects in as many as five study areas of the United States. Each of these individual projects will be an ambient atmospheric measurement study which is designed to address and integrate objectives of the atmospheric sciences, health, and exposure research communities. Applications must be received by 4:00 p.m. EDT, Wednesday, August 4, 1999. The RFA provides relevant background information, summarizes EPA's interest in the topic areas, and describes the application and review process.

To foster interaction among potential applicants across a spectrum of scientific disciplines, EPA has organized a discussion session on the evening of June 7, 1999, at the Durham Marriott at the Civic Center, in Durham, NC. Further information about this meeting is posted on the EPA web site: *http://www.epa.gov/ttn/amtic/supsites.html.*

Contact person for technical questions related to the program is Richard D. Scheffe (*scheffe.richard@epa.gov*), telephone 919–541–4650, and administrative questions is Robert E. Menzer (*menzer.robert@epa.gov*), telephone 202–564–6849.

Dated: March 16, 1999.

Approved for publication:

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 99–8256 Filed 4–2–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6318–7]

Investigator-Initiated Grants: Request for Applications

AGENCY: Environmental Protection Agency.

ACTION: Notice of request for applications.

SUMMARY: This notice provides information on the availability of fiscal year 1999 investigator-initiated grants program announcements, in which the areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth. Grants will be competitively awarded following peer review.

DATES: Receipt dates vary depending on the specific research area within the solicitation and are listed below.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research and Quality Assurance (8703R), 401 M Street SW, Washington DC 20460, telephone (800) 490–9194. The complete announcement can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa under ''announcements.''

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency (EPA) invites research grant applications in the following areas of special interest to its mission: (1) Airborne Particulate Matter Health Effects; (2) Drinking Water; (3) Combustion Emissions; (4) Computing Technology for Ecosystem Modeling; and (5) Exploratory Physical Science and Engineering Research. Applications must be received as follows: June 2, 1999, for topic (1); May 19, 1999, for topics (2) and (3); May 12, 1999, for topic (4); and June 9, 1999, for topic (5).

The RFAs provide relevant background information, summarize EPA's interest in the topic areas, and describe the application and review process.

Contact person for the Airborne Particulate Matter Health Effects RFA is Deran Pashayan (pashayan.deran@epamail.epa.gov), telephone 202–564–6913. Contact person for the Drinking Water RFA is William Stelz (stelz.william@epamail.epa.gov), telephone 202–564–6834. Contact person for the Combustion Emissions RFA is Thomas Veirs (veirs.thomas@epamail.epa.gov), telephone 202–564–6831. Contact person for the Computing Technology for Ecosystem Modeling RFA is Chris Saint (saint.chris@epamail.epa.gov), telephone 202–564–6909. Contact person for the Exploratory Physical Science and Engineering RFA is Bala Krishnan (krishnan.bala@epamail.epa.gov), telephone 202–564–6832.

Dated: March 16, 1999.

Approved for publication:

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 99–8257 Filed 4–2–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6319–9]

Effluent Guidelines Task Force Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Effluent Guidelines Task Force, an EPA advisory committee, will

hold a meeting to discuss the Agency's Effluent Guidelines Program. The meeting is open to the public.

DATES: The meeting will be held on Tuesday, May 4, 1999 from 9:00 a.m. to 5:00 p.m., and Wednesday, May 5, 1999 from 8:30 a.m. to 3:00 p.m.

ADDRESSES: The meeting will take place at the Radisson Barcelo Hotel, 2121 P Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Beverly Randolph, Office of Water (4303), 401 M Street, SW, Washington, D.C. 20460; telephone (202) 260–5373; fax (202) 260–7185.

SUPPLEMENTARY INFORMATION:

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the Environmental Protection Agency gives notice of a meeting of the Effluent Guidelines Task Force (EGTF). The EGTF is a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory board to the Administrator of EPA.

The EGTF was established in July of 1992 to advise EPA on the Effluent Guidelines Program, which develops regulations for dischargers of industrial wastewater pursuant to Title III of the Clean Water Act (33 U.S.C. 1251 *et seq.*). The Task Force consists of members appointed by EPA from industry, citizen groups, state and local government, the academic and scientific communities, and EPA regional offices. The Task Force was created to offer advice to the Administrator on the long-term strategy for the effluent guidelines program, and particularly to provide recommendations on a process for expediting the promulgation of effluent guidelines. The Task Force generally does not discuss specific effluent guideline regulations currently under development.

The meeting is open to the public, and limited seating for the public is available on a first-come, first-served basis. The public may submit written comments to the Task Force regarding improvements to the Effluent Guidelines program. Comments should be sent to Beverly Randolph at the above address. Comments submitted by April 23, 1999 will be considered by the Task Force at or subsequent to the meeting.

Dated: March 26, 1999.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 99–8336 Filed 4–2–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6320–2]

Notice of Process Improvements Under Project XL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; clarification and streamlining of the process used for developing XL projects.

SUMMARY:

What is Project XL?

Project XL, which stands for eXcellence and Leadership, is a national initiative that tests innovative ways of achieving better and more cost-effective public health and environmental protection. XL pilot projects must meet certain criteria (see **SUPPLEMENTARY INFORMATION** section of this Notice), but are built around three key elements: (1) Stronger environmental performance; (2) meaningful stakeholder involvement; and (3) flexibility in EPA regulations, policies, or procedures. Project XL challenges the regulated community—facilities, business sectors, government agencies, and communities—to find cleaner, cheaper and smarter ways of protecting the environment. As of February 1999, ten projects are being implemented and over 20 more are in development. Project sponsors have already achieved a number of significant benefits by participating in Project XL, including increased environmental protection, substantial cost savings, improved operational flexibility, and better stakeholder relations.

What Is the Purpose of This Notice?

EPA is announcing new operating guidance for XL's project development process. Project XL is an evolving program where EPA applies ''lessons learned'' in a timely way. Comments are always welcome. This guidance will not be ''finalized'' through additional notices, but will be revised, when necessary, based on comments and input. This Notice provides a very brief description of the new guidance and announces the availability of three specific documents that describe the key changes in greater detail. These documents are available on Project XL's website: www.epa.gov/ProjectXL as well as from XL's information line at 202–260–5754.

Why Is This New XL Guidance Needed?

When Project XL was launched in 1995, there were no models to draw upon for such an innovative effort. Since that time, EPA has learned a great deal about how to carry out cross-media, cross-Agency experiments and can now be more specific on what a quality proposal should contain, how decisions should be made, and what a stakeholder process should entail. Building on that practical experience, EPA has worked hard with representatives from industry, environmental organizations, states, and other interested groups over the last several months to improve how XL pilot projects are developed and implemented. These improvements have already led to reductions in the ''transaction costs'' of all participants in projects where they have been utilized.

How Has the New Process Produced Better Results?

After a step-by-step evaluation of the old process, the ''re-engineering'' work group created a new process that is faster and clearer, and spells out the roles and responsibilities not only for EPA, but also project sponsors and stakeholders. Improvements have been seen in several XL projects currently under development where these changes have been utilized. For example, in one recent project several of the new techniques were applied resulting in a quality proposal that will have an agreement signed nine months after initial discussions began.

What Changes Have Been Made?

The old process needed—

—Greater clarity in determining what makes a good proposal and how to involve and assist stakeholders more effectively;

—Better management of proposal development activities and decision-making in EPA, the states, and other regulators outside of EPA; and

—More commitment to an expeditious process by all parties at all levels.

The new process is now—

—clearer, more predictable, and faster and is described in detail in the following documents:

(1) A Best Practices Guide for Proposal Development

This guide is designed to help project sponsors submit Project XL proposals that will go through the review process as quickly and smoothly as possible. The guide is intended to: (a) let project sponsors know in clear terms what information to put into a proposal; (b) help sponsors understand why EPA needs this information from project sponsors; and (c) give sponsors some initial sense of whether their idea is a likely candidate for Project XL.

(2) A Stakeholder Involvement Guide

Surveys of project sponsors have indicated that the stakeholder involvement process has been very beneficial to them, but that the process could benefit from clear guidance on how to do it and what's involved. This XL-specific guide to stakeholder involvement is designed to clarify the roles and responsibilities of sponsors and stakeholders, enumerate guiding principles, and provide ideas and tools to help develop, negotiate, and implement successful XL projects.

(3) Manual for EPA XL Project Teams

XL projects require expeditious coordination among several organizations within EPA. This manual guides the internal EPA process, and improves the Agency's ability to make decisions quickly and move XL projects effectively through the development process. It consists of two parts: (a) Ground Rules for EPA XL Teams, outlining ground rules found to be essential for EPA project teams to perform effectively; and (b) The XL Process Steps for EPA's XL Teams, which provides a step-by-step breakdown of the process and delineates internal responsibilities for each step.

EPA has developed additional tools and techniques to assist during proposal development:

—Project management schedules with milestones are now developed and tracked for every project;

—EPA senior management participate early during proposal development;

—The roles and responsibilities for all participants are now clearer;

—Training is available for new EPA XL project teams;

—Assistance is available through an EPA contractor to project sponsors who would like to use an impartial facilitator to help get the stakeholder involvement process off to an open, well-organized, and productive start.

—Task-specific technical assistance can also be provided for stakeholder groups under certain conditions through the Institute for Conservation Leadership (telephone number 301–270–2900).

How Fast is "Faster"?

The revised XL process is divided into shorter, more focused project phases, with estimated time frames of six months to a year, compared to 18 months or more for the old process.

THE NEW PHASES OF THE XL PROPOSAL PROCESS

Phase	Estimated number of days*	Description
Pre-Proposal	20–30	Informal discussions between EPA, State(s), and potential sponsors.
Proposal Development	50–75	EPA and the relevant State(s) help the sponsor develop proposal concepts into complete proposal package.
EPA & State Proposal Review	40–60	States and EPA decide whether the project is acceptable for developing a Final Project Agreement (FPA).
Final Project Agreement Development, and a **Federal Register** Notice to solicit comments, with the appropriate legal mechanism, where necessary (such as a permit or site specific rule)	90–180	EPA, the sponsor, the State(s), and the stakeholders work to develop the Final Project Agreement (FPA).
Total:	200–345*	

Provided the project sponsor and the State agree with the proposed schedules.

DATES: April 5, 1999.

FOR FURTHER INFORMATION CONTACT: (1) For XL projects: 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 general information, 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, please turn to Project XL's website—http://www.epa.gov/ProjectXL for private and federal facilities, states, and business sectors; and for communities, turn to *http://www.epa.gov/ProjectXLC*.

SUPPLEMENTARY INFORMATION:

How are XL Projects Selected?

Much information on Project XL has been provided in previous **Federal Register** documents. In Project XL's first **Federal Register** Notice 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 Notice, EPA also defined the eight criteria by which proposals are selected for participation. In addition to these criteria, a project sponsor must have a solid record of compliance.

The criteria help evaluate whether the project can:

(1) Produce superior environmental results;

(2) Produce benefits such as cost savings, paperwork reduction, and operational flexibility;

(3) Garner stakeholder involvement and support;

(4) Achieve innovation and multi-media pollution prevention;

(5) Be transferable to other facilities, sectors, communities, etc.;

(6) Be feasible (technically and administratively);

(7) Identify monitoring, reporting, accountability, and evaluation methods; and

(8) Avoid shifting of risk burden.

In addition to these criteria, there are three criteria that are specific to community-sponsored XL projects:

(9) Build capacity for community participation;

(10) Create economic opportunity; and

(11) Promote community planning.

How Can You Get More Information?

For more detailed definitions of the XL criteria, please refer to the **Federal Register** documents of May 23, 1995 (60 FR 27282) and April 23, 1997 (62 FR19872), which provide further guidance and clarification. Additional information on XL (program policy, projects, project ideas, publications, and legal questions) can be obtained from the **Federal Register** document of June 23, 1998, from Project XL's websites http://*www.epa.gov/ProjectXL* and *http://www.epa.gov/ProjectXLC*, and by calling 202–260–5754.

Dated: March 23, 1999.

Jay Benforado,

Acting Associate Administrator, Office of Reinvention.

[FR Doc. 99–8338 Filed 4–2–99; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: April 13, 1999 at 2:00 P.M.

PLACE: Federal Reserve Bank Auditorium, 10 Independence Mall, Philadelphia, PA, 19106.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes, and
2. Panel Discussion of Equal Pay Act (EPA) Enforcement.

Note: Any matters not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission meetings.) Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TDD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer, on (202) 663–4070.

Dated: March 30, 1999.

Frances M. Hart,

Executive Officer Executive Secretariat.

[FR Doc. 99–8343 Filed 3–31–99; 4:40 pm]

BILLING CODE 6750–06–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

March 25, 1999.

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, as required by the Paperwork Reduction Act of 1995, Pub. L. 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 June 4, 1999. 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 Les Smith, Federal Communications Commission, 445 12th Street, SW, Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0095.

Title: Annual Employment Report—Cable Television.

Form Number: FCC 395–A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 2,564.

Estimated Time per Response: 0.25 to 2.42 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 4,683.

Total Annual Costs: None.

Needs and Uses: The Annual Employment Report (FCC 395–A) is a data collection device used to assess and enforce the Commission's EEO requirements. The report identifies employees by gender, race, color and/or national origin in nine major job categories. Every cable entity with six or more full-time employees and all Satellite Master Antenna Television Systems serving 50 or more subscribers and having six or more full-time employees must file annually a full FCC 395–A. However, cable entities with five or fewer full-time employees must only file Sections I, II, and IX of the FCC 395–A, and thereafter need not file again unless its employment increases. In addition, cable entities with six or more full-time employees will file a Supplemental Investigation Sheet once every five years. The data are used by FCC staff to monitor a cable unit's efforts to afford equal employment opportunity in employment. The data are also used to assess industry trends.

OMB Control Number: 3060–0574.

Title: MVPD Annual Employment Report.

Form Number: FCC 395–M.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 155.

Estimated Time Per Response: 0.25 to 2.42 hours.

Frequency of Response: Annual reporting requirement.

Total annual burden: 232 hours.

Total annual costs: None.

Needs and Uses: Section 22 (e) of the Cable Television Consumer Protection Act of 1992 (1992 Cable Act) amends the definition of ''cable operator'' for EEO purposes to include program packages of multiple video program distributors (MVPD) using owned or leased transport facilities in the multipoint distribution service (MDS), multichannel, multipoint distribution service (MMDS), direct broadcast satellite (DBS), television receive only (TVRO), and video dialtone facilities to provide multiple channels of video programming. The MVPD Annual Employment Report (FCC 395–M) is a data collection device used to assess and enforce the Commission's EEO requirements. The report identifies employees by gender, race, color, and/or national origin in nine major job categories. The FCC 395–M contains a grid which collects data on full and part-time employees, collects hiring and promotion data for senior upper-level job categories, and a list of job titles within each of the 15 job categories. MVPD units may submit computer-generated lists of job titles which are currently maintained for internal recordkeeping purposes. Every MVPD unit with six or more full-time employees must file annually a full FCC 395–M. However, MVPD units with five or fewer full-time employees must only file Sections I, II, and IX of the FCC 395–M, and thereafter, need not file again unless its employment increases. In addition, MVPD units with six or more full-time employees will file a Supplemental Investigation Sheet once every five years.

The data are used by FCC staff to monitor an MVPD unit's efforts to afford

equal employment opportunity in employment. The data are used to assess industry trends.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–8218 Filed 4–2–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

March 19, 1999.

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, as required by the Paperwork Reduction Act of 1995, Pub. L. 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 May 5, 1999. 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 Les Smith, Federal Communications Commissions, 445 12th Street, SW., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0134.

Title: Application for Renewal of Private Radio Station License.

Form Number(s): FCC 574 R.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for-profit institutions; Individuals or households; and State, Local, or Tribal Governments.

Number of Respondents: 84,000.

Estimated Time per Response: 0.3 hours.

Frequency of Response: Recordkeeping. On occasion reporting requirements.

Total Annual Burden: 27,720 hours.

Total Annual Costs: $5,697,000.

Needs and Uses: This form is filed by applicants in the Land Mobile and General Mobile Radio Services for renewal of an existing authorization. The data are used to determine eligibility for a renewal and issue a radio station license. Data are used to maintain the licensing database and provide proper use of the frequency spectrum.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–8217 Filed 4–2–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATIONS COUNCIL

Community Reinvestment Act

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Withdrawal of prior interpretations.

SUMMARY: The Federal Financial Institutions Examination Council (FFIEC) is withdrawing certain interpretations and guidance provided to financial institutions subject to the Community Reinvestment Act (CRA) that have been rendered obsolete by the 1995 revisions to the regulations implementing the CRA promulgated by the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (Board), the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS) (collectively, the agencies).

EFFECTIVE DATE: April 5, 1999.

FOR FURTHER INFORMATION CONTACT:

OCC: Malloy Harris, National Bank Examiner, Community and Consumer Policy Division, (202) 874–4446; or Margaret Hesse, Senior Attorney, Community and Consumer Law Division, (202) 874–5750, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Catherine M.J. Gates, Senior Review Examiner, Division of Consumer and Community Affairs, (202) 452–3946; or James H. Mann, Attorney, Division of Consumer and Community Affairs, (202) 452–2412, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Louise N. Kotoshirodo, Review Examiner, Division of Compliance and Consumer Affairs, (202) 942–3599; or Robert W. Mooney, Senior Fair Lending Specialist, Division of Compliance and Consumer Affairs, (202) 942–3090, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Richard R. Riese, Project Manager, Compliance Policy, (202) 906–6134; or Theresa A. Stark, Project Manager, Compliance Policy, (202) 906–7054, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

Section 806 of the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2905, requires the Federal financial supervisory agencies to publish regulations to carry out the purposes of the CRA. On October 12, 1978, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (agencies) jointly published regulations to implement the CRA (43 FR 47151) (1978 regulations).

To assist financial institutions subject to the CRA in interpreting these regulations and to provide guidance on compliance with the CRA, the Federal Financial Institutions Examination Council (FFIEC) issued various interpretations and statements of policy, including the ''Uniform Interagency Community Reinvestment Act Final Guidelines for Disclosure of Written Evaluations and Revised Assessment Rating System'' (1990 Rating Guidelines) on May 1, 1990 (55 FR 18163) and the ''Community Reinvestment Act Policy Statement on Analyses of Geographic Distribution of Lending'' (1991 Lending Analyses Policy Statement) on December 6, 1991. The agencies also jointly issued a ''Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act'' (1989 Policy Statement), which was published in the **Federal Register** on April 5, 1989 (54 FR 13742).

On May 4, 1995, the agencies revised their CRA regulations by issuing a joint final rule (60 FR 22156). *See* 12 CFR Parts 25, 228, 345 and 563e, implementing 12 U.S.C. 2901 *et seq.* Subsequently, the agencies published related clarifying amendments on December 20, 1995 (60 FR 66048) and May 10, 1996 (61 FR 21362). The revised regulations were phased in over a two year period ending July 1, 1997, at which time, the 1978 regulations fully expired and all provisions of the revised regulations became applicable to all financial institutions covered by the CRA.

On October 21, 1996, the FFIEC published agency staff guidance under the new regulations in the form of ''Interagency Questions and Answers Regarding Community Reinvestment'' (Interagency Q&As) to consolidate staff guidance regarding the revised CRA regulations into a comprehensive document to serve as informal staff guidance for financial institutions, agency staff and the public (61 FR 54647). The FFIEC supplemented, amended, and republished the Interagency Q&As on October 7, 1997 (62 FR 52105). The Interagency Q&As to be their primary vehicle for disseminating guidance interpreting their CRA regulations.

CDRI Review

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act) requires each federal banking agency to streamline and modify its regulations and written policies to improve efficiency, reduce unnecessary costs, and eliminate unwarranted restraints on credit availability; remove inconsistencies and outmoded and duplicative requirements; and work jointly with the other federal banking agencies to make uniform all regulations implementing common statutory or supervisory policies (12 U.S.C. 4803(a)). During the review of their CRA regulations, the agencies identified interpretations and policy statements issued under the 1978 regulations that have been superseded or made obsolete. In particular, the agencies have determined that the 1989 Policy Statement, the Rating Guidelines, and the Lending Analysis Policy Statement are obsolete as they provide guidance that is inconsistent with the revised regulations and should be withdrawn.

Withdrawal of Guidance on 1978 Regulations

Since the revised regulations have been fully implemented, the FFIEC finds that the guidelines and policy statements issued to interpret the 1978 regulations have become obsolete. Consequently, the FFIEC is withdrawing in its entirety the Rating Guidelines and the Lending Analysis Policy Statement. By a separate notice, the agencies are also withdrawing the 1989 Policy Statement. This notice appears elsewhere in today's **Federal Register**. To the extent that any agency individually adopted any of these guidelines and policy statements, it has taken action to rescind such guidelines or policy statements.

Dated: March 30, 1999.

Keith J. Todd,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 99–8142 Filed 4–2–99; 8:45 am]

BILLING CODE FRB: 6210–01–P 25%; OTS: 6720–01–P 25%; FDIC: 6714–01–P 25%; OCC: 4810–33–P 25%.

FEDERAL HOUSING FINANCE BOARD

[No. 99–N–3]

Prices for Federal Home Loan Bank Services

AGENCY: Federal Housing Finance Board.

ACTION: Notice of prices for Federal Home Loan Bank services.

SUMMARY: The Federal Housing Finance Board (Board) is publishing the prices charged by the Federal Home Loan Banks (Banks) for processing and settlement of items (negotiable order of withdrawal or NOW), and demand deposit accounting (DDA) and other services offered to members and other eligible institutions.

EFFECTIVE DATE: April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Gwen R. Grogan, Associate Director, Office of Supervision (202) 408–2892; or Edwin J. Avila, Financial Analyst, (202) 408–2871; Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION: Section 11(e) of the Federal Home Loan Bank Act (Bank Act) (12 U.S.C. § 1431(e)) authorizes the Banks (1) to accept demand deposits from member institutions, (2) to be drawees of payment instruments, (3) to engage in collection and settlement of payment instruments drawn on or issued by members and other eligible institutions, and (4) to engage in such incidental activities as are necessary to the exercise of such authority. Section 11(e)(2)(B) of the Bank Act (12 U.S.C. 1431(e)(2)(B)) requires the Banks to make charges for services authorized in that section, which charges are to be determined and regulated by the Board.

Section 943.6(c) of the Board's regulations (12 CFR 943.6(c)) provides for the annual publication in the **Federal Register** of all prices for Bank services. The following fee schedules are for the Banks which offer item processing services to their members and other qualified financial institutions. Most of the remaining Banks provide other Correspondence Services which may include securities safekeeping, disbursements, coin and currency, settlement, electronic funds transfer, etc. However, these Banks do not provide services related to processing of items drawn against or deposited into third party accounts held by their members or other qualified financial institutions.

District 1.—Federal Home Loan Bank of Boston (1999 NOW/DDA Services) (Services not provided)

District 2.—Federal Home Loan Bank of New York (1999 NOW/DDA Services) (Does not provide item processing services for third party accounts)

District 3.—Federal Home Loan Bank of Pittsburgh (1999 NOW/DDA Services)

Standard Fee Schedule

Effective Date 1/1/99

Deposit Processing Service (DPS)

DPS Deposit Tickets: $0.6000 per deposit
Printing of Deposit Tickets. Pass-through
Deposit Items Processed for volumes of:
(pricing varies—tiered by monthly volume)
1–25,000: $0.0395 per item (transit)
25,001–58,500: $0.0390 per item (transit)
58,501–91,500: $0.0385 per item (transit)
91,501–125,000: $0.0380 per item (transit)
125,001–158,500: $0.0365 per item (transit)
158,501–191,500: $0.0345 per item (transit)
191,501–over: $0.0315 per item (transit)
Deposit Items Encoded (West) for volumes of:
(pricing varies—tiered by monthly volume)
1–25,000 $0.0390 per item
25,001–58,500: $0.0386 per item
58,501–91,500: $0.0382 per item
91,501–125,000: $0.0378 per item
125,001–158,500: $0.0365 per item
158,501–191,500: $0.0360 per item
191,501–over: $0.0355 per item
Deposit Items Encoded (East) for volumes of:
(pricing varies—tiered by monthly volume)
1–25,000: $0.0345 per item
25,001–58,500: $0.0340 per item
58,501–91,500: $0.0335 per item
91,501–125,000: $0.0330 per item
125,001–158,500: $0.0315 per item
158,501–191,500: $0.0305 per item
191,501–over: $0.0299 per item
Deposit Items Returned: $2.5000 per item
Deposit Items Photocopied: $3.9500 per photocopy

DPS Photocopies–Subpoena: $19.0000 per hour of processing time,
Plus: $0.2500 per photocopy
Deposit Items Rejected (applicable to pre-encoded deposits $0.2300 per rejected item
Canadian Item Processing: $5.2500 per item
All Foreign Collection Charges: (Includes Foreign Collection Fees, Bought Foreign Collection Fees, Foreign Bank Processing Charges, and (Foreign Check Courier Charges)
Foreign Return Check Fee: $28.0000 per item
DPS Transportation (West): $9.2500 per pickup
DPS Transportation (East): $9.2500 per pickup
Return Check Courier Service: $135.0000 per month

Depository Account Services

''On-Us'' Returns Deposited:
Qualified Returns: $0.7000 per item
Raw Returns: $2.5000 per item
Mail Deposits: $5.7500 per deposit
Bond Collection:
Bearer: $30.0000 per bond
Registered: $40.0000 per item
Bond Coupon Collection: $7.5000 per envelope
Bond Coupon Returns: $30.0000 per coupon
Deposit Transfer Vouchers: $5.7500 per item

Electronic Funds Transfers

Incoming Wire Transfers: $6.2500 per transfer
Outgoing Wire Transfers (LINK): $7.0000 per transfer
Outgoing Wire Transfers (Manual): $10.5500 per transfer
Fax of Wire Transfer Advice: $3.5000 per transfer
Internal Book Transfers (LINK): No Charge
Internal Book Transfers (Manual); $1.1000 per transfer
Foreign Wire Surcharge: $32.5000 per transfer *
Foreign Wire Tracers: Pass-through
Mortgage Participation Service Fee: $3.2000 per transfer
Expected Wires Not Received: Penalty Assessed **

Automated Clearing House

ACH Transaction Settlement (CR/DR): $0.2800 per transaction
ACH Origination Items (CR/DR): $0.2200 per item
ACH Origination Record Set-Up: $1.7500 per record
ACH Origination Items Returned: $6.0000 per returned item
ACH Returns/NOCs–Facsimile: $2.2500 per transaction
ACH Returns/NOCs–Telephone: $3.6500 per transaction
ACH/FRB Priced Service Charges: $0.2900 per transaction

* Note: This surcharge will be added to the amount of the outgoing funds transfer to produce a single total debit to be charged to the customer's account on the date of transfer.

** Note: Standard penalty is equivalent to the amount of the wire(s) times the daily IOD rate, divided by 360. If the wire not received causes the Bank to suffer any penalty, deficiency, or monetary loss, any and all related costs will also be assessed.

Federal Reserve Settlement

FRB Statement Transaction (CR/DR); $0.5900 per transaction
Reserve Requirement Pass-Thru $30.000 per month (active)
Correspondent Transaction (DR): $0.5900 per transaction
Direct Send Settlement: $150.0000 per month
FRB Inclearing Settlement: $150.0000 per month
FRB Coin & Currency Settlements: $40.0000 per month

Demand Deposit Services

Clearing Items Processed:$0.1600 per item
Clearing Items Fine Sorted (for return with Bank statements): $0.0800 per item
Reconcilement Copies–Manual: $0.1100 per copy
Reconcilement Copies–MagTape: $0.0540 per copy
Reconcilement MagTape Processing: Pass-through
Reconcilement Copies–Voided: $0.0450 per copy
Check Photocopies–Mail: $3.9500 per photocopy
Check Photocopies–Telephone/Fax: $4.7500 per photocopy
Check Photocopies–Subpoena: $0.7000 per photocopy
Stop Payment Orders: $17.7500 per item
Stop Payment Cancellations: $9.0000 per cancelled item
FRB Return Items Qualified: $0.2600 per item
FRB Return Items Processed: $0.4400 per item
FRB Return Items Over: $2,500: $6.0000 per item
Collections & Forgeries: $17.5000 per item
Check Imprinting: Pass-through
Request for Fax/Photocopy: $4.7500 per document/page

Check Processing (Inclearing)

Checks Processed for volume of: (pricing varies—tiered by monthly volume)
1–25,000: $0.0460 per item
25,001–58,500: $0.0435 per item
58,501–91,500 $0.0409 per item
91,501–125,000 $0.0383 per item
125,001–158,500: $0.0355 per item
158,501–191,500: $0.0329 per item
191,501–350,000: &0.0298 per item
350,001–500,000: $0.0272 per item
500,001–over: $0.0247 per item

Full Backroom Service (Item Processing Charges)

Non–Truncated Checks for volumes of: (pricing varies—tiered by monthly
1–25,000: $0.0598 per item
25,001–58,500: $0.0588 per item
58,501–91,500: $0.0572 per item
91,501–125,000: $0.0557 per item
125,001–158,500: $0.0542 per item
158,501–191,500: $0.0527 per item
191,501–350,000: $0.0512 per item
350,001–500,000: $0.0475 per item
500,001–over: $0.0445 per item
Truncated Checks for volumes of: (pricing varies—tiered by monthly volume)
1–25,000: $0.0498 per item
25,001–58,500: $0.0488 per item
58,501–91,500: $0.0472 per item
91,501–125,000: $0.0457 per item
125,001–158,500: $0.0442 per item
158,501–191,500: $0.0427 per item
191,501–350,000: $0.0412 per item
350,001–500,000: $0.0375 per item
500,001–over: $0.0345 per item

Modified Backroom Service (Item Processing Charges)

Non-Truncated Checks for volumes of: (pricing varies—tiered by monthly volume)
1–25,000: $0.0498 per item
25,001–58,500: $0.0488 per item
58,501–91,500: $0.0472 per item
91,501–125,000: $0.0457 per item
125,001–158,500: $0.0442 per item
158,501–191,500: $0.0427 per item
191,501–350,000: $0.0412 per item
350,001–500,000: $0.0375 per item
500,001–over: $0.0345 per item
Truncated Checks for volumes of: (pricing varies—tiered by monthly volume)
1–25,000: $0.0398 per item
25,001–58,500: $0.0388 per item
58,501–91,500: $0.0372 per item
91,501–125,000: $0.0357 per item
125,001–158,500: $0.0342 per item
158,501–191,500: $0.0327 per item
191,501–350,000: $0.0312 per item
350,001–500,000: $0.0275 per item
500,001–over: $0.0245 per item

Image Services

Proof Of Deposit (POD) Service

Pricing for each of these premium services is customer-specific, based upon individual service requirements; please call your Relationship Officer at (800) 288–3400 for further information.

Check Processing (Associated Services)

Unidentified Items Processed: $1.9500 per item
Over-The-Counter Items: $0.1900 per item
OTC Item Transportation: $10.0000 per month
Special Cycle Sorting: $0.0220 per item
Mid-Cycle Statement (Purged): $0.5500 per item (Min $2.75)
Mid-Cycle Stmt. (Non-Purged): $2.7500 per statement
Statement Printing: $0.0300 per page
Statement Processing:
Statements using Generic Envelopes: $0.0640 per envelope
Statements using Custom Envelopes: $0.1075 per envelope
Statements using Large Envelopes: $0.6500 per envelope
Envelope Destruction Fee: $0.0300 per envelope
Additional Stuffer Processing (one stuffer per statement free—applicable to all additional stuffer): $0.0275 per stuffer
Selective Stuffer Processing: $0.1000 per statement
Daily Report Postage: Pass-through
Statement Postage: Pass-through
Standard Return Calls: $1.4500 per item
Automated Return Calls: $0.2900 per item
Return Calls via Link: $0.7700 per item
Late Return Calls: $5.0000 per item
FRB Return Items Qualified: $0.2600 per item
FRB Return Items Processed: $0.4400 per item

FRB Return Items Over $2,500: $6.0000 per item
Suspect Item Processing: $5.0000 per suspect item
Check Photocopies—Mail: $3.9500 per photocopy
Check Photocopies—Telephone/Fax: $4.7500 per photocopy
Check Photocopies—Subpoena: $0.7000 per photocopy
Signature Verification Copies: $0.8000 per copy
Check Retrieval: $1.7500 per item
MICRSort Option (Fixed Fee): $27.8500 per month
MICRSort Option (per item): $0.0320 per item
Collections & Forgeries: $17.5000 per item
MCPJ Microfiche Service (Min. $20.00, Max. $100.00): $0.0022 per item
Transportation: Pass-through

Coin & Currency Service: Western Service Area

Cash Orders: $2.5000 per order, plus:
Currency Orders:$0.3400 per $1,000*
Coin Orders: $2.5500 per box
Currency Deposits: $1.3500 per $1,000*
Coin Deposits: $1.9500 per standard bag
Coin Deposits (Non-Standard): $3.0000 per non-standard bag
Coin Deposits (Unsorted): $9.0000 per mixed bag
Food Stamp Deposits: $2.0000 per $1,000*
Late Order Surcharge: $5.0000 per order
Coin Shipment Surcharge: $0.2700 per excess bag**
C&C Transportation (Zone W1): $17.5000 per stop
C&C Transportation (Zone W2): $29.5000 per stop
C&C Transportation (Zone W3): $40.0000 per stop
C&C Transportation (Zone W4): Negotiable ***

Coin & Currency Service: Eastern Service Area

Cash Orders: $2.5000 per order, plus:
Currency Orders: $0.3400 per $1,000*
Coin Orders: $3.0000 per box
Currency Deposits: $1.3500 per $1,000*
Coin Deposits: $1.9500 per standard bag
Coin Deposits (Non-Standard): $3.0000 per non-standard bag
Coin Deposits (Unsorted): $9.0000 per mixed bag
Food Stamp Deposits: $2.0000 per $1,000*
Late Order Surcharge: $5.0000 per order
Coin Shipment Surcharge: $0.2700 per excess bag**
C&C Transportation (Zone E1): $26.5000 per stop
C&C Transportation (Zone E2): $36.7500 per stop
C&C Transportation (Zone E3): $55.0000 per stop
C&C Transportation (Zone E4): Negotiable ***

* Note: Charges will be applied to each $1,000 ordered or deposited, and to any portion of a shipment not divisible by that standard unit.

* Note: A surcharge will apply to each container (box/bag) of coin in an order/delivery after the first 20 containers.

*** Note: Reserved for remote locations: delivery charges will be negotiated with the courier service on an individual basis.

Account Maintenance

Demand Deposit Accounts: $22.2500 per month, per account
Cut-Off Statements: $11.5000 per statement
Telephone Inquiry: $2.2500 per telephone call
Paper Advice of Transactions (DTS): $30.0000 per account, per month
Daily Transaction Data via LINK: No Charge

Monthly Minimum Charges

The Bank reserves the right to impose a monthly minimum charge for its services. The standard minimum for 1999 will be $2,000 per month, applied against Check Processing, Deposit Processing, and/or Proof of Deposit Services. Pass-through items, such as postage and transportation, do not apply.

Account Overdraft Penalty

Greater of $75.00 per day and the daily interest on the amount of the overdraft (Rate used for calculation equal to the highest posted advance rate plus 3.0%)

Requests for Programming Changes

Programming support for new services, enhancements to existing service levels, or servicer conversions requiring at least one hour of programmer time and/or equivalent FHLB expenses will be charged at a rate of $100.00 per hour, plus expenses.

Attention: Customers Receiving Transportation Charges Under Any Service

Rates and charges relative to transportation vary depending on the location of the office(s) serviced. Details regarding the pricing for the transportation to/from specific institutions or individual locations will be provided upon their subscription to that service.

Surcharges may be applicable and will be applied to the customer as effective and without prior notice.

Custom Pricing—Extension Agreements

Effective Date 1/1/99

Deposit Processing Service (DPS)

DPS Deposit Tickets: $0.6000 per deposit
Printing of Deposit Tickets: Pass-through
Deposit Items Processed for volumes of pricing varies—tiered by monthly volume:
1–25,000: $0.0385 per item (transit)
25,001–58,500: $0.0379 per item (transit)
58,501–91,500: $0.0374 per item (transit)
91,501–125,000: $0.0368 per item (transit)
125,001–158,500: $0.0363 per item (transit)
158,501–191,500: $0.0345 per item (transit)
191,501–over: $0.0315 per item (transit)
Deposit Items Encoded (West) (Pricing varies—tiered by monthly volume) for volumes of:
1–25,000: $0.0390 per item
25,001–58,500: $0.0386 per item
58,501–91,500: $0.0382 per item
91,501–125,000: $0.0378 per item
125,001–158,500: $0.0365 per item
158,501–191,500: $0.0360 per item
191,501–over: $0.0355 per item
Deposit Items Encoded (East) (Pricing varies—tiered by monthly volume) for volumes of:
1–25,000: $0.0345 per item
25,001–58,500: $0.0340 per item
58,501–91,500: $0.0335 per item
91,501–125,000: $0.0330 per item
125,001–158,500: $0.0315 per item
158,501–191,500: $0.0305 per item
191,501–over: $0.0299 per item
Deposit Items Returned: $1.9000 per item
Deposit Items Photocopied $3.7500 per photocopy
DPS Photocopies—Subpoena: $19.0000 per hour of processing time
Plus $0.2500 per photocopy
Deposit Items Rejected (applicable to pre-encoded deposits only): $0.2300 per rejected item
DPS Transportation (West): $8.9000 per pickup
DPS Transportation (East): $8.9000 per pickup
Return Check Courier Service: $130.0000 per month

Coin & Currency Service: Western Service Area

Cash Orders: $2.5000 per order, plus:
Currency Orders: $0.3300 per $1,000 *
Coin Orders: $2.5000 per box
Currency Deposits: $1.3200 per $1,000*
Coin Deposits: $1.9000 per standard bag
Coin Deposits (Non-Standard): $2.9500 per non-standard bag
Coin Deposits (Unsorted): $8.7500 per mixed bag
Food Stamp Deposits: $1.8500 per $1,000 *
Late Order Surcharge: $5.0000 per order
Coin Shipment Surcharge: 0.2700 per excess bag **
C&C Transportation (Zone W1): $17.1000 per stop
C&C Transportation (Zone W2): $28.9500 per stop
C&C Transportation (Zone W3): $38.5000 per stop
C&C Transportation (Zone W4): Negotiable ***

Coin & Currency Service: Eastern Service Area

Cash Orders: $2.5000 per order, plus:
Currency Orders: $0.3300 per $1,000*
Coin Orders: $2.9500 per box
Currency Deposits: $1.3200 per $1,000*
Coin Deposits $1.9000 per standard bag
Coin Deposits (Non-Standard): $2.9500 per non-standard bag
Coin Deposits (Unsorted): $8.750 per mixed bag
Food Stamp Deposits: $1.8500 per $1,000 *
Late Order Surcharge: $5.0000 per order
Coin Shipment Surcharge: $0.2700 per excess bag**
C&C Transportation (Zone E1): $25.8500 per stop
C&C Transportation (Zone E2): $35.9000 per stop
C&C Transportation (Zone E3): $55.0000 per stop
C&C Transportation (Zone E4): Negotiable ***

* Note: Charges will be applied to each $1,000 ordered or deposited, and to any portion of a shipment not divisible by that standard unit.

** Note: A surcharge will apply to each container (box/bag) of coin in an order/delivery after the first 20 containers.

*** Note: Reserved for remote locations: delivery charges will be negotiated with the courier service on an individual basis.

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Check Processing (Inclearing)

Checks Processed for volumes of (pricing varies—tiered by monthly volume):
1–25,000: $0.0448 per item
25,001–58,500: $0.0426 per item
58,501–91,500: $0.0402 per item
91,501–125,000: $0.0378 per item
125,001–158,500: $0.0349 per item
158,501–191,500: $0.0324 per item
191,501–350,000: $0.0298 per item
350,001–500,000: $0.0272 per item
500,001–over: $0.0247 per item

Full Backroom Service (Item Processing Charges)

Non-Truncated Checks for volumes of (pricing varies—tiered by monthly volume):
1–25,000: $0.0589 per item
25,001–58,500: $0.0574 per item
58,501–91,500: $0.0559 per item
91,501–125,000: $0.0544 per item
125,001–158,500: $0.0529 per item
158,501–191,500: $0.0514 per item
191,501–350,000: $0.0499 per item
350,001–500,000: $0.0469 per item
500,001–over: $0.0439 per item

Trucated Checks for volumes of (pricing varies—tiered by monthly volume):
1–25,000: $0.0489 per item
25,001–58,500: $0.0474 per item
58,501–91,500: $0.0459 per item
91,501–125,000: $0.0444 per item
125,001–158,500: $0.0429 per item
158,501–191,500: $0.0414 per item
191,501–350,000: $0.0399 per item
350,001–500,000: $0.0369 per item
500,001–over: $0.0339 per item

Modified Backroom Service (Item Processing Charges)

Non-Truncated Checks for volumes of (Pricing varies—tiered by monthly volume):
1–25,000: $0.0489 per item
25,001–58,500: $0.0474 per item
58,501–91,500: $0.0459 per item
91,501–125,000: 0.0444 per item
125,001–158,500: $0.0429 per item
158,501–191,500: $0.0414 per item
191,501–350,000: $0.0399 per item
350,001–500,000: $0.0369 per item
500,001–over: $0.0339 per item

Truncated Checks for volumes of (Pricing varies—tiered by monthly volume):
1–25,000: $0.0389 per item
25,001–58,500: $0.0374 per item
58,501–91,500: $0.0359 per item
91,501–125,000: 0.0344 per item
125,001–158,500: $0.0329 per item
158,501–191,500: $0.0314 per item
191,501–350,000: $0.0299 per item
350,001–500,000: $0.0269 per item
500,001–over: $0.0239 per item

Check Processing (Associated Services)

Unidentified Items Processed: $1:9500 per item
Over-The-Counter Items: $0.1900 per item
OTC Item Transportation: $10.0000 per month
Special Cycle Sorting: $0.0220 per item
Mid-Cycle Statement (Purged): $0.5500 per item (Min $2.75)
Mid-Cycle Stmt. (Non-Purged): $2.7500 per statement
Check (NOW) Statement Processing:
Statements using Generic Envelopes: $0.0620 per envelope
Statements using Custom Envelopes: $0.1050 per envelope
Statements using Large Envelopes: $0.5900 per envelope
Envelope Destruction Fee: $0.0300 per envelope
Additional Stuffer Processing (one stuffer per statement free—applicable to all additional stuffers): $0.0250 per stuffer
Selective Stuffer Processing: $0.0700 per statement
Daily Report Postage: Pass-through
Statement Postage: Pass-through
Standard Return Calls: $1.3500 per item
Automated Return Calls: $0.2700 per item
Return Calls via Link: $0.2700 per item
Late Return Calls: $5.0000 per item
Suspect Item Processing: $5.0000 per item
FRB Return Items Qualified: $0.2200 per item
FRB Return Items Processed: $0.4300 per item
FRB Return Items Over $2,500: $6.0000 per item
Check Photocopies—Mail: $3.9500–per photocopy
Check Photocopies—Telephone/Fax: $4.7500 per photocopy
Check Photocopies—Subpoena: $0.7000 per photocopy
Signature Verification Copies: $0.8000 per copy
Check Retrieval: $1.6000 per item
MICRSort Option (Fixed Fee): $27.8500 per month
MICRSort Option (per item): $0.0320 per item
MCPJ Microfiche Service (Min. $20.00, Max. $100.00): $0.0022 per item
Collections and Forgeries: $17.5000 per item
Transportation: Pass-through

Attention: Customers Receiving Transportation Charges Under Any Service

Rates and charges relative to transportation vary depending on the locationof the office(s) serviced. Details regarding the pricing for the transportation to/from specific instructions or individual locations will be provided upon their subscription to that service.

Surcharges may be applicable and will be applied to the customer as effective and without prior notice.

Monthly Minimum Charges

The Bank reserves the right to impose a monthly minimum charge for its services. The standard minimum for 1999 will be $2,000 per month, applied against Check Processing, Deposit Processing, and/or Proof of Deposit Services. Pass-through items, such as postage and transportation, do not apply.

Requests for Programming Changes

Programming support for new services, enhancements to existing service levels, or servicer conversions requiring at least one hour of programmer time and/or equivalent FHLB expenses will be charged at a rate of $100.00 per hour, plus expenses.

District 4.—Federal Home Loan Bank of Atlanta (1999 NOW/DDA Services) (Does not provide item processing services for third party accounts)

District 5.—Federal Home Loan Bank of Cincinnati (1999 NOW/DDA Services) (Does not provide item processing services for third party accounts)

District 6.—Federal Home Loan Bank of Indianapolis (1999 NOW/DDA Services)

FEE SCHEDULES

a. Checking Account Processing

Effective January 1, 1997

I. Checking Account Service Transaction Charges

Monthly volume	Safekeeping (per item)	Turnaround (daily or cycled) (per item)	Complete (per item)	Full service image*		Limited service image*	
				Per item	Per statement	Per item	Per statement
0–5,000	$.053	$.0635	$0875	$.06	$.40	$.02	$.40
5–10,000	.045	.0585	.0855	.06	.40	.02	.40
10–15,000	.044	.0545	.0835	.06	.40	.02	.40
15–25,000	.039	.0475	.0825	.06	.40	.02	.40
25–50,000	.038	.0435	.0805	.06	.40	.02	.40
50–75,000	.034	.0405	.0765	.06	.40	.02	.40
75–100,000	.031	.0375	.0755	.06	.40	.02	.40
100–and up	.029	.0345	.0745	.06	.40	.02	.40

II. Ancillary Service Fees

Large Dollar Signature Verification: $0.50
Over-the-counters and Microfilm: $0.035
Return Items: $2.40
Photocopies** and Facsimiles: $2.50
Certified Checks: $1.00
Invalid Accounts: $0.50
Late Returns: $0.50
Invalid Returns: $0.50
No MICR/OTC: $0.50
Settlement Only: $100.00 per month
+Journal Entries: $3.00 each
Encoding Errors: $2.75
Fine Sort Numeric Sequence: $0.02
Access to Infoline: $50.00 per month
High Dollar Return Notification: N/C
Debit Entries: N/C
Debit Entries: N/C
Standard Stmt. Stuffers (up to 2)***: N/C

Minimum processing fee of $40.00 per month will apply for total NOW services. Also included in the above fees—at no additional cost are Federal Reserve fees, incoming courier fees, software changes, disaster recovery, envelope discount and inventory.

*Image Monthly Maintenance Fee of $500.00 for 0–32% of accounts; $300.00 for 33–49% of accounts; and $200.00 for 50%+ will be assessed for Image Statements.

**Photocopy request of 50 or more are charged at an hourly rate of $15.00.

***Each additional (over 2) will be charged at $.02 per statement.

b. Demand Deposits Accounts / ACH

Item Processing Service Fees

Cash Management Service

Demand deposit clearings will have the following service charges:

Stop payments: $6.00 per stop
Photocopies: $2.50 per copy
Collection/Return/Exception: $5.00
Daily Statement: $2.00
Maintenance: $30.00 per month
Debit Entries: N/C
Credit Entries: N/C

ACH Fees

Tape transmission: $8.50 per tape
or originations: $.045 per item
NACHA, MPX: Actual Federal Reserve charges
ACH entries clearing through our R&T number: $.25 per item
Settlement only: $65.00 per month
ACH returns/NOC: $2.50 per item

Collected balances will earn interest at CMS daily posted rate.

Prices effective April 1, 1993.

c. Deposit Services

Federal Home Loan Bank of Indianapolis

Pre-encoded Items:
City: $0.04 per item
RCPC: $.05 per item
Other Districts: $.085 per item
Unencoded: $.165 per item
Food Stamp: $.14 per item
Photocopies: $2.50 per copy
Adjustments on pre-encoded work: $2.75 per error
EZ Clear: $.14 per item
Coupons: $8.25 per envelope
Collections: $6.00 per item
Cash Letter: $2.00 per cash letter
Deposit Adjustments: $.30 per adjustment
Debit Entries: N/C
Credit Entries: N/C
Microfilming: N/C
Mortgage Remittance (Basic Service): $.35
Settlement only: $100.00 per month
+Journal Entries: $3.00 each
Courier* Indianapolis (city): $8.25 per location, per day, per pickup

*Outside Indianapolis: Prices vary per location.
N/C—No Charge.
Prices effective February 1, 1998.

District 7.—Federal Home Loan Bank of Chicago (1999 NOW/DDA Services) (Does not provide item processing services for third party accounts)

District 8.—Federal Home Loan Bank of Des Moines (1999 NOW/DDA Services) (Does not provide item processing services for third party accounts)

District 9.—Federal Home Loan Bank of Dallas (1999 NOW/DDA Services) (Does not provide item processing services for third party accounts)

District 10.—Federal Home Loan Bank of Topeka (1999 NOW/DDA Services) (Does not provide item processing services for third party accounts)

District 11.—Federal Home Loan Bank of San Francisco (1999 NOW/DDA Services) (Does not provide item processing services for third party accounts)

District 12.—Federal Home Loan Bank of Seattle (1999 NOW/DDA Services) (Does not provide item processing services for third party accounts)

By the Federal Housing Finance Board.

Dated: March 29, 1999.

William W. Ginsberg,

Managing Director.

[FR Doc. 99–8294 Filed 4–2–99; 8:45 am]

BILLING CODE 6725–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby given notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–010776–112.

Title: Asia North America Eastbound Rate Agreement.

Parties: American President Lines, Ltd., APL Co. PTE Ltd., Hapag-Lloyd Container Linie GmbH, Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd., Nikppon Yusen Kaisha, Orient Overseas Container Line, Inc., P&O Nedlloyd B.V., P&O Nedlloyd Limited, Sea-Land Service, Inc.

Synopsis: Under the proposed agreement modification, the parties are suspending their agreement for six months and will not exercise any authority contained in the agreement except for certain ''winding-down'' activities. Further, the modification provides that one or more of the members may enter into individual or joint service contracts.

Agreement No.: 217–011659.

Title: CMA/Maersk/Sea-Land Space Charter Agreement.

Parties: A.P. Moller-Maersk Line, Sea-Land Service, Inc., Compagnie Maritime d'Affretement, S.A. (''CMA'').

Synopsis: The proposed Agreement authorizes Maersk and Sea-Land to charter space to CMA in the trade between the Atlantic and Gulf Coasts of the United States and ports in the Bahamas, ports on the Mediterranean Sea, and ports on the Atlantic Coast of the Iberian peninsula.

Agreement No.: 224–201009–002.

Title: Houston—Mediterranean Terminal Service Agreement.

Parties: Port of Houston Authority of Harris County, Texas Mediterranean Shipping, Co. S.A.

Synopsis: The proposed amendment extends the term of the agreement until May 31, 1999.

Dated: March 31, 1999.

By Order of the Federal Maritime Commission.

Bryant L. Van Brakle,

Secretary.

[FR Doc. 99–8178 Filed 4–2–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies

owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 29, 1999.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Minster Financial Corp., Minster, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Minster Bank, Minster, Ohio.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Van Orin Bancorp, Inc., Van Orin, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Van Orin, Van Orin, Illinois.

Board of Governors of the Federal Reserve System, March 30, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–8210 Filed 4–2–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 19, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. James V. Antonacci, Richard K. McCord, Charles E. Robbins, and Richard H. Levi, all of Springfield, Illinois to acquire, as a group acting in concert, the voting shares of Fairmount Bancorp, Inc., and The First National Bank of Fairmount, both of Fairmount, Illinois.

Board of Governors of the Federal Reserve System, March 30, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–8212 Filed 4–2–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 19, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Bank of Montreal, Toronto, Canada; and Bankmont Financial Corp., Chicago Illinois; to engage *de novo* through their subsidiary, Nesbitt Burns Securities, Inc., Chicago, Illinois in investing and trading activities pursuant to § 225.28(b)(8)(ii) of Regulation Y; and buying and selling bullion, and related activities pursuant to § 225.28(b)(8)(iii) of Regulation Y.

Board of Governors of the Federal Reserve System, March 30, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–8211 Filed 4–2–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99052]

Cooperative Agreement for 1999 National Breast and Cervical Cancer Early Detection Program; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for the National Breast and Cervical Cancer Early Detection Program. This program addresses the ''Healthy People 2000'' priority area(s) related to cancer.

The purpose of this program is to establish a State/territorial/tribal comprehensive public health approach to reduce breast and cervical cancer morbidity and mortality through screening, tracking, follow-up and case management, public education, information, and outreach, professional education, quality assurance and improvement, surveillance, evaluation, partnership development and community involvement. The program is established to eliminate disparity and provide comprehensive breast and cervical cancer screening services for all women at or below 250 percent of the official poverty line as established by the Director of the Office of Management and Budget (OMB) and revised by the Secretary of DHHS in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1991 (Section 1504(b)(3) of the PHS Act, as amended). Criteria for priority populations are uninsured or under-insured older women who are racial,

ethnic and cultural minorities, such as American Indians, Alaska Natives, African-Americans, Hispanics, Asian/Pacific Islanders; Lesbians; women with disabilities; and for women who live in hard-to-reach communities in urban and rural areas. Priority populations, as defined above, will be used throughout this document.

B. Eligible Applicants

Assistance will be provided only to the official health departments of States and Territories or their bona fide agents or instrumentalities and to Indian Tribal governments (including Indian Tribes, Tribal organizations, Alaska Natives and Urban Indian organizations, hereafter referred to as Tribes). This includes the Commonwealth of Puerto Rico, the Federated States of Micronesia, Guam, and the Republic of the Marshall Islands, and federally recognized tribes.

1. The following States and territories are excluded:

a. American Samoa, California, Colorado, Maryland, Michigan, Minnesota, Missouri, New Mexico, North Carolina, South Carolina, Texas, and West Virginia, which were funded in August 1997, under Program Announcement 718 entitled National Breast and Cervical Cancer Early Detection Program.

b. Alabama, Commonwealth of the Northern Mariana Islands, Delaware, Hawaii, Idaho, Indiana, Kentucky, Mississippi, Montana, Nevada, New Hampshire, North Dakota, Republic of Palau, South Dakota, Tennessee, Virgin Islands, Virginia, Washington, DC, and Wyoming, which were funded in September of 1996, under Program Announcement 623 entitled 1996 National Breast and Cervical Cancer Early Detection Program.

2. The following Tribes are excluded:

a. Consolidated Tribal Health Project, Inc., CA, and Southeast Regional Health Consortium, AK, which were funded August 1997, under Program Announcement 718 entitled National Breast and Cervical Cancer Early Detection Program.

b. Hopi tribe, AZ; Native American Rehabilitation Association of the NW, OR; Indian Community Health Service, AZ; and the Navajo Division of Health, AZ, which were funded in September of 1996, under Program Announcement 623 entitled 1996 National Breast and Cervical Cancer Early Detection Program.

States currently receiving CDC funds under Program Announcement 321 and 474, entitled Early Detection and Control of Breast and Cervical Cancer, are eligible to apply for funding under this announcement. Tribes currently receiving CDC funds under Program Announcement 442, entitled Early Detection Program American Indian Initiative, are eligible to apply for funding under this announcement.

Additionally, Puerto Rico, currently funded under Program Announcement 425, entitled Capacity Building for Core Components of Breast and Cervical Cancer Prevention and Control, is eligible to apply under this announcement.

C. Availability of Funds

1. Approximately $53,000,000 is available in FY 1999 to fund approximately 23 States. It is expected that the average award will be $2,100,000, ranging from $1,000,000 to $4,500,000.

2. Approximately $3,500,000 is available in FY 1999 to fund approximately 12 Tribes/Territories. It is expected that the average award will be $300,000, ranging from $200,000 to $500,000.

It is expected that the awards will begin on September 30, 1999, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards of funded projects within an approved project period will be made on the basis of satisfactory progress and the availability of funds.

Direct Assistance

You may request Federal personnel, equipment, or supplies as direct assistance, in lieu of a portion of financial assistance.

Use of Funds

1. Not less than 60 percent of cooperative agreement funds will be expended for screening, tracking, follow-up, and the provision of appropriate support services such as case management. The remaining 40 percent will be expended to support public education, information, and outreach; professional education; quality assurance and improvement; surveillance; program evaluation; partnership development and community involvement. (Section 1503(a)(1) and (4) of the PHS Act, as amended.)

2. Cooperative agreement funds will not be expended to provide inpatient hospital or treatment services. (Section 1504(g) of the PHS Act, as amended.) Also, cooperative agreement funds will not be used for the specific diagnostic procedure of Loop Electro surgical Excisional Procedure (LEEP).

3. Not more than 10 percent of funds will be expended annually for administrative expenses. These administrative expenses are in lieu of and replace indirect costs. (Section 1504(f) of the PHS Act, as amended.)

Note: Treatment is defined as any medical or surgical intervention recommended by a clinician, and provided for the management of a diagnosed condition.

4. Matching funds are required from non-Federal sources in an amount not less than $1 for each $3 of Federal funds awarded under this program. (Section 1502 (a) and (b) of the PHS Act, as amended.)

5. Costs used to satisfy matching requirements are subject to the same prior approval requirements and rules of allowability as those which govern project costs supported by Federal funds. (OMB Circular A–87 ''Cost Principles for State, Local and Indian Tribal Governments'' and PHS Grants Policy Statement, Section 6).

6. All costs used to satisfy matching requirements must be documented by the applicant and will be subject to audit.

Recipient Financial Participation

Recipient financial participation is required for this program in accordance with the authorizing legislation. Section 1502(a) and (b)(1), (2), and (3) of the PHS Act, as amended, requires matching funds from non-Federal sources in an amount not less than $1 for each $3 of Federal funds awarded under this program. However, The Omnibus Territories Act requires DHHS to waive matching fund requirements for Guam, U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands.

The matching funds may be in cash or its equivalent in-kind or donated services, including equipment, fairly evaluated. The contributions may be made directly or through donations from public or private entities. Pub. L. 93–638 authorizes tribal organizations contracting under the authority of Title I and compacting under the authority of Title III to use funds received under the Indian Self-Determination Act as matching funds.

In States/territories/tribes, non-Federal funds from a variety of sources may presently be used to support one or more of the breast and cervical cancer early detection activities described in this program announcement.

Maintenance of Effort (MOE)—The average amount of non-Federal dollars expended for breast and cervical cancer programs and activities made by a State/territory/tribe for the two year period preceding the first Federal fiscal year of the program funding for breast and

cervical cancer early detection activities. Supplantation of existing program efforts funded through other Federal or non-Federal sources is not allowable. Applicants may also include, as State/territory/tribe matching funds, any non-Federal amounts expended pursuant to Title XIX of the Social Security Act for the screening, tracking, follow-up and case management of women for breast and cervical cancer.

Matching funds may not include: (1) the payment for treatment services or the donation of treatment services; (2) services assisted or subsidized by the Federal government; or (3) the indirect or overhead costs of an organization.

D. Program Requirements

In accordance with Public Law 101–354:

1. States, territories and tribes are required to implement all the following program components:

a. States and tribes presently receiving comprehensive funding: All program components should be operational at this time.

b. Territory presently receiving capacity funding: Comprehensive breast and cervical cancer screening, follow-up, tracking services and other support services such as a case management should be initiated within the first twelve months of the first budget year. The capacity building program components (not the screening, tracking, follow-up and case management systems) should be fully operational at this time.

c. Territories/tribes not presently receiving capacity funds and applying for comprehensive funding: The application should outline plans for the operation of all program components. The screening, tracking, follow-up and case management systems should be initiated within twelve months of the award date. (Section 1503 (a)(1) and (3) of the PHS Act, as amended.)

2. If a new or improved, and superior, screening procedure becomes widely available and is recommended for use, this superior procedure will be utilized in the program. (Section 1503(b) of the PHS Act, as amended.)

3. An award may not be made unless the State/Territorial Medicaid Program provides coverage for:

a. In the case of breast cancer, a clinical breast examination and screening mammography.

b. In the case of cervical cancer, both a pelvic examination and Pap test screening. (Section 1502A of the PHS Act, as amended)

For those Territorial Departments of Health not receiving Medicaid, this program requirement would be non-applicable.

4. In 1993, Congressional amendments to the National Breast and Cervical Cancer Early Detection Program included the following changes:

a. The amount paid by a State/territory/tribe for a screening procedure may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act (Medicare) (Section 1501(b)(3) of the PHS Act, as amended).

b. All facilities conducting mammography screening procedures funded by the Program must meet the regulations for mammography quality assurance developed by the Food and Drug Administration (FDA), most recently reauthorized and finalized October 31, 1998.

c. For cervical cancer activities, facilities will meet the standards and regulations developed by the Health Care Financing Administration (HCFA) implementing the Clinical Laboratory Improvement Amendments (CLIA) of 1988.

5. In 1998, Reauthorization language for the National Breast and Cervical Cancer Early Detection Program included the following change:

a. States/territories/tribes may enter into contracts with public and non-profit private entities and through contracts with public and private entities to provide screening, tracking, follow-up, and case management services, as well as for public education, information, and outreach activities, professional education activities, establish mechanisms to monitor quality of screening procedures, and to evaluate such activities. If a non-profit private entity and a private entity that is not a non-profit entity both submit applications to a State/tribe/territory, the State/tribe/territory may give priority, based on a competitive review process, to the application submitted by the non-profit private entity in any case in which the State/tribe/territory determines that the quality of such application is equivalent to the quality of the application submitted by the other private entity (Section 1501(b) of the PHS Act, as amended).

In accordance with section 1504(c)(2) of the PHS Act, as amended, CDC may waive the requirements for specific services/activities if it is determined that compliance by the State/territory/tribe would result in an inefficient allocation of resources with respect to carrying out a comprehensive breast and cervical cancer early detection program (as described in section 1501(a)). A request from the recipient outlining appropriate and detailed justification would be required before the waiver is approved.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under ''Recipient Activities'', and CDC will be responsible for conducting activities under ''CDC Activities''.

Recipient Activities

1. Establish a system for screening and rescreening women for breast and cervical cancer as a preventive health measure. (Section 1501(a)(1) of the PHS Act, as amended.)

This program is to increase the access to and use of screening services for breast and cervical cancer among all women with emphasis being given to identified priority populations as described under the ''Purpose'' section.

a. Ensure that screening and rescreening procedures are available for both breast and cervical cancer and provided to women participating in the program, including a clinical breast exam, mammography, pelvic exam, and Pap smear. (Section 1503(a)(2)(A) and (B).)

b. Screening services should be made available according to the following guidelines:

(1) Provide priority for screening, tracking, follow-up and other support services such as case management to women who are low-income and uninsured or under-insured. (Section 1504(a) of the PHS Act, as amended.)

An award may not be made under this announcement unless the State/territory/tribe involved agrees to give priority to the provision of screening, tracking, follow-up, and other support services such as case management to low-income women who are underserved or uninsured.

Note: Low income is defined as at or below 250 percent of the official poverty line. The official poverty line is established by the Director of the OMB and revised by the Secretary of the DHHS in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1991 (Section 1504(b)(3) of the PHS Act, as amended.)

(2) Establish breast and cervical cancer screening services throughout the State/territory/tribe. (Section 1504(c)(1) of the PHS Act, as amended.) Funds may not be awarded under this announcement, unless the State/territory/tribe involved agrees that services and activities will be made available throughout the State, territory, or tribe, including availability to members of any Indian tribe or tribal organization (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act).

(3) Provide allowances for items and services reimbursed under other programs. (Section 1504(d) (1) and (2) of the PHS Act, as amended.)

Funds may not be awarded under this announcement, unless the State/territory/tribe involved agrees that funds will not be expended to make payment for any item or service that will be paid or can reasonably be expected to be paid by:

(a) Any State/territory/tribe compensation program, insurance policy, or Federal or State/territory/tribe health benefits program.

(b) An entity that provides health services on a prepaid basis.

(4) Establish a schedule of fees/charges for services. (Section 1504(b) (1), (2), and (3) of the PHS Act, as amended.)

Funds may not be awarded under this announcement unless the State/territory/tribe involved agrees that if charges are to be imposed for the provision of services or program activities, the fees/charges for allowable screening and diagnostic evaluation will be:

(a) Made according to a schedule of fees that is made available to the public. (Section 1504(b)(1) of the PHS Act, amended.)

(b) Adjusted to reflect the income of the woman screened. (Section 1504(b)(2) of the PHS Act, as amended.)

(c) Totally waived for any woman with an income of less than 100 percent of the official poverty line.

Additionally, the schedule of fees/charges should not exceed the maximum allowable charges established by the Medicare Program administered by the Health Care Financing Administration (HCFA). Fee/charge schedules should be developed in accordance with guidelines described in the interim final rule (42 CFR parts 405 and 534) which implements section 4163 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) which provides limited coverage for screening mammography services.

Breast Health: The most important risk factors for breast cancer are being female and older age. Priority for mammograms should be given to eligible women 50 years and older not enrolled in Medicare Part B previously screened in the NBCCEDP. Specific policies that outline eligibility criteria and authorize screening and diagnostic services are provided in the NBCCEDP PPM.

Cervical Health: Women who are 18 years and older, with an intact cervix, are eligible for an annual Pap test and pelvic examination. While the incidence of precancerous lesions are higher among younger women, older women have higher rates of invasive cancer and cervical cancer mortality and are less likely to be screened regularly. Hence, programs should provide a balanced distribution in the ages of women receiving Pap tests. Women who have had a total hysterectomy that was performed for cervical neoplasia are eligible to receive Pap screening. Priority for Pap tests should be given to eligible women previously screened in the NBCCEDP. The following exception applies: After a woman has had three consecutive, normal, annual examinations, the Pap test may be performed less frequently at the discretion of her health care provider.

For diagnostic services following an abnormal screening result, cooperative agreement funds may be expended for colposcopy, colposcopy-directed biopsy, and endocervical curettage.

2. Provide appropriate referrals for medical treatment of women screened in the program and ensure, to the extent practicable, the provision of appropriate and timely diagnostic and treatment services (Section 1501(a)(2) of the PHS Act, as amended.)

A system for providing the appropriate and timely diagnostic and treatment services for women whose screening test results are abnormal or suspicious is an essential component of any comprehensive breast and cervical cancer early detection program. Priority for diagnostic services should be given to women provided a screening procedure by the program who have abnormal screening results. The implementation plan and budget for diagnostic services should reflect the projected number of women to be screened by the program annually and the estimated number of abnormal screening exams expected. Programs are encouraged to use the Screening and Diagnostic Worksheet included in the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Policies and Procedures Manual (PPM) to report their projections.

3. Develop, implement and maintain a proactive system for the timely and appropriate tracking, follow-up, and case management of women with abnormal or suspicious screening tests (Section 1501(a)(6) of the PHS Act, as amended).

Systems should include the regular updating of information on local resources available in the community to which health care providers can refer women for additional diagnostic procedures, as well as treatment services. Clients in need of treatment services should be assisted with obtaining eligibility for public-supported third party reimbursement programs or private donated services.

Tracking the women screened is essential to identify those women who have abnormal results and ensure they receive appropriate and timely follow-up for short-interval rescreening, diagnostic procedures, and treatment. Tracking also includes reminders and outreach to women with normal or benign results to return for timely rescreening. A proactive tracking system is one that can be effectively integrated into the State/territory/tribe health care delivery system. The tracking system should provide women with a unique identification number and to document the outcome of individual screening tests, regardless of the screening cycle or site. It should also provide information on needed diagnostic follow-up. Confidentiality of a woman's clinical procedure results must be assured.

To meet the intent of Pub. L. 101–354 in ensuring the appropriate follow-up of women with abnormal screening results, the State/territory/tribe tracking and follow-up system must include information on screening location (e.g., county, city), demographic characteristics (e.g., race, date of birth), and screening procedures and results (e.g., mammography, Pap tests) for all women in the program. For women identified with abnormal screening results, information on diagnostic procedures (e.g., colposcopy) and final diagnoses, treatment (e.g., date initiated), and stages of cancer must be included.

4. Develop and disseminate public information, education and outreach programs for the early detection and control of breast and cervical cancer. (Section 1501 (a)(3) of the PHS Act, as amended.) Public information, education, and outreach include the systematic design and sustained delivery of clear and consistent health messages to women using a variety of methods and strategies that contribute to the early detection of breast and cervical cancer. Successful public education and outreach programs are those that increase women's knowledge, and ultimately have an impact on attitudes and screening behavior.

Public information, education, and outreach activities should increase the number of women screened especially those who are identified as priority populations as defined in the ''Purpose'' section. State/territory/tribe and local programs should clearly demonstrate, through evaluation, the relationship of public information, education, and outreach strategies to the number of women screened through the program. The program should develop a plan that

defines the scope (content, priority populations, methods, strategies outcomes, resources) of the public information, education, and outreach efforts.

5. Improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer. (Section 1501(a)(4) of the PHS Act, as amended.)

The purpose of professional education activities is to affect health care providers' knowledge, attitudes, and behaviors to ultimately result in more women, who are identified as priority populations as defined in the ''Purpose'' section, in the intended audience being screened appropriately.

Professional education refers to the education of physicians, nurses, case managers, cytotechnologists, radiologists, radiologic technologists, health educators, outreach workers, support staff members, and other health professionals. It includes preprofessional, postgraduate, and continuing education. Professional education includes developing knowledge, attitudes, and skills to enable professionals to perform their jobs more effectively. It involves the identification of resources and needs and planning, implementing, and evaluating training for the health care provider. Professional education includes promoting the development and implementation of systems of health care delivery that provide positive clinical outcomes for patients, as well as the development and dissemination of clear recommendations and guidelines.

A plan should be developed that defines the scope (i.e., content, provider populations, strategies, methods, outcomes, resources) of professional education, including a prioritized list of professional groups to be trained.

Training should be based on adult learning principles with a focus on skill-based training.

6. Establish mechanisms through which the State/territory/tribe can monitor the quality of screening procedures for breast and cervical cancer, including the interpretation of such procedures. (Section 1501(a)(5) of the PHS Act, as amended.)

Cooperative agreement funds may not be awarded (under Section 1501 of the PHS Act, as amended, Pub. L. 101–354) unless the State/territory/tribe involved agrees to assure that the State/territory/tribe will, in accordance with applicable law, assure the quality of screening procedures conducted pursuant to section 1503(c) of the PHS Act, as amended.

a. Develop and implement a quality assurance and improvement system for breast cancer screening. The mammography services provided to women screened in the program must be conducted in accordance with the following guidelines issued by the Secretary of the Department of Health and Human Services.

(1) All facilities conducting mammography screening procedures funded by the program must meet the requirements for mammography quality assurance developed by the Food and Drug Administration (FDA), most recently Reauthorized and finalized October 31, 1998.

(2) Radiologists participating in the program will record their findings using the second edition American College of Radiology (ACR) Breast Imaging Reporting and Data System (BI–RADS). The BI–RADS'' reporting categories are as follows: (1) Negative; (2) Benign finding; (3) Probably benign finding—short interval follow-up suggested; (4) Suspicious finding; (5) Highly suggestive of malignancy; (6) Assessment incomplete—additional imaging evaluation needed.

(3) A report of the results of a mammogram performed through this program will be placed in a woman's permanent medical records that are maintained by her health care provider.

b. Develop and implement a quality assurance and improvement system for cervical cancer screening. The laboratory services provided to women for cytological screening must be conducted in accordance with the following guidelines issued by the Secretary of the Department of Health and Human Services.

(1) All facilities providing laboratory services will meet the standards and regulations promulgated by the Health Care Financing Administration (HCFA) under the Clinical Laboratory Improvement Act (CLIA) of 1988.

(2) All cervical cytology interpretation is required to be done on the premises of a qualified laboratory.

(3) A report of the results of a Pap test performed through this program will be placed in the woman's permanent medical records that are maintained by her health care provider.

(4) Pathologists participating in the program will record their Pap test findings using the Bethesda System which specifies specimen adequacy and incorporates these categories: (1) Within Normal Limits; (2) Infection/Inflammation/Reactive Changes; (3) Atypical squamous cells; (4) Low Grade Squamous Intra epithelial Neoplasia (SIL); (5) High Grade SIL; (6) Squamous Cell Carcinoma; (7) Atypical glandular cells; (8) Other.

In addition to using only MQSA and CLIA certified providers, quality assurance and improvement efforts should include use of:

(1) An active medical advisory group;

(2) Established clinical guidelines; and,

(3) A system that assures that abnormal screening results are followed-up and that rescreening occurs.

7. Establish mechanisms which enhance the State/territory/tribe cancer surveillance system (i.e., linkage to the Central Cancer Registry and other databases) and facilitate program planning and evaluation. (Section 1501(a)(5)) of the PHS Act, as amended.)

Monitoring the distribution and determinants of breast and cervical cancer incidence and mortality is necessary to effectively plan, implement, and evaluate a comprehensive early detection program. Linkages and coordination with State/territory/tribe vital statistics, the Central Cancer Registry, the Behavioral Risk Factor Surveillance System and other State/territory/tribe and local surveys are needed to evaluate the status of a program's goals and objectives.

a. To do this, surveillance systems should be established or enhanced which will:

(1) Collect Statewide/territory/tribal population-based information on the demographics, incidence, staging at diagnosis, and mortality from breast and cervical cancer.

(2) Identify segments of the population at higher risk for disease and for the failure to be screened.

(3) Identify factors contributing to the disease burden, such as behavioral risk factors and limited or inequitable access to early detection and treatment services.

(4) Monitor the number and characteristics of women screened in the program and the outcome of screening by analyzing data from the State/territory/tribe tracking and follow-up system.

(5) Monitor screening resources, including the number of available mammography facilities, cytology laboratories, and providers of cervical cancer screening.

(6) When appropriate, develop linkages between the above-mentioned data bases.

b. Measuring the effectiveness of program activities to modify the screening behavior of women and the effect on morbidity and mortality is important for the identification of successful intervention strategies for the early detection of breast and cervical

cancer. Equally important is the evaluation or the assessment of factors that contributed to the successful or unsuccessful establishment and implementation of program activities.

The design of each program component should ensure that there can be meaningful evaluation. The evaluation plan should assess the implementation and effectiveness of each program component. At a minimum, the evaluation plan should identify those program activities that will be evaluated, the objectives to be measured, how they will be measured, the proposed program time-lines, and resources needed. In addition to evaluating progress in meeting goals and objectives, the program should develop performance indicators to use as a measure of program improvement and resource management and allocation.

Note: Indicator is defined as a performance measure used to track critical processes over time to signify progress toward a particular goal or outcome of the program.

8. Ensure the coordination of services and program activities with other similar programs and establish a broad-based coalition to advise and support the program. (Section 1504(e) of the PHS Act, as amended.) Coordination with other similar programs maximizes the availability of services and program activities, promotes consistency in screening procedures and educational messages, and reduces duplication. An award may not be made under this program announcement unless the State/territory/tribe agrees that the services and activities provided in this program are coordinated with other Federal, State/territory/tribe, and local breast and cervical cancer early detection programs through the development of collaborative partnerships. (Section 1504(e) of the PHS Act, as amended.)

The success of a comprehensive breast and cervical cancer early detection program is improved by broad-based support in the community and active public and private sector involvement. Partnership development with a broad range of stakeholders, including consumers, brings valuable knowledge, skills, and financial resources to the program, and provides access to, and information about, populations of women who have been missed by traditional health service systems.

Linkages should be established with federally funded programs such as the Regional Offices of the National Cancer Institute/Cancer Information Service (NCI/CIS), the Health Resources and Services Administration (HRSA) community/migrant health centers, Title X Family Planning programs, State Offices for Aging and Minority Health, the Indian Health Service (IHS) and the Medicare Program of the Health Care Financing Administration (HCFA).

Linkages and active collaboration are strongly encouraged with private sector organizations such as the American Cancer Society (ACS), the Young Women's Christian Association (YWCA), the Susan G. Komen Breast Cancer Foundation, the National Breast Cancer Coalition (NBCC), the National Alliance of Breast Cancer Organizations (NABCO), the American Association of Retired Persons (AARP), local medical and nursing societies professional organizations, private physicians, survivors of breast and cervical cancer, local women's support groups, community leaders, managed care organizations, and other agencies and businesses in the community that provide health care and related support services to women.

9. Develop a work and management plan for the implementation of a comprehensive breast and cervical cancer screening.

The success of a comprehensive breast and cervical cancer early detection program is increased by the existence of a comprehensive, integrated, and realistic plan to address these diseases among all women, with emphasis given to women identified as priority populations under the ''Purpose'' section. All program components of the comprehensive program should be addressed.

A work plan should include goals, measurable objectives, strategies proposed to attain the goals and performance indicators (if applicable). The goals in the work plan should relate to the State, territory, or tribe Year 2000 Objectives and to the State, territory, and tribe Cancer Control Plan.

The management plan should reflect the development of qualified and diverse technical, program, and program/administrative staff, appropriate organizational relationships including lines of authority, adequate internal and external communication systems, and a system for sound fiscal management.

10. Representation or attendance at CDC sponsored training, meetings, site visits, and conferences.

CDC Activities

1. Convene a workshop of the funded Programs every one to two years for information-sharing and problem-solving and hold a Program Director's meeting at least once a year.

2. Provide consultation and technical assistance to plan, implement, and evaluate each component as described under Recipient Activities above, to include:

a. Practical application of Pub. L. 101–354, including amendments to the law;

b. Design and implementation of each program component (screening, tracking, follow-up and support services such as case management; public education and outreach; professional education; partnership development and community involvement; quality assurance and improvement; surveillance; and evaluation);

c. Interpretation of current scientific literature related to the early detection of breast and cervical cancer;

d. Nationally recognized clinical and quality assurance guidelines for the assessment and diagnosis of breast and cervical cancer;

e. Evaluation of each program component through the analysis and interpretation of program outcomes, screening data, and surveillance data;

f. Overall operational planning and program management.

3. Provide training opportunities on selected topics to State, territorial and tribal program staff through the National Center for Chronic Disease Prevention and Health Promotion, Division of Cancer Prevention and Control's National Training Center.

4. Conduct site visits to assess program progress and mutually resolve problems, as needed, and/or coordinate reverse site visits to CDC in Atlanta, Georgia.

C. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The application, including budget, justification and appendices, should be no more than 125 double-spaced unbound pages, printed on one-side of 8½ x 11″ paper, suitable for photocopying, with one inch margins, and 12 point font.

1. Executive Summary

The applicant should provide a clear, concise one or two page written summary to include: (1) The need for the program; (2) The goals, objectives and activities of the proposed comprehensive breast and cervical cancer early detection program; (3) the requested amount of Federal funding;

and (4) capability to implement the program.

2. Background and Need

The applicant should describe:

a. The disease burden by age and race/ethnicity:

(1) The State/territory/tribe breast and cervical cancer age-adjusted mortality rates averaged over five years and their ranking nationally,

(2) The incidence rates for these diseases (where available) from central cancer registries;

b. Total number of women in the State/territory/tribe;

c. The number of low income women who are uninsured, by age (18–39; 40–49; 50–64; 65+) and racial/ethnic distribution;

d. Unmet screening and rescreening needs of uninsured and underinsured women (where available);

e. Barriers to early detection screening services.

3. Implementation Plan

The applicant should develop a Work plan that describes the:

a. Proposed goals, performance indicators related to goals, measurable, time-phased, and realistic objectives, and strategies to attain the goals for: (1) The overall program and (2) specific program components as described under the Recipient Activities. Project the number of women to be screened and rescreened annually by age, racial and ethnic groups, and areas or locality in the State/territory/tribe. (Section 1505(2) of the PHS Act, as amended.) Estimate the number of abnormal screening exams expected annually. Applicants are encouraged to include a completed Screening and Diagnostic Worksheet (sample included in the NBCCEDP PPM) in their application.

b. Describe the State/territory/tribe's: (1) Health care delivery system; (2) proposed Statewide/territorial/tribal screening system; (3) proposed proactive tracking and follow-up system for women requiring diagnostic procedures and medical treatment not provided by the program; and (4) proposed tracking and follow-up system for women screened and rescreened by the program; and (5) proposed support services such as case management (Section 1501 (a)(1) and (2) of the PHS Act, as amended.)

c. For those applicants previously receiving National Breast and Cervical Cancer Early Detection Program Cooperative Agreement funding, describe, in detail, the operational plan related to rescreening efforts (including staff responsible for oversight, the process to monitor rescreening rates and the system to assess the strategies used) and rescreening protocol (including a systematic and comprehensive reminder system). Include the calculation of mammography and cervical cancer rescreening rates for clinical services previously provided to eligible enrolled NBCCEDP women.

d. Document available resources in the State/territory/tribe for the payment or reimbursement of breast and cervical cancer screening, including the Medicaid Program. (Section 1504(d) of the PHS Act, as amended.)

e. Describe the ability to establish a screening program that meets FDA regulations for mammography screening; uses the American College of Radiology Breast Imaging Reporting and Data System (BI–RADS); meets the standards and regulations of the Clinical Laboratory Improvement Act (CLIA) for cervical cancer screening; and, uses the Bethesda System.

f. Provide a projected timetable for program implementation that displays dates for the accomplishment of specific proposed activities.

g. Describe the current or proposed plan for evaluating (1) the program's progress in meeting specific objectives outlined in the implementation plan by program component area, and (2) overall success based on performance indicators established by the applicant. Describe the types of indicators to be used to assess outcomes that will occur as a result of this funding. Baseline measures should be identified and assessed to allow for comparisons after implementation has begun. Specify the kind of data/performance indicator that will be used, how the data will be obtained, how information will be used to improve the overall efficiency and effectiveness of the program, as well as individual program components, who is responsible for each evaluation task, and a timeline for accomplishing each evaluation task.

h. Describe how the State/territory/tribe will assure that funds will be used in a cost-effective manner. (Section 1505 (4) of the PHS Act, as amended.)

4. Partnership Development and Community Involvement

The applicant should describe:

a. How the program will develop linkages and coordinate with other Federal, State and local programs, voluntary and professional organizations, private physicians, and mammography facilities and other groups, agencies, and businesses in the community that provide health care and related support services to women. (Section 1504(e) of the PHS Act, as amended.)

b. The current or proposed broad-based coalitions that will advise and support the breast and cervical cancer early detection program, including the identification of current members or proposed representatives, their charge, and their proposed roles and responsibilities. Specific subcommittees of the coalition should be described (e.g., Medical Advisory, public information education and outreach, and professional education).

c. Letters of support (dated within the last three months) from key partners, participants, and community leaders should be included in the application.

5. Management and Organizational Structure

The applicant should submit a Management plan. This plan should include a description of the structure to ensure the implementation of a comprehensive breast and cervical cancer program that includes development of qualified and diverse technical, program, and administrative staff, organizational relationships including lines of authority, internal and external communication systems, and a system for sound fiscal management. The information should also include the following:

a. A copy of the organizational chart indicating the placement of the proposed program in the department/organization.

b. Documentation of available resources in the State/territory/tribe for the payment or reimbursement of breast and cervical cancer screening, including the Medicaid and Medicare Programs. (Section 1504 (d) of the PHS Act, as amended.)

c. The proposed schedule of fees and charges for breast and cervical cancer screening and diagnostic services, consistent with maximum Medicare reimbursement rates, and include a description of its use in the program. In States/territories/tribes where there are multiple Medicare rates and a single reimbursement rate is being proposed, the applicant must provide justification for approval. (Section 1504 (b) of the PHS Act, as amended.)

6. Capability for Program Implementation

The applicant should describe proposed activities as measured by:

a. Accomplishments of an existing breast and cervical cancer early detection program funded by CDC or relevant past experiences funded by other sources:

(1) States Currently Receiving CDC Comprehensive Funds:

Accomplishments in establishing a comprehensive breast and cervical cancer early detection program, including the total number, age and racial/ethnic distribution of women screened; percent of abnormal findings by age and race/ethnicity; rate of cancer age adjusted or age-group specific; follow-up time between screening and diagnosis and between diagnosis and treatment initiation; and, percent of women who are routinely rescreened by the program.

Accomplishments in establishing an infrastructure to support a breast and cervical cancer screening program and in resolving program challenges, such as mammography screening for Medicare Part B unenrolled women 50 years and older, the timely follow-up of women with abnormal screening and diagnostic results, or the use of the American College of Radiology BI-RADS by radiologists to report mammogram results.

(2) Territory currently receiving CDC Capacity Building Funds: Accomplishments in establishing a comprehensive infrastructure to support a breast and cervical cancer screening program including screening, tracking, follow-up and case management information, public education and outreach, professional education, quality assurance and improvement, surveillance, and partnership development and community involvement.

(3) Territories/Tribes not currently Receiving CDC Breast and Cervical Cancer Funds: Relevant past experiences of the applicant in conducting screening, tracking, follow-up, case management; public information, education and outreach; professional education; quality assurance and improvement; surveillance; and, partnership development and community involvement for cancer control, chronic disease control or other relevant areas.

7. Source Data for Matching Requirement

Identify and describe:

a. Maintenance of Effort (MOE)—The average amount of non-Federal dollars expended for breast and cervical cancer programs and activities made by a State/territory/tribe for the two year period preceding the first Federal fiscal year of the program funding for breast and cervical cancer early detection activities. This amount will be used to establish the maintenance of effort baseline for current and future match requirements;

b. State/territory/tribe allowable sources of matching funds for the program and the estimated amounts from each;

c. Procedures for documenting the value of non-cash matching funds;

d. Procedures for documenting the actual amount of match received.

8. Budget With Justification

a. Provide a detailed budget request and complete line item justification (for both Federal and non-Federal funds) of all proposed operating expenses consistent with the program activities described in this announcement. Not less than 60 percent of Federal funds will be expended for screening, tracking, follow-up and other support services such as case management. Not more than 10 percent of Federal funds will be expended for administrative expenses. A detailed line-item breakdown of the 60/40 distribution should be incorporated into the budget.

b. The applicant should submit a Screening and Diagnostic Worksheet that details the projected number of women screened, the reimbursement rate provided for each service, and the overall projected clinical costs. A sample Screening and Diagnostic Worksheet is included in the NBCCEDP PPM.

c. To request new direct-assistance assignees, include:

(1) Number of assignees requested;

(2) Description of the position and proposed duties;

(3) Ability or inability to hire locally with financial assistance;

(4) Justification for request;

(5) Organizational chart and name of intended supervisor;

(6) Opportunities for training, education, and work experiences for assignees; and

(7) Description of assignee's access to computer equipment for communication with CDC (e.g., personal computer at home, personal computer at workstation, shared computer at workstation on site, shared computer at a central office).

F. Submission and Deadline

Submit the original and two copies of the completed application Form PHS–5161–1 (OMB Number 0937–0189). Forms are in the application kit. On or before May 26, 1999, submit the application to: Mildred S. Garner, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341.

1. Deadline: Applications will be considered as meeting the deadline if they are either:

a. Received on or before the stated deadline date; or

b. Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1(a) or 1(b), above, are considered late applications, will be returned to the applicant.

G. Evaluation Criteria (100 Points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (10 points)

The extent of the disease burden and the need among the priority populations as measured by:

a. The State/territorial/tribal breast and cervical cancer age-adjusted mortality rates averaged more than five years and ranking nationally;

b. The disease burden, including the incidence rates of breast and cervical cancer by age, race and ethnicity (where available);

c. The number of uninsured women by race/ethnicity who are 18–39, 40–49, 50–64, 65+ years;

d. The unmet screening needs of uninsured and under-insured women;

e. Existing access and barriers to early detection services, (e.g., social, financial, geographic).

2. Implementation Plan (50 points)

The degree of comprehensiveness and quality of the Work Plan in relation to:

a. The applicant's proposed work plan that includes overall goals for the program and program components, describes performance indicators related to goals and details measurable, time phased and realistic objectives for each program component. (10 Points)

b. Proposed public education, information, and outreach strategies that are likely to increase the number of low income, uninsured women that are screened and rescreened. (10 points)

c. Proposed professional education strategies that are likely to effect the health care providers knowledge, attitudes, and behaviors in such a way that more women in the target audience are screened and rescreened appropriately. (10 points)

d. Proposed a service delivery program that provides quality screening, rescreening and diagnostic services,

according to established standards, and a proactive tracking, follow-up and case management system. (10 points)

e. Proposed surveillance and evaluation strategies that appear to use reliable data and program results to measure program effectiveness and to facilitate program planning, development, and implementation, and to enhance program goals and objectives. (10 points)

3. Partnership Development and Community Involvement (10 points)

The feasibility and extent of the applicant's proposal to develop and maintain collaborative partnerships with other Federal, State and local programs, territories, tribes and voluntary, professional, and private-sector agencies. The extent of involvement of a broad-based coalition that advises and supports the program. The extent to which letters of support reflects assistance from key partners, participants, and community leaders.

4. Management and Organizational Structure (15 points)

The feasibility and appropriateness of the applicant's management plan that describes the development of qualified and diverse technical, program, and administrative staff, organizational relationships including lines of authority, internal and external communication systems, and a system for sound fiscal management.

5. Capability for Program Implementation (15 points)

The extent to which the applicant appears likely to be successful in implementing the proposed activities as measured by:

a. Accomplishments by comprehensive-funded States and tribes in implementing a breast and cervical cancer early detection program as required through previous funding agreements. These accomplishments should be evaluated in terms of the number of women screened, the number of services provided, and the number of cancers detected.

b. Accomplishments by capacity-funded States in establishing a comprehensive public health infrastructure to support a breast and cervical cancer early detection program.

c. Relevant past experiences of unfunded applicants in conducting breast and cervical cancer early detection programs.

6. Budget and Justification (Not Weighted)

The extent to which the proposed budget is adequately justified, reasonable, and consistent with this program announcement.

7. Human Subject (Not Weighted)

Whether or not exempt from the DHHS regulations, does the application adequately address the requirement of 45 CFR part 46 for the protection of human subjects? Recommendations on the adequacy of protections include: (1) Protections appear adequate and there are no comments to make or concerns to raise, or (2) protections appear adequate, but there are comments regarding the protocol, or (3) protections appear inadequate and the Objective Review Group (ORG) has concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against risks are inadequate as to make the entire application unacceptable.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Semiannual progress reports are required and must be submitted no later than 30 days after each semiannual reporting period. The semiannual progress reports must summarize the following: (1) Major accomplishments including information on women screened; (2) problems encountered in program implementation; and (3) efforts or proposed strategies to resolve problems. All manuscripts published as a result of the work supported in part or whole by the cooperative agreement will be submitted with the progress reports.

2. An annual financial status report (FSR) must be submitted no later than 90 days after the end of each budget period.

3. The final financial status report and progress report is required no later than 90 days after the end of the project period.

Send all reports to: Nealean K. Austin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 3000, 2920 Brandywine Road, Atlanta, GA 30341.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in application package.

AR–1 Human Subjects Requirement
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 1501, 1502, 1507 and 1509 (42 U.S.C. 300k, 42 U.S.C. 300l, and 42 U.S.C. 300n–3) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.919.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Nealean K. Austin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Announcement 99052, Centers for Disease Control and Prevention (CDC), Room 3000, 2920 Brandywine Road, Atlanta, GA 30341, telephone (770) 488–2754, E-mail address NEA1@CDC.GOV

For program technical assistance, contact: Amy Harris, Acting Manager, Policy Development and Administrative Coordination, Program Services Branch, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K–57, Atlanta, GA 30341–3724, telephone (770) 488–4880, fax (770) 488–4727, or

See also the CDC home page on the Internet: http://www.cdc.gov or http://www.cdc.gov/cancer for a copy of the PPM.

Dated: March 30, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–8207 Filed 4–2–99; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99062]

National Institute for Occupational Safety and Health; Safety and Health Interventions in the Construction Industry; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for Safety and Health Interventions in the Construction Industry. This program addresses the ''Healthy People 2000'' priority area of Occupational Safety and Health. The purpose of this cooperative agreement is to develop, implement, and evaluate a national research program in prevention intervention effectiveness research and preventive service systems research in construction safety and health. Many of the National Occupational Research Agenda (NORA) priority areas are relevant to the construction industry and should be considered when responding to this Request for Assistance. These include, preventing hearing loss, back disorders, asthma, and dermatitis and reducing or eliminating traumatic injuries (caused by falls, electrocutions, struck-bys or contact with materials/objects). In addition, there are other high priority problems in construction that are not explicitly included in NORA, such as silicosis and lead poisoning, that should be addressed. The overall project will respond to problems that are specific to different regions, different trades and different industry sectors.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit and for-profit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit and for-profit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $4.125 million is available in FY 99 to fund one award. It is expected that approximately $5.0 million will become available for years 2–5. It is expected that the award will begin on or about September 29, 1999, and will be made for a 4 year 9-month project period with year one being 9 months and years 2–4 being 12 months. Funding estimates may change. Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Cooperative Activities

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under Recipient Activities below, and CDC/NIOSH will be responsible for the activities under CDC/NIOSH Activities below:

Recipient Activities

1. Innovative Pilots or Feasibility Studies

a. Create implement innovative pilot/feasibility project to reduce injury/illness in construction.

b. Establish partnerships with small businesses and independent contractors, unionized contractors to develop, implement and evaluate pilot work looking at the health and safety needs of the entire spectrum of the construction workforce.

2. Intervention Evaluation Research

a. Implement and evaluate intervention initiatives to reduce construction-related injury/illness through partnerships. Incorporate economic analysis into the evaluation process for intervention study.

b. Identify and utilize data to target at-risk groups. Develop interventions aimed at improving best practices; develop detailed plans for modifying best practices based on data. Identify existing or develop new intervention initiatives designed to improve best practices for specific industry sectors and operations within individual sectors. Evaluate intervention initiatives for implementing and evaluating the effectiveness of the intervention throughout the targeted industry sector in future years.

c. Develop, implement, and evaluate employee/employer safety and health approaches.

d. Develop study designed to evaluate the effectiveness of worker training programs across multiple trades, on multiple issues of concern, and on using different training modalities. Evaluate the state of existing training programs and develop standardized safety and health training for the industry. Evaluate the effectiveness of training interventions using data collected.

3. Information and Technology Transfer

a. Develop, implement, and evaluate various aspects of the information transfer process within the construction industry.

b. Demonstrate the ability to create and maintain an infrastructure to be a central clearinghouse for collecting and disseminating health and safety related information to the construction industry.

c. Develop studies to identify the various means that construction firms use to obtain safety and health information.

4. Preventive Systems Research

Develop a research agenda which include (1) studies of policies and procedures that facilitate or hinder the adoption and implementation of effective best practices and interventions, and research on the technology of effective dissemination; (2) studies of the effects of age, gender, ethnicity, organizational, or sociocultural factors that affect access to, or use of, available best practice preventive interventions; and (3) studies of the costs associated with implementing best practice preventive interventions and methods of financing such interventions.

5. On-Going Surveillance

a. Identify pertinent databases and update and expand them where possible.

6. Review Priorities

a. Develop a system to continuously review surveillance and intervention outcome data to establish priorities for research under this cooperative agreement.

b. Convene a national conference for the purpose of sharing information, establishing priorities, and facilitating joint approaches for developing construction industry interventions and to identify and critique current ''best practices'' for specific construction trades and industry sectors.

CDC/NIOSH Activities

1. Provide technical assistance, through site visits and other communication, in all phases of the development, implementation and maintenance of the cooperative agreement.

2. Facilitate communication/coordination between recipients and

other groups, organizations and agencies involved in construction research and outreach.

E. Application Content

Use the information in the Cooperative Activities, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 50 double-spaced pages. The original and each copy of the application must be submitted unstapled and unbound. All materials must be typewritten, double-spaced, with unreduced type (font size 12 point) on 8½'' by 11'' paper, with at least 1'' margins, headers, and footers, and printed on one side only. Do not include any spiral or bound materials or pamphlets. Appendices should have indexes and include (1) support letters (2) information on key personnel (3) other supporting documentation.

F. Submission and Deadline

Letter of Intent (LOI)

Your letter of intent should include the following information. The letter of intent must be submitted on or before May 30, 1999, to: Sheryl L. Heard, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99062, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit. On or before June 30, 1999, submit the application to: Sheryl Heard, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99062, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Application which are complete and responsive will be reviewed and evaluated by an Independent Special Emphasis Panel in accordance with the following criteria.

1. Background and Need (20 points total)

a. The extent to which the applicant understands the purpose and provides a comprehensive statement of the specific problems to be addressed. (2 points)

b. The extent to which the applicant presents data justifying the need for the overall program and it's components, and that interventions are theoretically justified and supported with epidemiologic, methodological, or behavioral research. (9 points)

c. The extent to which the interventions/pilot projects are feasible and can be expected to produce the anticipated results. The feasibility of adoption and sustainability of the intervention acknowledging potential strengths and barriers to adoption and sustainability in the industry, e.g. the impact of trends in construction, support by partners and stakeholders, costs of implementation, effects on production, and industry culture. Identification of participant relationships (potential or actual) that have and might have an interest in supporting and extending the intervention beyond the current agreement. (9 points)

2. Goals and Objectives (20 points total)

a. The extent to which specific research questions and/or hypotheses are described. The extent to which the applicant has included goals which are relevant to reducing injuries, illnesses, and/or hazard exposure among construction workers. (6 points)

b. The extent to which the applicant has included goals and objectives that are specific, measurable, time-phased, and feasible to accomplish, goals and objectives. (7 points)

c. The extent to which objectives include involving construction workers, employers, unions, and other stakeholders in the planning, implementation and evaluation of the projects proposed. (7 points)

3. Methods (25 points total)

a. The extent to which the applicant provides a detailed description of overall study design and research methods to be used for the proposed research project, including the designation of responsibility for activities undertaken. (10 points)

b. The extent to which the target population and setting in which the interventions/pilot projects are to be implemented are clearly described and shown to be adequate for achieving the desired objectives. (9 points)

c. The extent to which it is demonstrated that the participation of the target group will be sufficient to evaluate the interventions/pilot projects in an unbiased fashion. (3 points)

d. The extent to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) The proposed justification when representation is limited or absent; (3) A statement as to whether the design of the study is adequate to measure differences when warranted; (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits will be documented. (3 points)

4. Staffing, Facilities and Resources (15 points total)

a. The extent to which organizational structure, job descriptions, proposed staffing, staff qualifications and experience, identified training needs or plan, and curricula vitea for both the proposed and current staff indicate the applicant's ability to carry out the objectives of the program. The extent to which the management staff and their working partners are clearly described, appropriately assigned and have pertinent skills and experiences, e.g. previous accomplishments in agricultural safety and health interventions. Time allocation of the professional staff to be assigned to this project. (8 points)

b. The extent to which concurrence with the applicant's plans by all other involved parties is specific and documented, e.g. support for proposed activities as well as commitment to participate from proposed partners (e.g. letters of support and/or memoranda of understanding). The extent to which the participants are clearly described and their qualifications for their component of the proposed work are explicitly stated. The extent to which the applicant provides proof of the involvement of partners/stakeholders

(e.g., academic researchers, non-profit organizations, unions and employers) in the development of this proposal. (7 points)

5. Evaluation (20 points)

The extent to which the proposed evaluation system is detailed and will document program process, effectiveness, impact, and outcome. The extent to which an evaluation plan has been developed to determine both the success of the pilot projects or interventions and to determine their utility as a public health prevention strategy with broader application. The extent to which the applicant demonstrates potential data sources for evaluation purposes, and documents staff availability, expertise, and capacity to perform the evaluation. The extent to which a feasible plan for reporting evaluation results and using evaluation information for programmatic decisions is included. The extent to which the applicant describes strategies for broad-based dissemination of information to the construction industry.

6. Budget and Justification (not scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

7. Human Subjects Review (not scored)

If human subjects will be involved, the applicant must clearly state how they will be protected (i.e., describe the review process which will govern participation).

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. annual progress reports;
2. all final reports and project outputs, including published reports will be prepared in WordPerfect 6.1 or higher in a form that can be converted to HTML format for mounting on the Internet;
3. financial status report, no more than 90 days after the end of the budget period; and
4. final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Sheryl Heard, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application package.

AR–1 Human Subjects Requirements

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2000

AR–12 Lobbying Restrictions

AR–20 Conference Support

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 20(a) and 22(e)(7) of the Occupational Safety and Health Act of 1970, [29 U.S.C. 669(a) and 671(e)(7)]. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where to Obtain Additional Information

Please refer to Program Announcement 99062 when you request information. To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

See also the CDC home page on the Internet: http://www.cdc.gov

If you have questions after reviewing the contents of all the documents, please contact: Sheryl Heard, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99062, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341, telephone (770) 488–2723, Email address SLH3@cdc.gov.

For program technical assistance, contact: Dr. Linda Goldenhar, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Division of Surveillance, Hazard Evaluations and Field Studies, 4676 Columbia Parkway, R–21, Cincinnati, OH 45226, Telephone (513) 841–4493, Fax (513) 841–4486, e-mail: lyg9@cdc.gov.

Dated: March 30, 1999.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–8331 Filed 4–2–99; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Head Start Bureau; Advisory Committee on Head Start Research and Evaluation; Notice of Meeting

AGENCY: Administration for Children, Youth and Families, ACF, DHHS.

ACTION: Notice of meeting; Advisory Committee on Head Start Research and Evaluation.

SUMMARY: The 1998 Head Start Reauthorization (42 U.S.C. 9844(g); Section 649(g)(1) of the Head Start Act, as amended) called on the Secretary of Health and Human Services to form an independent panel of experts (i.e., an Advisory Committee) to offer advice concerning research designs that would provide a national analysis of the impact of Head Start Programs. The April 26–27, 1999 meeting is expected to be the first of three meetings of the Advisory Committee that will culminate in a report to the Secretary due October 1, 1999.

DATE AND TIME: April 26, 1999, 9 a.m.–5:30 p.m. and April 27, 1999, 9 a.m.–12 p.m.

PLACE: Georgetown University Conference Center, 3800 Reservoir Road, NW., Washington, DC 20057.

SUPPLEMENTARY INFORMATION: This meeting is open to the public and is barrier free. Meeting records will also be open to the public and will be kept at the Switzer Building located at 330 ''C'' Street, SW., Washington, DC 20447. The Head Start Bureau also intends to make material related to this meeting available on the Head Start web site http:www/dhhs.gov/programs/hsb. An interpreter for the deaf and hearing impaired will be available upon advance request by calling Ellsworth Associates at (703) 821–3090 (ext. 282).

FOR FURTHER INFORMATION CONTACT: Deborah Roderick Stark at (301) 889–0430 for substantive information. ACF Office of Public Affairs at (202) 401–9215 for press inquiries. Ellsworth Associates at (703) 821–3090 (ext. 282) for logistical information.

Dated: March 31, 1999.

Patricia Montoya,

Commissioner, Administration on Children, Youth, and Families.

[FR Doc. 99–8316 Filed 4–2–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Medical Child Support Working Group

AGENCY: Administration for Children and Families, DHHS.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (FACA), notice is given of the second meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998. The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments.

DATES: The meeting of the MCSWG will be held on Tuesday, April 13, 1999, from 11:00 a.m. to approximately 5:00 p.m.

ADDRESSES: The meeting will be held in Room N–3437, Conference Room A/B/C, at the offices of the U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. All interested parties are invited to attend this public meeting. Seating may be limited and will be available on a first-come, first-serve basis. Persons needing special assistance, such a sign language interpretation or other special accommodation, should contact the Executive Director of the Medical Child Support Working Group, Office of Child Support Enforcement at the address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Samara Weinstein, Executive Director, Medical Child Support Working Group, Office of Child Support Enforcement, Fourth Floor East, 370 L'Enfant Promenade, SW, Washington, DC 20447 (telephone (202) 401–6953; fax (202) 401–5559; e-mail: sweinstein@acf.dhhs.gov). These are not toll-free numbers. The date, location and time for subsequent MCSWG meetings will be announced in advance in the **Federal Register**.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) (FCCA), notice is given of a meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998 (P.L. 105–200).

The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments. This report will include: (1) Recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under interim regulations; (2) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrerages in such obligations, and in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677); (3) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs for child support, Medicaid and the Child Health Insurance Program; (4) appropriate measures to improve the availability of alternate types of medical support that are aside from health care coverage offered through the noncustodial parent's health plan, and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, co-payments, deductibles, or payments for services not covered under a child's existing health coverage; (5) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act; and (6) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the MCSWG deems necessary.

The membership of the MCSWG was jointly appointed by the Secretaries of DOL and DHHS, and includes representatives of: (1) DOL; (2) DHHS; (3) State Child Support Enforcement Directors; (4) State Medicaid Directors; (5) employers, including owners of small businesses and their trade and industry representatives and certified human resource and payroll professionals; (6) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)); (7) children potentially eligible for medical support, such as child advocacy organizations; (8) State medical child support organizations; and (9) organizations representing State child support programs.

Agenda: The agenda for this meeting includes a discussion of the form and content of the national Medical Support Notice (Notice) mandated by section 401(b) of the Child Support Performance and Incentive Act. The Notice is to be jointly developed and promulgated by the Secretaries of DHHS and DOL as a means of enforcing the health care coverage provisions in a child support order. As time permits, the MCSWG may discuss the other items to be included in its report to the Secretaries, as listed above.

Public Participation: Members of the public wishing to present oral statements to the MCSWG should forward their requests to Samara Weinstein, MCSWG Executive Director, as soon as possible and at least four days before the meeting. Such request should be made by telephone, fax machine, or mail, as shown above. Time permitting, the Chairs of the MCSWG will attempt to accommodate all such requests by reserving time for presentations. The order of persons making such presentations will be assigned in the order in which the requests are received. Members of the public are encouraged to limit oral statements to five minutes, but extended written statements may be submitted for the record. Members of the public also may submit written statements for distribution to the MCSWG membership and inclusion in the public record without presenting oral statements. Such written statements should be sent to the MCSWG Executive Director, as shown above, by mail or fax at least five business days before the meeting.

Minutes of all public meetings and other documents made available to the MCSWG will be available for public inspection and copying at both the DOL and DHHS. At DHHS, these documents will be available at the MCSWG Executive Director's Office, Office of Child Support Enforcement (OCSE), Administration for Children and Families, U.S. Department of Health and Human Services, Aerospace Building, Fourth Floor—East, 370 L'Enfant Promenade, SW, Washington, DC from 8:30 a.m. to 5:30 p.m. Questions regarding the availability of documents

from DHHS should be directed to Andrew J. Hagan, OCSE (telephone (202) 401–5375). This is not a toll-free number. Any written comments on the minutes should be directed to Ms. Samara Weinstein, Executive Director of the Working Group, as shown above.

Signed at Washington, DC, this 29th day of March, 1999.

David Gray Ross,

Commissioner, Office of Child Support Enforcement.

[FR Doc. 99–8317 Filed 4–2–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0038]

Agency Information Collection Activities; Announcement of OMB Approval; Survey of Biomedical Equipment Manufacturers for Year 2000–Compliant Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Survey of Biomedical Equipment Manufacturers for Year 2000–Compliant Products'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 22, 1999 (64 FR 3524), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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 now approved the information collection and has assigned OMB control number 0910–0397. The approval expires on September 30, 1999. A copy of the supporting statement for this information collection is available on the Internet at ''http://www.fda.gov/ohrms/dockets''.

Dated: March 29, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–8201 Filed 4–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Public Input on Public Health; Open Public Forum

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: The Food and Drug Administration (FDA), Office of Consumer Affairs and Office of Regulatory Affairs, Pacific Region, is announcing a series of open public forums entitled: ''Public Input on Public Health, FDA Listens to You, A Town Hall Meeting.'' The purpose of the forums is to provide an opportunity for FDA's primary stakeholders, U.S. consumers, to have an open dialogue with FDA's senior policy makers about their consumer protection concerns. FDA plans to use the information in the development of the Pacific Region Strategic Plan and in the development of FDA's nation wide priorities. Under the FDA Modernization Act of 1997 (FDAMA), FDA was mandated by Congress to have ongoing consultations with its stakeholders on how FDA can best meet their regulatory requirements and to protect the public health. Two issues of particular concern, this year, are strengthening the science base of the agency and improving risk-based communication with the public.

DATES: Send registration and requests for oral presentations by May 5, 1999. See Table 1 in section II of this document for a complete schedule of all the meetings.

ADDRESSES: Send written comments to the specific contact person. See Table 1 in section II of this document for a complete listing of meeting locations and contact persons.

FOR FURTHER INFORMATION CONTACT:

For general information: James Rowell or Patricia Alexander, Food and Drug Administration, 5600 Fishers Lane, rm. 16–75, Rockville, MD 20857, 301–827–4414 or 301–827–4391, FAX 301–443–9767.

For specific meeting information: See Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is a science based consumer protection agency responsible for ensuring that: (1) Foods are safe, wholesome and sanitary; (2) human and veterinary drugs, biological products, and medical devices are safe and effective; (3) cosmetics and electronic products that emit radiation are safe. FDA also ensures that these regulated products are honestly and accurately labeled and in compliance with applicable laws and regulations. FDA strives to maximize public health protection while reducing regulatory burdens.

Public participation in these forums will provide an essential ingredient to the achievement of the Pacific Region's intermediate and long range strategic planning goals. Additional benefits include: (1) Providing the opportunity to hear directly from consumers their concerns about health and policy issues, (2) reaching out to a broad representation of community based and consumer organizations to reach the full diversity of consumers, (3) using the information gained at these forums in FDA's decisionmaking process, (4) obtaining information necessary for the development of innovative programs to raise public awareness, (5) fostering communication among local agencies, both public and private, in order to more effectively respond to the public's need for information that empowers them in making health related decisions, and (6) encouraging individuals to take personal responsibility for protecting their own health.

II. Scheduled Meetings

The open public forums will be held in several locations throughout the country. The scheduled date and time, location, and specific contact person for each meeting is listed in Table 1 as follows:

TABLE 1.—MEETING SCHEDULES AND CONTACTS FOR REGISTRATION

Date	Time	Place	Address	Contact
Wednesday, May 12, 1999	10 a.m. to 1 p.m.	Elihu Harris State Office Bldg. Auditorium.	1515 Clay St., Oakland, CA.	Mary Ellen Taylor at 510–337–6888, FAX 510–337–6708

TABLE 1.—MEETING SCHEDULES AND CONTACTS FOR REGISTRATION—Continued

Date	Time	Place	Address	Contact
	4 p.m. to 7 p.m.	Elihu Harris State Office Bldg. Auditorium.	1515 Clay St., Oakland, CA.	Mary Ellen Taylor at 510–337–6888, FAX 510–337–6708
Friday, May 14, 1999	10 a.m. to 3 p.m.	California Science Center, Donald P. Loker Conference Center.	Figueroa and 39th Sts., Los Angeles, CA, (next to the Los Angeles Coliseum).	Rosario Vior at 949–798–7607, FAX 949–798–7715
Monday, May 17, 1999	1 p.m. to 4 p.m.	Portland State University, Smith Memorial Center.	724 SW. Harrison St., rm. 294, Portland, OR.	Alan Bennett at 503–671–9711, ext. 22 FAX 503–671–9711

III. Registration and Requests for Oral Presentations

Send registration information (including name, title, firm name, address, telephone, and fax number) and requests to make oral presentations to the registration contact person listed in Table 1 of section II of this document by Wednesday, May 5, 1999.

Written comments and questions concerning the meetings may also be submitted to the specific registration contact person listed for each meeting in Table 1. If you need special accommodations due to a disability, please contact the registration contact person at least 7 days in advance.

IV. Transcripts

Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: March 29, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–8200 Filed 4–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Extramural Support Program for Projects to Increase Organ and Tissue Donation

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice with comment period.

SUMMARY: The Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS), announces a proposed peer reviewed, competitively awarded extramural support program for fiscal year 1999 to fund projects to increase organ and tissue donation. This document sets forth the proposed parameters of the extramural support program and offers a 30-day period for public comment on: the project phases eligible for program support (pilot tests and replications), performance measures, funding priorities, and review criteria. Comments will be considered for the purpose of writing the detailed guidance to applicants for submission of applications. Applications will be solicited for this extramural support program by posting the announcement on the following three web sites: www.hrsa.gov, www.hrsa.gov/osp/dot/, and www.organdonor.gov, and by publishing it as a **Federal Register** notice.

In concert with HHS'' National Organ and Tissue Donation Initiative, this extramural program intends, through cooperative agreements, to support projects of up to 3 years duration to implement, evaluate, and disseminate model interventions with the greatest potential for yielding a verifiable and demonstrable impact on donation and which are replicable, transferable, and feasible in practice. Applicants must be qualified organ procurement organizations (OPOs) or other nonprofit, private organizations, in collaboration with a consortium of other relevant entities. Strong evaluation project components and staffing expertise are required. Authority for this program is provided by Section 371(a)(3) of the Public Health Service (PHS) Act, 42 U.S.C. 273(a)(3), as amended.

DATES: To ensure consideration, comments must be received by May 5, 1999.

ADDRESSES: Written comments should be addressed to: D.W. Chen, M.D., M.P.H., Director, Division of Transplantation, Office of Special Programs, Health Resources and Services Administration, U.S. Department of Health and Human Services, Room 4–81, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. All comments received will be available for public inspection and copying at the Division of Transplantation, at the above address, weekdays (Federal holidays excepted) between the hours of 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: D.W. Chen, M.D., M.P.H., Director, Division of Transplantation, Office of Special Programs, Health Resources and Services Administration, U.S. Department of Health and Human Services, Room 4–81, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; 301 443–7577.

SUPPLEMENTARY INFORMATION:

Purposes

Organ donation has become an increasingly important public health issue. Only about 5,500 deaths in the United States each year result in organ donation, compared with an estimated potential of 8,000–15,000 donors. Moreover, almost 62,000 patients are currently awaiting transplants and about 4,000 patients die each year because of the critical shortage of transplantable organs.

A major barrier to donation today is low rates of family consent. The Health Care Financing Administration's revised Hospital Conditions of Participation for Organ, Tissue, and Eye Donation (June 22, 1998, 63 Fed. Reg. 33856) effective August 21, 1998, are designed to maximize opportunities to donate by requiring Medicaid-and Medicare-participating hospitals to notify OPOs of all deaths and imminent deaths so potential donors are identified and families are asked about donation; however, only about half of families who are asked give their consent. The latest national Gallup survey indicates that nearly all Americans would consent to donation if they knew that their loved one had requested it, but only about half of Americans who want to donate have told their families.

The goals of this program are to implement, evaluate, and disseminate

model interventions with the greatest potential for yielding a verifiable and demonstrable impact on donation and which are replicable, transferable, and feasible in practice. While the program focuses on organ donation, it is expected that projects to increase organ donation will have a similar impact on tissue donation. We propose that program funding be used to support the following project phases: (1) pilot testing and (2) replication. Phase 1 projects that test the efficacy of promising interventions to increase organ donation are anticipated to be smaller in scope and budget than Phase 2 projects, which will focus on implementing and testing in multiple sites interventions which already have proved effective in pilot studies. Phase 2 projects also can include dissemination efforts including such strategies as training workshops and remote and on-site technical assistance. Applicants must submit separate applications if they are interested in applying for both types of projects.

Projects are to be consistent with the goals of HHS'' National Organ and Tissue Donation Initiative (''National Initiative'') and have solid evaluation components as emphasized during the April 1–2, 1998, national conference titled ''Increasing Donation and Transplantation: The Challenge of Evaluation'' sponsored by HHS'' Office of the Assistant Secretary for Planning and Evaluation with additional support provided by the Agency for Health Care Policy and Research and the National Institute of Allergy and Infectious Disease of the National Institutes of Health. (Copies of the National Initiative Partnership Kit, the final conference report, and a review of evaluation issues are available on www.organdonor.gov.) Projects can employ qualitative studies, quantitative research, or empiric work. As reflected in the third goal of the National Initiative, namely to learn more about what works to increase donation and transplantation, HHS places a high priority on research and evaluation.

HHS has served, and plans to continue to serve, as a catalyst for the field by emphasizing and encouraging carefully designed and rigorous evaluation components and research projects to ascertain effective interventions for increasing donation. HHS believes that the application of tested theoretical approaches and models to donation studies that are carefully designed and evaluated can yield instructive information for efforts to increase organ and tissue donation.

Eligibility

The proposed project must be carried out by a consortium of relevant entities or organizations, of which one organizational member (''the applicant'') carries overall responsibility for project leadership and administration of the HRSA grant award. The applicant must be a qualified OPO or other nonprofit, private organization. Consortium members and roles must be identified in the application. The consortium must include at least one organization, group, or individual that has research design and evaluation expertise, and at least one other organization (e.g., OPO; public health or other Government agency; academic institution; hospital, community/migrant health center, or other health services delivery site; transplant/donation-related association or organization; community-based organization; faith-based organization). All members of the consortium must have substantive involvement in the project. For-profit organizations may participate as members of consortia, but not as the applicant.

Performance Measures

All projects *must* include rigorous outcome evaluation protocols. Outcomes and performance measures must be identified and defined to determine effectiveness of the project. Performance measures are expected to address one or more of the following outcomes:

1. Organ procurement rates;
2. Consent rates and donation;
3. Number and prevalence of family donation discussions

Funding and Administrative Mechanism

The administrative and funding mechanism to be used in this program will be the Cooperative Agreement (CA). This vehicle allows for greater Federal involvement in continuous refinement of the supported projects than provided through a grant program. All funded projects will be assigned to a Federal project officer for monitoring and guidance. In addition, in order to maximize their potential effectiveness, all funded projects will be reviewed at a pre-implementation meeting and regularly thereafter by a review group consisting of Federal representatives, methodology specialists, project directors of all CAs supported under this extramural program, and others as identified by the Federal Government. The overall purpose of the periodic review meetings is to discuss each project's progress toward its goals, problem areas if any, and strategies for increasing the efficacy of each project. The group will review and provide comment on issues such as the parameters of each project, appropriate outcome and performance measures (including base-line data), definitions of terms used to describe populations/groups of interest (e.g., potential donor family), terms used in the donation process (e.g., ''intent,'' ''consent'', and ''opportunity'' to donate), and qualitative measurements (e.g., ''significant'' increase, ''effective'' intervention) to improve the usefulness of data collection for individual projects and across projects. Final decisions and project direction, however, are the responsibility of the Federal project officers. One of the funded applicants will receive additional funds to cover costs associated with the review group. Such costs may include, but are not limited to, expenses related to travel, supplies, and meeting management. Applicants interested in performing this function should so indicate in the application and state their capabilities.

Review Criteria

The review of applications will take into consideration the proposed criteria listed below. The system used by the peer review panel for scoring each application will range from 0–100 points, with 100 being best. Maximum points that can be awarded for each criterion are in parentheses. Separate ranking lists will be employed for projects in each of the two phases.

1. Potential of the project to yield a demonstrable and verifiable impact on organ donation and/or the other performance measures. (30 points)
2. Extent to which projects are replicable, transferable, and feasible in practice for entities with similar competencies (e.g., human resources, funding, technology) and for entities targeting populations with similar socio-demographic profiles. (15 points)
3. Degree of scientific rigor in the design, implementation, and evaluation of the project. (20 points)
4. Evidence of the availability of in-kind support, facilities, resources, and collaborative arrangements commensurate with the goals of the project and the extramural program. (10 points)
5. Adequacy and experience of project staff. (10 points)
6. Projects costs that are commensurate with proposed activities and anticipated outcomes, and adequacy of budget. (15 points)

Funding Factors

Two funding priorities are proposed for this program. Approved applications

that are eligible for the funding priorities are awarded additional points towards their final rank order score. The largest number of funding priority points is proposed for applications that are most likely to have a demonstrable impact on consent rates. Five (5) points will be awarded for this funding priority. Funding priority is also proposed for projects that address variations in consent by race and ethnicity, which may include an examination of differences in donation/transplantation knowledge, attitudes, and experiences among one or more minority groups. Two (2) points will be awarded for this funding priority. For applications that qualify, Government program staff will add the appropriate points to the score assigned by the peer review panel. (Maximum total points any application can achieve for all review criteria will be 107.)

HRSA reserves the option to fund a balance of projects in Phases 1 and 2.

Project Period

Projects will be awarded for up to 3 years.

Estimated Amount Available For This Competition

HRSA expects to award under this program up to $5 million in FY99 to support the first year of approximately 15–20 projects. Subsequent years' funding depends on the availability of appropriations, program priorities, and recipient performance.

Dated: March 30, 1999.

Claude Earl Fox,

Administrator.

[FR Doc. 99–8175 Filed 4–2–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on Migrant Health; Notice of Meeting

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of April 1999:

Name: National Advisory Council on Migrant Health.

Date & Time: Wednesday, April 21, 1999 at 9:00 A.M. to Thursday, April 22, 1999 at 5:00 P.M..

Place: Denver Marriott Center City, 1701 California Street, Denver, CO 80202, 303/297–1300 phone, 303/298–7474 fax. The meeting is open to the public.

Agenda: This will be a meeting of the Council. The agenda includes an overview of general Council business activities and priorities. Topics of discussion will include the State Children's Health Insurance Program, Migrant issues in Colorado, and updates from programs funded by the Migrant Health Program. The Council meeting is being held in conjunction with the National Association of Community Health Centers (NACHC), 1999 National Farmworker Health Conference, April 23–25, 1999. Anyone requiring information regarding the subject Council should contact Susan Hagler, Migrant Health Program, staff support to the National Advisory Council on Migrant Health, Bureau of Primary Health Care, Health Resources and Services Administration, 4350 East West-Highway, Bethesda, Maryland 20814, Telephone 301/594–4302.

Agenda Items are subject to change as priorities indicate.

Dated: March 30, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–8198 Filed 4–2–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting 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 Cancer Institute Special Emphasis Panel, Cancer Cell Biology, Tumor Biology and Genetic Conference Grants.

Date: April 8, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Boulevard, EPN, Room 635, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Olivia T. Preble, PHD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard—Rm. 643B, Rockville, MD 20892–7405, 301/496–7929.

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. 93.392, Cancer Construction, 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 30, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–8320 Filed 4–2–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Preclinical Evaluation of Intermediate Endpoints and their Modulation by Chemopreventive Agents.

Date: April 6, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6130 Executive Blvd. 6th Floor, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Wilna A. Woods, PHD, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Rockville, MD 20852, (301) 496–7903.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93,399, Cancer Control, National Institutes of Health, HHS)

Dated: March 30, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–8321 Filed 4–2–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Meeting of the National Reading Panel

Notice is hereby given of the sixth Washington area meeting of the National Reading Panel. The meeting will be held on Wednesday, April 7, 1999, from 9:00 to 5:00 PM at the Westin Fairfax, 2100 Massachusetts Avenue, Washington, DC 20008. The entire meeting will be open to the public.

The National Reading Panel was requested by Congress and created by the Director of the National Institute of Child Health and Human Development in consultation with the Secretary of Education. The Panel is studying the effectiveness of various approaches to teaching children how to read and will report on the best ways to apply these findings in classrooms and at home. Its members include prominent reading researchers, teachers, child development experts, leaders in elementary and higher education, and parents. The Chair of the Panel is Dr. Donald N. Langenberg, Chancellor of the University System of Maryland.

The Panel will build on the findings presented by the National Research Council's Committee on the Prevention of Reading Difficulties in Young Children. Based on its analysis of the scientific literature, the Panel will: Determine the readiness for application in the classroom of the results of the research studies; identify appropriate means to rapidly disseminate these results to facilitate effective reading instruction in the schools; and identify gaps in the knowledge base for reading instruction and the best ways to close these gaps.

The agenda for this meeting will focus on the presentation of progress reports from the panel subgroups. A period of time will be set aside at approximately 4:00 PM for members of the public to address the Panel and express their views regarding the Panel's mission. Individuals desiring an opportunity to speak before the Panel should address their requests to F. William Dommel, Jr., J.D., Executive Director, National Reading Panel, c/o Ms. Amy Andryszak, and either mail them to the Widmeyer-Baker Group, 1875 Connecticut Avenue, NW, Suite 800, Washington, DC 20009, or e-mail them to *amya@twbg.com*, or fax them to 202–667–0902. Requests for addressing the Panel should be received by April 5, 1999. Panel business permitting, each public speaker will be allowed five minutes to present his or her views. In the event of a large number of public speakers, the Panel Chair retains the option to further limit the presentation time allowed to each. Although the time permitted for oral presentations will be brief, the full text of all written comments submitted to the Panel will be made available to the Panel members for consideration.

For further information contact Ms. Amy Andryszak at 202–667–0901. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Amy Andryszak by April 5, 1999.

Dated: March 30, 1999.

Duane Alexander,

Director, National Institute of Child Health and Human Development.

[FR Doc. 99–8322 Filed 4–2–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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 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: Center for Scientific Review Special Emphasis Panel.
Date: April 2, 1999.
Time: 8:30 AM to 9:30 AM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: J. Terrell Hoffeld, DDS, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781.

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: Center for Scientific Review Special Emphasis Panel.
Date: April 9, 1999.
Time: 11:00 AM to 12:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Garrett V. Keefer, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892, (301) 435–1152.

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: Center for Scientific Review Special Emphasis Panel.
Date: April 12, 1999.
Time: 1:00 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Washington National Airport Hilton, 2399 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Everett E. Sinnett, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7818, Bethesda, MD 20892, (301) 435–1016, ev__sinnett@nih.gov.

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: Center for Scientific Review Special Emphasis Panel.
Date: April 12, 1999.
Time: 3:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Paul K. Strudler, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

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: Center for Scientific Review Special Emphasis Panel.
Date: April 13, 1999.
Time: 3:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Paul K. Strudler, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

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: Center for Scientific Review Special Emphasis Panel.
Date: April 14, 1999.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: River Inn, 924 25th Street, NW, Washington, DC 20037.
Contact Person: J. Terrell Hoffeld, DDS, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781, th88q@nih.gov.

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: Center for Scientific Review Special Emphasis Panel, zrg1-tmp-3.
Date: April 14, 1999.
Time: 1:00 PM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Jean Hickman, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

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: Center for Scientific Review Special Emphasis Panel.
Date: April 14, 1999.
Time: 6:00 PM to 7:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Camilla E. Day, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7840, Bethesda, MD 20892, (301) 435–1037.

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. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 30, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–8319 Filed 4–2–99; 8:45 am]

BILLING CODE 4140–01–M

INTER-AMERICAN FOUNDATION BOARD

Inter-American Foundation Board Sunshine Act Meeting

TIME AND DATE: April 21, 1999, 11:30 a.m.–3:30 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the December 2, 1998, Meeting of the Board of Directors
2. President's Report
3. Report on Hurricanes Georges and Mitch Reconstruction Effort
4. Report on Congressional Activities
5. Report on External Affairs Activities
6. Status Report on the Results Initiatives

CONTACT PERSON FOR MORE INFORMATION: Adolfo A. Franco, Secretary to the Board of Directors, (703) 306–4325.

Dated: April 1, 1999.

Adolfo A. Franco,

Sunshine Act Officer.

[FR Doc. 99–8498 Filed 4–1–99; 3:57 pm]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

National Recreation Lakes Study Commission

AGENCY: National Recreation Lakes Study Commission.

ACTION: Notice of sixth meeting of the National Recreation Lakes Study Commission.

SUMMARY: The Omnibus Parks and Public Land Management Act of 1996 authorizes a presidential commission to review the demand for recreation at Federal lakes, and to develop alternatives for enhanced recreation uses, primarily through innovative public/private partnerships. This will be the sixth meeting of the Commission.

DATES: April 19–20, 1999, beginning at 9:00 a.m. on Monday, April 19 and ending at 5:00 p.m. The meeting will resume at 8:00 a.m. on Tuesday, April 20 and end at approximately 12:00 noon.

ADDRESSES: The meeting will be held at TVA Headquarters, Knoxville City Center, 400 West Summit Hill Drive, West Tower, Second Floor, Knoxville, Tennessee 37902. The Commission will hear an overview of the draft report and recommendations by the report editor and decisions will be made by the Commissioners; the communication strategy will be presented; and other topics may be discussed. The Commission will invite comments from the public beginning at 2:00 p.m. on April 19.

FOR FURTHER INFORMATION CONTACT: Jeanne Whittington at 202–219–7104.

Dated: March 29, 1999.

Jana Prewitt,

Executive Director, National Recreation Lakes Study Commission.

[FR Doc. 99–8209 Filed 4–2–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Receipt of Application for Endangered Species Permit.

SUMMARY: The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

DATES: Written data or comments on these applications must be received, at the address given below, by May 5, 1999.

ADDRESSES: Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679–7313; Facsimile: 404/679–7081.

FOR FURTHER INFORMATION CONTACT: David Dell, Telephone: 404/679–7313; Facsimile: 404/679–7081.

SUPPLEMENTARY INFORMATION:

Applicant: Robert Brian Pate, Clemson, South Carolina, TE009025–0.

The applicant requests authorization to take (harass during nest monitoring and augmentation) the endangered red-cockaded woodpecker, *Picoides borealis*, throughout the species range in North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Tennessee, and Kentucky for the purpose of enhancement of survival of the species.

Applicant: James D. Kiser, Appalachian Technical Services, Inc., Whitesburg, Kentucky, TE009638–0.

The applicant requests authorization to take (capture, tag, radio-track) the endangered gray bat, *Myotis grisescens*, Indiana bat, *Myotis sodalis*, and Virginia big-eared bat, *Corynorhinus townsendii ingens*, throughout the species' ranges in North Carolina, Georgia, Alabama, Mississippi, Tennessee, Kentucky, Indiana, Ohio, Pennsylvania, Virginia, and West Virginia for the purpose of enhancement of survival of the species.

Applicant: John J. Bernard, Natchitoches, Louisiana, TE009310–0.

The applicant requests authorization to take (harass during nest augmentation) the endangered red-cockaded woodpecker, *Picoides borealis*, throughout the species range in Louisiana for the purpose of enhancement of survival of the species.

Dated: March 29, 1999.

H. Dale Hall,

Deputy Regional Director.

[FR Doc. 99–8206 Filed 4–2–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Recovery Plan for the Golden Paintbrush for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a Draft Recovery Plan for the Golden Paintbrush (*Castilleja levisecta*). This threatened herb, native to grasslands in the Puget Sound region of Washington and adjoining British Columbia, is known from only 11 small populations and requires site-specific habitat conservation measures and reintroduction to assure its recovery.

DATES: Comments on the draft recovery plan received by June 4, 1999 will be considered by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following location: Western Washington Office, North Pacific Coast Ecoregion, U.S. Fish and Wildlife Service, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98501. Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to Nancy Gloman, Acting Supervisor, at the above address.

FOR FURTHER INFORMATION CONTACT: Ted Thomas, Fish and Wildlife Biologist, at the above Lacey address (phone: 360/753–4327).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining organisms within their ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

This perennial herb is listed as threatened. It is native to grasslands within the Puget Lowlands of western Washington, as well as the southern tip of Vancouver Island, British Columbia. Only 11 populations, all of them small, are known to exist. Five of the populations are on public lands and generally enjoy some degree of protection. The main threat to this plant is loss or degradation of its habitat. Most of the Puget Sound grasslands have been developed for commercial, residential, or agricultural purposes. Additional loss has been caused by encroachment of woody plants and weeds into the grasslands.

The objective of this plan is to conserve the plant so that protection by the Act is no longer necessary. Actions necessary to accomplish this objective include ensuring effective management for all state and Federally-managed sites, securing formal protection for privately-owned sites, where possible, monitoring protected sites, reintroducing the plant to suitable or restored habitat, including habitat within the species' historic range, and storing seed as a hedge against accidental loss of any of the populations.

Public Comments Solicited

The Service solicits written comments on this draft recovery plan. All comments received by the date specified above will be considered prior to final approval of this plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: March 30, 1999.

Anne Badgley,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 99–8177 Filed 4–2–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Revised Recovery Plan for MacFarlane's Four-O'Clock (Mirabilis macfarlanei) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft revised recovery plan for MacFarlane's four-o'clock. (*Mirabilis macfarlanei*). This plant occurs in grassland habitats in Idaho County, Idaho, and Wallowa County, Oregon.

DATES: Comments received on the draft recovery plan by June 4, 1999 will be considered by the Service.

ADDRESSES: Copies of the draft revised recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, 1387 South Vinnell Way, Room 368, Boise, Idaho 83709 (phone: 208/378–5243). Requests for copies of the draft revised recovery plan and written comments and materials regarding this plan should be addressed to the Supervisor at the above address.

FOR FURTHER INFORMATION CONTACT: Edna Rey-Vizgirdas, botanist, at the above address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time frames and costs for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of a recovery plan for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

MacFarlane's four-o'clock (*Mirabilis macfarlanei*) is listed as threatened. A member of the four-o'clock family, this plant is found in low to mid-elevation canyon grassland habitats in west-central Idaho and northeastern Oregon. Plants are found on gravelly to loamy and sandy soils between approximately 300 and 900 meters (1,000 to 3,000 feet) elevation. Grazing by domestic livestock and the invasion of exotic (nonnative) plants are the greatest threats to this species. Other threats include human trampling, off-road vehicle use, construction and maintenance of roads and trails, and herbicide spraying.

The objective of this plan is to provide a framework for the recovery of MacFarlane's four-o'clock so that protection by the Act is no longer necessary. The recovery strategy for this species is focused on protecting habitat and maintaining self-sustaining populations of MacFarlane's four-o'clock throughout its range in Idaho and Oregon, and minimizing or eliminating threats to the populations.

This plan describes an 8-part strategy with specific tasks necessary to maintain suitable grassland ecosystems that provide habitat for MacFarlane's four-o'clock. The tasks, when implemented, will stabilize and maintain populations throughout the range of MacFarlane's four-o'clock by protecting sufficient occupied and adjacent suitable habitat, implementing actions that may be necessary to eliminate or control threats, managing habitat to maintain or enhance viable populations of MacFarlane's four-o'clock, monitoring the status of populations and habitat conditions to ensure that recovery actions are successful, conducting research to determine the population dynamics and ecology of the species to guide management efforts and ensure the conservation of the species, and establishing a long-term seed storage facility for MacFarlane's four-o'clock.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: March 30, 1999.

David L. McMullen,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 99–8204 Filed 4–2–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 125–09–6334–05; GP9–0156]

Revised Closure Notice for Public Lands on North Spit

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 43 CFR 8364.1, the emergency closure of access to public lands and roads administered by the Bureau of Land Management on North Spit of Coos Bay, Oregon is being rescinded for the following area only: that portion within T. 25 S., R. 13 W., Will. Mer., Sec. 8, described as the North Spit Boat Ramp, T. 25 S., R. 13 W., Will. Mer., Sec. 19, T. 25 S., R. 14 W., Will. Mer., Sec. 24 and 25, described as the access road commonly known as the Bayside Road, and all public lands within 100 feet west of the Bayside Road. The closure of all other public lands within T. 25 S., R. 13 W., Will. Mer., Sec. 4, 5, 6, 7, 18, 19, and within T. 25 S., R 14 W., Will. Mer., remains in effect as described in FR Doc. 99–3723 ''Emergency Closure Notice of Public Lands on North Spit'', filed February 16, 1999. Any person who fails to comply with the provisions of this order may be subject to a fine not to exceed $1,000.00, and/or imprisonment not to exceed 12 months, in accordance with 43 CFR 8360.0–7.

SUPPLEMENTARY INFORMATION: The lands reopened by this notice are open to access by foot, horse and licensed street legal vehicles only (no All Terrain Vehicles). Access to the lands continuing in closure are restricted to authorized personnel only. Personnel authorized by the New Carissa Unified Command and Bureau of Land Management, Coos Bay District are exempt from the restrictions.

This restriction is needed for protection of western Snowy Plover nesting habitat, public safety, to alleviate poor access conditions and to keep the area clear for salvage operations to the New Carissa site.

This closure order is under the authority of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579, 90 Stat. 2743, 43 U.S.C. 1701) and in accordance with 43 CFR, Subpart 8364. Because of immediate potential dangers to the public and the western Snowy Plover habitat, a 30 day comment period is inappropriate and the closure is in effect as of the published date.

DATES: This closure remains in effect from March 26, 1999, until further notice.

FOR FURTHER INFORMATION CONTACT: Alan Hoffmeister, Public Affairs Officer, Coos Bay District Office, 1300 Airport Lane, North Bend, Oregon 97459. Telephone: (541) 756–0100.

Dated: March 25, 1999.

Gary L. Johnson,

Umpqua Field Manager.

[FR Doc. 99–8291 Filed 4–2–99; 8:45 am]

BILLING CODE 4310–33–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–360–1150–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Northwest California Resource Advisory Council, Redding, California, DOI.

ACTION: Notice of meeting change.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and the Federal Land Policy and Management Act (Pub. L. 94–579), the U.S. Bureau of Land Management's Northwest California Resource Advisory Council will meet Thursday and Friday, May 27 and 28, 1999, at the Redding Rancheria, 2000 Redding Rancheria Rd., Redding, CA. This meeting was originally scheduled for April 8 and 9, 1999, but a new date was scheduled because of BLM scheduling conflicts.

SUPPLEMENTARY INFORMATION: The meeting begins at 10 a.m. Thursday, May 27, in the multi-purpose room of the Redding Rancheria. Agenda items include recommended changes to the council charter, land exchanges, use of subgroups, an update on acquisition of the Headwaters Forest, and updates on the Knoxville Plan and Payne Ranch acquisition. Managers of the BLM Arcata, Redding and Ukiah field offices will also present reports. Time will be reserved at 1 p.m. for public comments. Depending on the number of persons wishing to speak, a time limit may be established.

On Friday, May 28, members will convene at 8 a.m. at the BLM Redding Field Office, 355 Hemsted Drive, and depart for a field tour of public lands managed by the BLM's Redding Field Office. Members of the public are welcome on the tour, but they must provide their own transportation. The field tour and meeting will adjourn by noon.

FOR FURTHER INFORMATION CONTACT: Contact Rich Burns, BLM Ukiah Field Manager, at (707) 468–4000.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 99–8205 Filed 4–2–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–99–1020–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council; Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, Interior.

ACTION: Resources Advisory Council Meeting Locations and Times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM) Council meetings will be held as indicated below. The agenda includes: Marietta-Mina Management Plan, Fallon Naval Air Station Environmental Impact Statement, proposed exchange involving land in Humboldt County, council charter renewal issues, council role relative to the U.S. Forest Service, Black Rock Management Plan update, and public comment periods. A field trip within the Fallon area may be held Friday afternoon. Members of the public will be welcome to join this tour.

All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for public comments. The public comment period fro the council meeting is listed below. Individuals who plan to attend and need further information about the meeting or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Robert Stewart at the Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, telephone (775) 885–6000.

DATES, TIME: The council will meet on Thursday, April 29, 1999 from 10:00 a.m. to 4:00 p.m. and Friday, April 30, 1999, from 8:00 a.m. to 1:00 p.m. at the Fallon Convention Center, 100 Campus Way, Fallon, NV, in the first floor conference room. If due to unforeseeable problems this site is not available, the alternate site of the meeting will be the Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701. The dates and times will remain the same. Public comment will be received at the close of each discussion unit, with a general public comment period on Friday, April 30, 1999 at 11:30 a.m.

FOR FURTHER INFORMATION CONTACT: Robert Stewart, Public Information Specialist, Carson City Field Office, telephone (702) 885–6000.

Dated: March 29, 1999.

John Singlaub,

Field Office Manager.

[FR Doc. 99–8290 Filed 4–2–99; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–09–1060–00–241A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The advisory board will meet Thursday, April 22, 1999, from 8 a.m. to 6 p.m. local time, and on Friday, April 23, 1999, from 8 a.m. to 12 noon local time.

The BLM is sponsoring a Population Viability Forum in conjunction with the advisory board meeting. The forum is scheduled for Wednesday, April 21, 1999, from 8 a.m. to 6 p.m. local time.

Submit written comments pertaining to the advisory board meeting no later than close of business April 30, 1999.

ADDRESSES: The advisory board will meet at the Fort Collins Marriott, 350 East Horsetooth Road, Fort Collins, Colorado 80525. The forum will take place at the same location.

Send written comments pertaining to the advisory board meeting to Bureau of Land Management, WO–610, Mail Stop 406 LS, 1849 C Street, NW, Washington, DC 20240. See **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Mary Knapp, Wild Horse and Burro Public Affairs Specialist, (202) 452–5176. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern

Daylight Time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Thursday, April 22, 1999

—Rangeland ecology and management review;
—Historical perspective of rangeland management;
—the BLM planning process and review of National Environmental Policy Act requirements;
—Management perspectives;
—Rangeland management issue identification;
—Public comment.

Friday, April 23, 1999

—Old Business: cost analysis for holding and training facilities; cost analysis for gelding policy; fee reduction/fee structure; immunocontraception guildelines; Strategic Plan; the Nevada Commission Plan;
—Advisory board recommendations;

The tentative agenda for the forum is:

Wednesday, April 21, 1999

—Session 1: Resource definition and management goals for conservation;
—Session 2: Effective genetic population size versus minimum viable population;
—Session 3: Data generation for population viability analysis of demographic, genetic and ecological modeling efforts;
—Session 4: Practical application of population viability analysis models.

The meeting and forum are open to the public. The advisory board will take detailed minutes of the meeting while the BLM will take detailed minutes of the forum. The BLM will make the minutes available to interested parties who contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Under the Federal advisory committee management regulations (41 CFR 101–6.1015(b)), the BLM is required to publish in the **Federal Register** notice of a meeting 15 days prior to the meeting date.

II. Public Comment Procedures

Members of the public may make oral statements to the advisory board on April 22, 1999, at the appropriate point in the agenda, which is anticipated to occur at 4:30 p.m. local time. Persons wishing to make statements should register with the BLM by noon on April 22, 1999, at the meeting location. Depending on the number of speakers, the advisory board may limit the length of presentations. At previous meetings, presentations have been limited to three minutes in length. Speakers should address specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the advisory board meeting is not a prerequisite for submittal of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, speakers should submit two copies of their written comments where feasible. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be released in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address

Speakers may transmit comments electronically via the Internet to: Mary_Knapp@blm.gov or mknapp@wo.blm.gov. Please include the identifier ''WH&B'' in the subject of your message and your name and address in the body of your message.

Dated: March 31, 1999.

Henri Bisson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. 99–8280 Filed 4–2–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–931–1310–00–NPRA]

Notice of National Petroleum Reserve-Alaska (NPR–A) Oil and Gas Lease Sale 991 and Notice of Availability of the Detailed Statement of the Sale

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: This Notice provides official notification that the Bureau of Land Management, Alaska State Office will be holding an oil and gas lease sale bid opening for the Northeast Study Area of the NPR–A at 9:00 a.m., Alaska Daylight Time, May 5, 1999, at the Wilda Marston Theatre in the Z. J. Loussac Public Library, 3600 Denali Street, Anchorage, Alaska 99503.

The detailed statement for Sale 991 may be obtained by written request to the Public Information Center, Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, No.13, Anchorage, Alaska 99513–7599 or by telephone at 907–271–5960. It includes, among other things, a description of the areas to be offered for lease, the lease terms, conditions and special stipulations and information on how and where to submit bids. It will be available to the public immediately after publication of this Notice.

All bids must be submitted by competitive sealed bid in accordance with the provisions identified in the Detailed Statement of the Sale and must

be received at the Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599 no later than 3:45 p.m., Alaska Daylight Time, May 4, 1999.

EFFECTIVE DATE: April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Gene R. Terland or Robert Merrill, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–3833

Dated: March 29, 1999.

Sally Wisely,

Acting State Director.

[FR Doc. 99–8138 Filed 4–2–99; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP (NIJ)–1219]

RIN 1121–ZB50

National Institute of Justice Solicitation for Research and Evaluation on Sentencing and Corrections

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice ''Solicitation for Research and Evaluation on Sentencing and Corrections (1999).''

DATES: Due date for receipt of proposals is close of business June 30, 1999.

ADDRESSES: National Institute of Justice, 810 Seventh Street, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call NCJRS 1–800–851–3420. For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994). Beginning in fiscal year 1999, up to 10 percent of the funds provided under Section 20104 of Subtitle C—Report on Streamlining Federal Prevention and Treatment Efforts may be allocated by States to offender drug testing-interdiction and treatment programs.

Background

This request for proposals announces a fourth year of support for research and evaluation that will further understanding about correctional policies and programs, sentencing, and impacts related to sentencing legislation. Support for this research and evaluation program is provided under the Violent Offender Incarceration and Truth-in-Sentencing Acts (Title II, Subtitle A) of the Violent Crime Control and Law Enforcement Act of 1994, as amended. The request responds to Congressional and public demand for a knowledge base that examines correctional policy, accountability in sentencing and recommendations for improvements. This fourth year of funding will support up to $1,500,000 in projects that will complement the previously funded national evaluation of the primary sentencing initiatives in the Act. Applications are sought for correctional managment studies, drug testing-interdiction and sanctioning research projects, and practitioner-initiated research partnerships that will contribute to the understanding of the impact and effectiveness of State and local correctional issues and sentencing initiatives that are generalizable to other jurisdictions.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Solicitation for Research and Evaluation on Corrections and Sentencing (1999)'' (refer to document no. SL000331). For World Wide Web access, connect either to NIJ at http://www.ojp.usdoj.gov/nij/funding.htm, or the NCJRS Justice Information Center at http://www.ncjrs.org/fedgrant.htm#nij.

Edwin Zedlewski,

Acting Director, National Institute of Justice.

[FR Doc. 99–8230 Filed 4–2–99; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

President's Committee on the International Labor Organization; Notice of Closed Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is hereby given of a meeting of the President's Committee on the ILO:

Name: President's Committee on the International Labor Organization.

Date: Friday, April 30, 1999.

Time: 10 a.m.

Place: U.S. Department of Labor, Third & Constitution Ave., NW, Room S–2508, Washington, DC 20210.

Purpose: The meeting will include a review and discussion of current issues relating to United States' negotiating positions with member nations of the International Labor Organization. The meeting will concern matters the disclosure of which would seriously compromise the Government's negotiating objectives and bargaining positions. Accordingly, the meeting will be closed to the public, pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B).

FOR FURTHER INFORMATION CONTACT: Mr. Andrew J. Samet, President's Committee on the International Labor Organization, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S–2235, Washington, DC 20210, Telephone (202) 219–6043.

Signed at Washington, DC, this 31st day of March 1999.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 99–8306 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,806 and TA–W–34,806C]

Donnkenny Apparel, Inc., Rural Retreat, Virginia, and Corporate Office, Wytheville, Virginia; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility To Apply for Worker Adjustment Assistance on October 22, 1998, applicable to all workers of Donnkenny Apparel, Inc. located in Rural Retreat, Virginia. The notice was published in the **Federal Register** on November 10, 1998 (63 FR 63078).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at the Corporate Office, Wytheville, Virginia location of Donnkenny Apparel, Inc. The Corporate Office provides administration and support function services for Donnkenny Apparel's manufacturing plants located throughout Virginia.

The intent of the Department's certification is to include all workers of Donnkenny Apparel, Inc. who were adversely affected by increased imports. Accordingly, the Department is amending the worker certification to cover the workers of Donnkenny Apparel, Inc., Corporate Office, Wytheville, Virginia.

The amended notice applicable to TA–W–34,806 is hereby issued as follows:

''All workers of Donnkenny Apparel, Inc., Rural Retreat, Virginia (TA–W–34,806), and Corporate Office, Wytheville, Virginia (TA–W–34,806C) who became totally or partially separated from employment on or after July 21, 1997 through October 22, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 19th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–8302 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,108]

Gulf States Steel, Inc., Including Workers of Heckett Multiserv, a Division of Harsco Corp., Gadsden, Alabama; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 23, 1998, applicable to all workers of Gulf States Steel, Inc. located in Gadsden, Alabama. The notice was published in the **Federal Register** on December 16, 1998 (63 FR 69313).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information shows that employees of Heckett Multiserv, a division of Harsco Corporation, Gadsden, Alabama were employed by Gulf States Steel, Inc. to process slag products and provide scrap and metal reclamation from the blast furnaces used in the production of flat rolled carbon sheet, plate, and welded beams steel products for the appliances and construction industries at the Gadsden, Alabama facility. Worker separations occurred at Heckett Multiserv as a result of workers separations at Gulf States Steel, Inc.

Based on these findings, the Department is amending the certification to include workers of Heckett Multiserv, Gadsden, Alabama employed at Gulf States Steel, Inc., Gadsden, Alabama.

The intent of the Department's certification is to include all workers of Gulf States Steel, Inc. adversely affected by imports.

The amended notice applicable to TA–W–35,108 is hereby issued as follows:

''All workers of Gulf States Steel, Inc. and workers of Heckett Multiserv, A Division of Harsco Corporation, Gadsden, Alabama engaged in employment related to processing slag products and providing scrap and metal reclamation from the blast furnaces for the production of flat rolled carbon sheet, plate, and welded beams steel products for the appliances and construction industries at Gulf States Steel, Inc., Gadsden, Alabama who became totally or partially separated from employment on or after September 19, 1997 through November 23, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 15th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–8299 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,869]

Lone Star Steel Co. Including Workers of Martin Marietta, Lone Star, TX; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 2, 1998, applicable to all workers of Lone Star Steel Company, located in Lone Star, Texas. The notice was published in the **Federal Register** on September 28, 1998 (63 FR 51605).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of steel slabs. New information shows that some workers separated from employment at Lone Star Steel Company had their wages reported under a separate unemployment insurance (UI) tax account for Martin Marietta. Workers from Martin Marietta repair and maintain slab furnaces used in the production of steel slabs at the Lone Star, Texas location of Lone Star Steel Company. Worker separations occurred at Martin Marietta as a result of worker separations at Lone Star Steel Company.

Based on these findings,the Department is amending the certification to include workers of Martin Marietta, Lone Star, Texas who were engaged in employment related to the production of steel slabs at Lone Star Steel Company, Lone Star, Texas.

The intent of the Department's certification is to include all workers of Lone Star Steel Company adversely affected by increased imports.

The amended notice applicable to TA–W–34,869 is hereby issued as follows:

''All workers of Lone Star Steel Company, Lone Star, Texas engaged in employment related to the production of steel slabs and all workers of Martin Marietta, Lone Star, Texas engaged in employment related to repairing and maintaining slab furnaces for the production of steel slabs at Lone Star Steel Company, Lone Star, Texas who became totally or partially separated from employment on or after August 6, 1997 through September 2, 2000 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 22nd day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–8304 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02563]

Lone Star Steel Co. Including Workers of Martin Marietta, Lone Star, Texas; Amended Certification Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance of September 2, 1998, applicable to all workers of Lone Star Steel Company located in Lone Star, Texas. The notice was published in the **Federal Register** on September 28, 1998 (63 FR 51606).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The

workers are engaged in the production of steel slabs. New information shows that some workers separated from employment at Lone Star Steel Company had their wages reported under a separate unemployment insurance (UI) tax account for Martin Marietta. Workers from Martin Marietta repair and maintain slab furnaces used in the production of steel slabs at the Lone Star, Texas location of Lone Star Steel Company. Worker separations occurred at Martin Marietta as a result of worker separations at Lone Star Steel Company.

Based on these findings, the Department is amending the certification to include workers of Martin Marietta, Lone Star, Texas who were engaged in employment related to the production of steel slabs at Lone Star Steel Company, Lone Star, Texas.

The intent of the Department's certification is to include all workers of Lone Star Steel Company who were adversely affected by the shift of production to Mexico.

The amended notice applicable to NAFTA—02563 is hereby issued as follows:

''All workers of Lone Star Steel Company, Lone Star, Texas engaged in employment related to the production of steel slabs and all workers of Martin Marietta, Lone Star, Texas engaged in employment related to repairing and maintaining slab furnaces for the production of steel slabs at Lone Star Steel Company, Lone Star, Texas who became totally or partially separated from employment on or after August 6, 1997 through September 2, 2000 are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974.''

Signed at Washington, DC this 22nd day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance, Office of Trade Adjustment Assistance.

[FR Doc. 99–8305 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Training Administration

[TA–W–35,200]

Nabors Drilling USA, Inc., East Texas North Louisiana District Headquartered in Kilgore, Texas and California District, Operating at Various Locations in TA–W–35–200C California; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 28, 1998 applicable to workers of Nabors USA, Inc., East Texas/North Louisiana District, headquarters in Kilgore, Texas operating at various locations in Texas and Louisiana. The notice was published in the **Federal Register** on January 25, 1999 (64 FR 3721).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at Nabors Drilling USA, Inc., California District operating at various locations in California. The workers provide drilling services related to the exploration and production of crude oil and natural gas.

The intent of the Department's certification is to include all workers of Nabor Drilling USA, Inc. adversely affected by increased imports. Accordingly, the Department is amending the certification to cover workers of Nabors Drilling USA, Inc., California District operating at various locations in California.

The amended notice applicable to TA–W–35,200 is hereby issued as follows:

''All workers of East Texas/North Louisiana District of Nabors Drilling USA, Inc., headquartered in Kilgore, Texas (TA–W–35,200), and the California District operating at various locations in California (TA–W–35,200C) who became totally or partially separated from employment on or after October 22, 1997 through December 28, 2000 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 23rd day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–8303 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,582]

Phillips-Van Heusen Corp. Including Workers of Izod-Gant Corp. and BassNet, Geneva, Alabama and Ozark, Alabama; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 14, 1998, applicable to all workers of Phillips-Van Heusen Corp., Geneva, and Ozark, Alabama. The notice was published in the **Federal Register** on August 7, 1998 (63 FR 42434).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that employees of Izod-Gant Corp. and BassNet, Geneva and Ozark, Alabama were employed by Phillips-Van Heusen Corp. to produce men's dress and casual shirts at the Geneva and Ozark, Alabama locations. Worker separations occurred at Izod-Gant Corp. and BassNet as a result of workers separations at Phillips-Van Heusen Corp.

Based on these findings, the Department is amending the certification to include workers of Izod-Gant Corp. and BassNet Geneva and Ozark, Alabama employed at Phillips-Van Heusen Corp., Geneva and Ozark, Alabama.

The intent of the Department's certification is to include all workers of Phillips-Van Heusen Corp. adversely affected by imports.

The amended notice applicable to TA–W–34,582 is hereby issued as follows:

''All workers of Phillips-Van Heusen Corp. and workers of Izod-Gant Corp. and BassNet, Geneva and Ozark, Alabama engaged in employment related to men's dress and casual shirts at Phillips-Van Heusen Corp., Geneva and Ozark, Alabama who became totally or partially separated from employment on or after May 14, 1997 through July 14, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 9th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–8300 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training

[TA–W–35,451 and TA–W–35,451B]

The Pillsbury Co., Haagen-Dazs Plant, Woodbridge, NJ, and Haagen-Dazs Warehouse Operation, Dayton, NJ; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to

Apply for Worker Adjustment Assistance on February 4, 1999, applicable to workers of The Pillsbury Company, Haagen-Dazs Plant located in Woodbridge, New Jersey. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at the Haagen-Dazs Warehouse Operation of The Pillsbury Company, Dayton, New Jersey when it closed in March, 1999. The Dayton, New Jersey location provided warehousing and distribution services for The Pillsbury Company, Haagen-Dazs's production facilities including Woodbridge, New Jersey. The workers are engaged in the production of ice cream products (gallons of ice cream, stick bars, pops and sorbet).

Accordingly, the Department is amending the certification to cover the workers of The Pillsbury Company, Haagen-Dazs Warehouse Operation, Dayton, New Jersey.

The intent of the Department's certification is to include all workers of The Pillsbury Company, Haagen-Dazs who were adversely affected by increased imports of ice cream products.

The amended notice applicable to TA–W–35,451 is hereby issued as follows:

''All workers of The Pillsbury Company, Haagen-Dazs Plant, Woodbridge, New Jersey (TA–W–35,451) and Haagen-Dazs Warehouse Operation, Dayton, New Jersey (TA–W–35,451A) who became totally or partially separated from employment on or after December 21, 1997 through February 11, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 19th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–8301 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Proposed Collection; Comment Request

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 Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (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 Employment and Training Administration (ETA) is soliciting comments concerning a proposed revision to Form ETA 581, Contribution Operations. A copy of the entire 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 June 4, 1999.

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; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Constance I. Peterkin, Room S–4522, 200 Constitution Avenue, NW, Washington, DC 20210; telephone number: (202) 219–5615, extension 198 (this is not a toll-free number); internet address; cpeterkin@doleta.gov; facsimile number: (202) 219–8506.

SUPPLEMENTARY INFORMATION:

I. Background

The Unemployment Insurance Service (UIS) of the Employment and Training Administration (ETA) has three programs which evaluate the separate functions within the Unemployment Insurance (UI) program. The Benefit Accuracy Measurement (BAM) program assesses the accuracy of paying UI benefits. The Benefit Timeliness and Quality (BTQ) program assesses the quality and timeliness of UI benefit functions; while the Tax Performance System (TPS) evaluates the employer-related functions or tax operations of the UI program. The Contribution Operations report (Form ETA 581), is a comprehensive report of each state's UI tax operations and is essential in providing quarterly tax performance data to DOL/ETA/UIS, the source of grants funding authority. ETA 581 data is the basis for determining the adequacy of funding States' UI tax operations and measuring the performance and effectiveness of such operations. These are required Federal functions under the Federal-State UI program.

Using ETA 581 data, the TPS program measures performance, accuracy, and promptness in employer registration (status determination), report delinquency, collections (accounts receivable), and the audit function.

II. Current Actions

A new item, ''Number of Employees Misclassified as Independent Contractors'' (discovered through audits of employers), is being added. Misclassification of employees as independent contractors represent lost revenues to State unemployment funds from taxes based on the wages of such employees and lower UI benefit recipiency rates upon their unemployment. The collection of this new information will provide an indication of the extent of misclassification and eliminate the need for periodic surveys requesting such information. As a result of adding this new item, the average response time is estimated to increase by 0.5 hours.

The ETA 581 report is the only vehicle for collection of information on States' UI tax operations required under the TPS program. If ETA 581 data were not collected, there would be no basis for determining the adequacy of funding for States' UI tax operations, making projections and forecasts in conjunction with the budgetary process, nor measuring program performance and effectiveness. The ETA 581 accounts receivable data are necessary in the preparation of complete and accurate financial statements for the unemployment Trust Fund (UTF) and the maintenance of a modified accrual system for UTF accounting.

Type of Review: Revision.

Agency: Employment and Training Administration.

Title: Contribution Operations.

OMB Number: 1205–0178.

Agency Number: ETA 581.

Affected Public: State Government.
Cite/Reference/Form/etc: ETA 581.
Total Respondents: 53.
Frequency: Quarterly.
Total Responses: 212.
Average Time per Response: 8.5 hours.
Estimated Total Burden Hours: 1,802.
Total Burden Cost (operating/maintaining): $45,050.

Comments submitted in response to this comment request 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: March 29, 1999.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

[FR Doc. 99–8295 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99–15; Exemption Application No. D–10574]

Grant of Individual Exemption To Amend Prohibited Transaction Exemption (PTE) 94–50 Involving Salomon Smith Barney Inc. (Salomon Smith Barney) Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Grant of individual exemption to modify PTE 94–50.

SUMMARY: This document contains a final exemption before the Department of Labor (the Department) which would amend PTE 94–50 (59 FR 32024, June 21, 1994), an exemption granted to Smith Barney, Inc. (Smith Barney), the predecessor of Salomon Smith Barney. PTE 94–50 relates to the operation of the TRAK Personalized Investment Advisory Service product (the TRAK Program) and the Trust for TRAK Investments (subsequently renamed the Trust for Consulting Group Capital Markets Funds) (the Trust). These transactions are described in a notice of pendency that was published in the **Federal Register** on November 9, 1998 at 63 FR 60391.

EFFECTIVE DATE: This exemption is effective as of July 31, 1993 with respect to the transactions described in Section I.A. and B.(1). of this grant notice. It is also effective as of March 29, 1994 for transactions involving a daily-traded collective investment fund (the GIC Fund) that was added to the TRAK Program pursuant to PTE 94–50. With respect to Section I.B(2) and Section II(f)(1)-(4) of the General Conditions of this grant notice, which set forth the amendments to PTE 94–50, this exemption is effective as of November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 9, 1998, the Department published, at 63 FR 60391, a notice of proposed exemption in the **Federal Register** that would amend PTE 94–50. PTE 94–50 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code. Specifically, PTE 94–50 provides exemptive relief from the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, for the purchase or redemption of shares in the Trust by an employee benefit plan, an individual retirement account, or a retirement plan for a self-employed individual (collectively, the Plans). PTE 94–50 also provides exemptive relief from the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) and (F) of the Code, with respect to the provision, by the Consulting Group of Smith Barney (the Consulting Group), of investment advisory services to independent fiduciaries of participating Plans (the Independent Plan Fiduciaries) that might result in such fiduciary's selection of an investment portfolio under the TRAK Program for the investment of Plan assets. [1]

Besides the transactions described above, PTE 94–50 permitted Smith Barney to add a daily-traded collective investment fund (i.e., the GIC Fund) to the existing Fund Portfolios and to describe the various entities operating the GIC Fund. Further, PTE 94–50 replaced references to Shearson Lehman with references to Smith Barney. PTE 94–50 is effective as of July 31, 1993 for the transactions described in PTE 92–77 and effective as of March 29, 1994 with respect to transactions involving the GIC Fund.

Salomon Smith Barney has informed the Department of certain changes to the facts underlying PTE 94–50. These modifications include (1) Corporate mergers that have changed the names of the parties described in PTE 94–50 and would permit broader distribution of TRAK-related products, (2) the implementation of a recordkeeping reimbursement offset system (the Recordkeeping Reimbursement Offset Procedure) under the TRAK Program, and (3) the institution of an automated reallocation option (the Automatic Reallocation Option) under the TRAK Program for which Salomon Smith Barney has requested administrative exemptive relief from the Department. The proposed exemption was requested in an application filed on behalf of Salomon Smith Barney pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures (the Procedures) set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this exemption is being issued solely by the Department.

The proposed exemption gave interested persons an opportunity to comment on the notice of pendency and to request a public hearing. During the comment period, the Department received three written comments and no requests for a hearing in response to the notice. Two comments were submitted by Plan participants investing in the TRAK Program. The third comment, which is intended to clarify and modify

[1] On October 5, 1992, the Department granted PTE 92–77 at 55 FR 45833. PTE 92–77 permitted Shearson Lehman Brothers, Inc. (Shearson Lehman) to make the TRAK Program available to Plans that acquired shares in the Trust. In this regard, PTE 92–77 permitted Plans to purchase or redeem shares in the Trust and allowed the Consulting Group to provide investment advisory services to an Independent Fiduciary of a Plan which might result in such fiduciary's selection of a Portfolio in the TRAK Program for the investment of Plan assets.

Subsequent to the granting of PTE 92–77, on July 31, 1993, Smith Barney acquired certain assets of Shearson Lehman associated with its retail business, including the TRAK Program, and applied for and received a new exemption (PTE 94–50) for the ongoing operation of the TRAK Program. Essentially, PTE 94–50 amended and replaced PTE 92–77. However, because of certain material factual changes to the representations supporting PTE 92–77, the Department determined that the exemption was no longer effective for use by Smith Barney and its subsidiaries as of the date of the asset sale.

the proposed exemption, was submitted by Salomon Smith Barney.

Following is a discussion of the comments received, the responses provided by Salomon Smith Barney, and the Department's determinations regarding the comments.

Participant Comments

The first commenter objects to the proposed exemption because he is under the impression that the new services that will be offered to TRAK Program investors by Salomon Smith Barney will result in increased fees paid to consultants and investment advisers by the Funds. The commenter also does not believe that there will be a corresponding increase in the growth of the Funds.

Salomon Smith Barney represents that although it is not clear which provisions in the proposed exemption have elicted the comment, it points out that the comment relates more or less to the underlying Fund portfolios rather than to the TRAK Program.

As to the commenter's first area of concern, Salomon Smith Barney explains that the proposed Automatic Reallocation Option is a service that is to be provided at no additional cost to the investor and it does not affect the calculation of the investment advisory fee. In addition, Salomon Smith Barney represents that it does not have a basis to respond to the inclusion of ''consultants'' in this comment. With respect to the commenter's concern about growth prospects, Salomon Smith Barney states that no investment vehicle can assure investors future performance.

The second commenter states that while he has no objection to Salomon Smith Barney's implementation of the Automatic Reallocation Option, he would like to see the requirement for clear explanations of the choices and the implications of such choices. The commenter also suggests that Salomon Smith Barney provide a clear path for revocation of the Automatic Reallocation Option, whereby a Plan investor's choice would have to be reaffirmed periodically.

In response to this comment, Salomon Smith Barney states that the text of the announcement referred to in the preamble (the Preamble) at 60394 provides participants with the same information that the commenter requests. However, as an alternative to the commenter's suggestion of a reaffirmation mechanism, Salomon Smith Barney represents that it will include a footnote in the ''Participant Quarterly Review'' indicating that the participant is currently using the Automatic Reallocation Option and stating that such participant can cancel this service at any time. Salomon Smith Barney proposes to place the footnote after the legend quoted in Footnote 5 of the Preamble. The additional language would read as follows:

> You have elected to have your TRAK Portfolio automatically reallocated at such time as the Consulting Group recommends a change to the Allocation Model you are following. If, at any time, you choose to discontinue this service, please contact your Financial Consultant for instructions.

Salomon Smith Barney believes the participant will then be consistently reminded of his or her option to discontinue the Automatic Reallocation Option.

Salomon Smith Barney's Comments

1. Corporate Mergers

Salomon Smith Barney wishes to clarify that on page 60392 of the Preamble, in the first sentence of the paragraph captioned ''Corporate Mergers,'' the phrase ''Salomon Inc., the ultimate parent of'' should be inserted after the phrase ''acquired all the shares of.'' Also, in this section, Salomon Smith Barney wishes to modify the first sentence of the third paragraph to clarify that one of the purposes of the merger, rather than the ''sole'' purpose of the merger, was to create additional distribution channels for the TRAK Program.

In response to this comment, the Department concurs with the requested modifications and has made the suggested changes.

2. Recordkeeping Reimbursement Offset Procedure

Salomon Smith Barney has informed the Department that although it has not yet implemented the Recordkeeping Reimbursement Offset Procedure in a manner that will reduce the net outside fee (the Net Outside Fee), at the present time, it has in place a recordkeeping reimbursement program that reduces recordkeeping expenses only, at an annual rate of $8.50 per participant position. Salomon Smith Barney states that this annualized rate has been approved by the Funds' Board of Trustees and that, of the $8.50 amount, $0.50 per participant position represents a sub-transfer agency fee for the costs associated with the application of the reimbursement process (the Processing Fee). Currently, Salomon Smith Barney states that its affiliate, Smith Barney Corporate Trust Company, is retaining this Processing Fee.

Salomon Smith Barney has provided an example showing the manner in which the recordkeeping reimbursement amount is determined by the Funds at the $8.50 level using some of the numbers set forth in the example given in the Preamble on pages 60392 and 60393. The example assumes that all positions are eligible for reimbursement because positions in the Government Money Investments Portfolio and the Stable Value (GIC) Fund Portfolio are not eligible for recordkeeping reimbursement.

> Assume that Plan A has $1 million in assets invested in the TRAK Program and 100 participants. Assume further that Plan A pays its recordkeeper $20 per participant per year in Annual Fees totaling $2,000 per year or $500 per quarter and $12 per participant per year in Other Fees, totaling $1,200 per year or $300 per quarter. Assume also that the Plan pays the recordkeeper an annual Processing Fee of $150.
>
> At the end of each calendar quarter, Plan A's recordkeeper would determine the actual number of Fund positions held by the Plan A participants and calculate the resulting reimbursement amount that would be paid by the Funds. If Plan A had 300 participant positions at the end of the quarter, the Plan's total recordkeeping reimbursement amount to be paid by the Funds would be300 × $2 (the annual amount of $8 divided by 4) or $600.
>
> The Processing Fee paid by the Plan to the recordkeeper for the quarter would be 300 × $0.125 (the annual amount of $0.50 divided by 4) or $37.50. This Processing Fee would, in turn, also be credited back to the Plan by the Funds.

APPLICATION OF REIMBURESMENT TO RECORDKEEPING FEES

Quarterly Portion of Annual Fees	$500.00
Quarterly Portion of Other Fees [2]	300.00
Processing Fee	37.50
Total Quarterly Recordkeeping Fees	$837.50
Credit for Reimbursement	($600.00)
Credit for Processing Fee	($ 37.50)
Total Reimbursement	($637.50)
Net Amount of Recordkeeping Fees Payable by the Plan	$200.00
Net Amount of Recordkeeping Fees Payable by the Funds	637.50
Total Quarterly Recordkeeping Fees	$837.50

[2] Assumes ''Other Fees'' are paid by the Plan during the quarter.

Since the recordkeeping reimbursement program currently in place applies only to the payment of expenses related to recordkeeping, there would never be an ''excess reimbursement'' according to Salomon Smith Barney. Therefore, the Total Reimbursement amount would reflect the lesser of the amount calculated as in the example above, or the actual costs billed. If

the Total Reimbursement calculation had exceeded the Total Quarterly Recordkeeping Fees, Salomon Smith Barney states that the maximum reimbursement amount would be limited to the Total Quarterly Recordkeeping Fees.

On page 60392 of the Preamble, the second paragraph of the section describing the Recordkeeping Reimbursement Offset Procedure states that in May 1998, the Board of Trustees of the Funds approved a recordkeeping reimbursement amount of $12.50 for each investment position held by a participant. Salomon Smith Barney notes that the recordkeeping reimbursement amount may be changed by the Board of Trustees of the Funds from time to time. Therefore, it requests that the description of the TRAK Program define the reimbursement amount as ''such annual dollar amount per eligible position as shall be set by the Board of Trustees of the Funds from time to time.'' Salomon Smith Barney has also informed the Department that, of the $12.50 annual reimbursement amount approved by the Board of Trustees of the Funds, $0.50 is being retained by Smith Barney Corporate Trust Company as a Processing Fee.

The Department does not object to making the foregoing clarifications to the description of the Recordkeeping Reimbursement Offset Procedure in the Preamble. However, because Smith Barney Corporate Trust Company is retaining $0.50 per participant position as a Processing Fee, the Department requested that Salomon Smith Barney revise the calculations in the example appearing on pages 60392 and 60393 of the Preamble. In addition to these changes, Salomon Smith Barney suggested that the following disclaimer language preface the example in order to avoid investor confusion:

Salomon Smith Barney has provided the following numbers solely for ease of calculation and not as typical or representative of the operation of the TRAK product in any particular client circumstance.

Moreover, Salomon Smith Barney notes that because a Plan participating in the TRAK Program may be required to pay a recordkeeper ''Other Fees'' in addition to annual recordkeeping fees, both of which may be billed on a quarterly basis, it wishes to clarify that ''Other Fees'' may arise only at certain times of the year and that it does not wish to imply by the example that ''Other Fees'' are regularly billed quarterly in all instances.

In light of these changes, the revised example is set forth as follows:

Salomon Smith Barney has provided the following numbers solely for ease of calculation and not as typical or representative of the operation of the TRAK product in any particular client circumstance. Therefore, the Recordkeeping Reimbursement Offset Procedure would work as follows:

Assume that Plan A has $1 million in assets invested in the TRAK Program and 100 participants. Assume further that Plan A pays its recordkeeper $20 per participant per year in Annual Fees totaling $2,000 per year or $500 per quarter and $12 per participant per year in Other Fees, totaling $1,200 per year or $300 per quarter. Assume also that the Plan pays the recordkeeper an annual Processing Fee of $150.

At the end of each calendar quarter, Plan A's recordkeeper would determine the actual number of Fund positions held by the Plan A participants and calculate the resulting reimbursement amount. If Plan A had 300 participant positions at the end of the quarter, the Plan's total recordkeeping reimbursement amount would be 300 × $3 (the annual amount of $12 divided by 4) or $900. In addition, the Processing Fee paid to the recordkeeper for the quarter would be 300 × $0.125 (the annual amount of $0.50 divided by 4) or $37.50.

At the end of each calendar quarter, Plan A's recordkeeper would determine the actual number of Fund positions held by the Plan A participants and calculate the resulting reimbursement amounts to be paid by the Funds. If Plan A had 300 participant positions at the end of the quarter, the Plan's total recordkeeping reimbursement amount would be 300 × $3 (the annual amount of $12 divided by 4) or $900. To this amount would be added the $37.50 Processing Fee paid to the recordkeeper during the quarter. Such amounts would be credited as follows:

APPLICATION OF REIMBURSEMENT TO RECORDKEEPING FEES

Quarterly Portion of Annual Fees[3]	$500.00
Quarterly Portion of Other Fees	300.00
Processing Fee	37.50
Total Quarterly Recordkeeping Fees	$837.50
Credit for Reimbursement	($900.00)
Credit for Processing Fee	(37.50)
Total Reimbursement	($937.50)
Excess Reimbursement	($100.00)

[3] Assumes ''Other Fees'' are paid by the Plan during the quarter.

Because the Total Reimbursement amount exceeds the Total Quarterly Recordkeeping Fees, the Plan does not owe any recordkeeping fees for that period. Therefore, the recordkeeper would not bill the Plan. Instead, the Funds would pay the recordkeeper the $837.50 amount due.

APPLICATION OF EXCESS REIMBURSEMENT TO THE NET OUTSIDE FEE

Quarterly Net Outside Fee	$2,125.00
Excess Reimbursement	(100.00)
Net Outside Fee Paid by the Plan	$2,025.00
Net Outside Fee Paid by the Funds	100.00
Total Quarterly Net Outside Fee	$2,125.00

In the program as proposed, the Funds have agreed that any Excess Reimbursement amount remaining after the payment of the Total Quarterly Recordkeeping Fees would be paid by the Funds to reduce the Plan's investment advisory fee obligations. Therefore, the $100 Excess Reimbursement amount would be applied against the Plan's Quarterly Net Outside Fee. Under such circumstances, the recordkeeper would advise the Consulting Group that it is entitled to bill the Plan for the $2,025.00 balance of the Consulting Group's Net Outside Fee. In turn, the Funds would pay the $100 amount attributable to the Excess Reimbursement to the Consulting Group.[4]

Also, on page 60392 of the Preamble, in the second paragraph of the section describing the Recordkeeping Reimbursement Offset Procedure, it states that a participant holding positions in three different Funds would be eligible to receive a total annual reimbursement of $37.50. In light of the change to the allocation of the $12.50 reimbursement amount (i.e., $12.00 per participant position and $0.50 payable to Smith Barney Corporate Trust Company as a Processing Fee), Salomon Smith Barney wishes to clarify that the participant would receive a ''total annual offset of $36.00'' rather than a ''total annual reimbursement of $37.50.''

Finally, on page 60392 of the Preamble, in the last sentence of the second paragraph describing the Recordkeeping Reimbursement Offset Procedure, it states that an affected Plan will be required to pay only the balance of the [Net Outside] fee, which is generally charged on a quarterly basis, after the excess reimbursement amount has been deducted. Salomon Smith Barney wishes to point out that because some recordkeepers choose to bill the initial quarterly installment of the recordkeeping fee in full and then apply the recordkeeping reimbursement amount for each quarter to the next

[4] It should be noted that the existence or the amount of the excess will not alter the amount of the recordkeeping or advisory fees. Instead, the reimbursement calculations will determine the proportion of payment by the Funds of the Plan's fee obligations.

quarter's fees, it suggests that the Department delete the clause stating ''and the timing of the offset of the excess reimbursement amount against the fees,'' appearing on page 60393 of the Preamble in the second sentence of the first full paragraph following the example.

The Department concurs with the modifications to the Preamble.

3. Footnote 3

On page 60392 of the Preamble, Footnote 3 states that Salomon Smith Barney is offsetting, quarterly, against the Outside Fee, such amount as is necessary to assure that the Consulting Group retains not more than 20 basis points (as an Inside Fee) from any Portfolio on investment assets attributable to any Plan. For purposes of clarification, Salomon Smith Barney requests that the Department add the following parenthetical exception at the end of the footnote after the word ''Plan'':

(except the Government Money Investments Portfolio and the Stable Value (GIC) Fund Portfolio, as to which no investment management fee is retained).

In response, the Department concurs with this clarification.

On page 60393 of the Preamble, the second sentence of the first paragraph following the example states that 23 recordkeepers currently provide services to TRAK Program investors. Salomon Smith Barney explains that since a Plan designates its own recordkeeper, the number ''23'' is subject to change. Therefore, Salomon Smith Barney suggests the deletion of this number and the Department concurs with this clarification.

4. Investor Contact/Superfluous Language

On page 60393 of the Preamble, Footnote 5 distinguishes the Automatic Reallocation Option from rebalancing of a participant's account and it instructs a TRAK Program participant to contact his or her Financial Consultant should a change in an investment allocation be warranted. Footnote 5 also states that a Financial Consultant is expected to initiate contact with Plan participants at least annually to encourage a comparison of the holdings in the Plan participant's portfolio against the Consulting Group's recommendation. Salomon Smith Barney wishes to inform the Department that in the case of retirement plans covering multiple participants, this contact typically may take the form of regular written communications between the Financial Consultant and the Plan investor.

Moreover, the Department has stricken the last two sentences of Footnote 5, which due to a printing error, contain superfluous language also appearing on page 60393 of the Preamble, in the second and third sentences of the first paragraph under the description of the Automatic Reallocation Option.

5. Footnote 6

On page 60394 of the Preamble, Footnote 6 states, in pertinent part, that there are 12 standard asset allocation models (the Allocation Models). Salomon Smith Barney explains that because it is constantly in the process of refining the basis for its asset allocation advice, the number of standard Allocation Models is expected to change as a result of such product modifications. To avoid an ongoing obligation to alter this number, Salomon Smith Barney suggests that the reference to the number ''12'' be deleted. Therefore, the Department has modified the Preamble, accordingly.

6. Condition (f)

On page 60395 of the Preamble and page 60396 of the operative language of the proposed exemption, Section II(f)(3) of the General Conditions contains a notice provision that requires an Independent Plan Fiduciary to give Salomon Smith Barney at least 30 calendar days prior written notice of its intention to ''opt out'' of a new asset allocation model. Salomon Smith Barney wishes to clarify that an Independent Plan Fiduciary has a period of at least 30 calendar days during which to provide Salomon Smith Barney with written notice. Therefore, Salomon Smith Barney proposes that the notice period be described as ''at any time within the period of 30 calendar days'' prior to the Effective Date.

In response to this comment, the Department has made the change suggested by Salomon Smith Barney.

7. Deletion of the Last Sentence of Paragraph (g)

On pages 60394 and 60395 of the Preamble, paragraph (g) states that if the Independent Plan Fiduciary ''opts out,'' his or her Plan account will not be changed on the Effective Date. Paragraph (g) also states that, under such circumstances, the Allocation Model will remain at its current level or at such other level as the Independent Plan Fiduciary designates. However, the Automatic Reallocation Option will remain in effect for future changes in such participant's Allocation Model.

Salomon Smith Barney explains that once a participant has opted out of the Automatic Reallocation Option, the participant's account is left at its current ''non-conforming'' allocation levels and it no longer resembles a Consulting Group Allocation Model. Because the Automatic Reallocation Option, in effect, terminates upon a participant's ''opting out,'' Salomon Smith Barney requests the deletion of the last sentence of paragraph (g).

In response to this comment, the Department has made the requested deletion to paragraph (g).

8. General Information

On page 60395 of the proposed exemption, in the section captioned ''General Information,'' paragraph (2) states that the proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code. The Department wishes to point out that the exemption will extend to transactions that are prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code and it has modified the final exemption, accordingly.

9. Scope of the Term ''Employee Benefit Plans''

Salomon Smith Barney requests that the exemption cover transactions in the TRAK Program that are entered into not only by qualified plans that meet the requirements of section 401(k) of the Code, but also by any individual account pension plan that may be subject to Title I of the Act and established under section 403(b) of the Code (the Section 403(b) Plan). To the extent that participants in Section 403(b) Plans invest their contributions in shares of the Funds, Salomon Smith Barney and its affiliates would like to make the TRAK Program available to them.

The Department concurs with this comment and, on page 60396 of the proposed exemption, it has revised Section I.A. of the operative language by deleting the word ''or'' preceding the phrase ''a retirement plan for self-employed individuals (the Keogh Plan)'' and adding the phrase ''or an individual account pension plan that is subject to the provisions of Title I of the Act and established under section 403(b) of the Code (the Section 403(b) Plan).'' In addition, the Department has revised Footnote 11 of the proposed exemption to include a reference to the term ''Section 403(b) Plan'' after the term ''Keogh Plan.'' Further, on page 60398 of the proposed exemption, the

Department has revised Section III(c)(3) of the Definitions as follows:

(3) An individual covered under (i) a self-directed IRA or (ii) a Section 403(b) Plan, which invests in Trust shares.

For further information regarding the comments or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10574) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, after giving full consideration to the entire record, including the written comments received, the Department has decided to grant the exemption subject to the modifications and clarifications described above.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The exemption will extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and the Procedures cited above, and based upon the entire record, the Department finds that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) The exemption will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This is subject to the express condition that the Summary of Facts and Representations set forth in the notice of proposed exemption relating to PTE 92–77, as amended by PTE 94–50 and this notice, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Exemption

Under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the Procedures set forth above, the Department hereby amends PTE 94–50 as follows:

Section I. Covered Transactions

A. The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, to the purchase or redemption of shares by an employee benefit plan, an individual retirement account (the IRA), a retirement plan for self-employed individuals (the Keogh Plan), or an individual account pension plan that is subject to the provisions of Title I of the Act and established under section 403(b) of the Code (the Section 403(b) Plan) [5] in the Trust for Consulting Group Capital Market Funds (the Trust), established by Salomon Smith Barney, in connection with such Plans' participation in the TRAK Personalized Investment Advisory Service product (the TRAK Program).

B. The restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (E) and (F) of the Code, shall not apply, to the provision, by the Consulting Group, of (1) investment advisory services or (2) an automatic reallocation option (the Automatic Reallocation Option) to an independent fiduciary of a participating Plan (the Independent Plan Fiduciary), which may result in such fiduciary's selection of a portfolio (the Portfolio) in the TRAK Program for the investment of Plan assets.

This exemption is subject to the following conditions that are set forth below in Section II.

Section II. General Conditions

(a) The participation of Plans in the TRAK Program will be approved by an Independent Plan Fiduciary. For purposes of this requirement, an employee, officer or director of Salomon Smith Barney and/or its affiliates covered by an IRA not subject to Title I of the Act will be considered an Independent Plan Fiduciary with respect to such IRA.

(b) The total fees paid to the Consulting Group and its affiliates will constitute no more than reasonable compensation.

(c) No Plan will pay a fee or commission by reason of the acquisition or redemption of shares in the Trust.

(d) The terms of each purchase or redemption of Trust shares shall remain at least as favorable to an investing Plan as those obtainable in an arm's length transaction with an unrelated party.

(e) The Consulting Group will provide written documentation to an Independent Plan Fiduciary of its recommendations or evaluations based upon objective criteria.

(f) Any recommendation or evaluation made by the Consulting Group to an Independent Plan Fiduciary will be implemented only at the express direction of such Independent Plan Fiduciary, provided, however, that—

(1) If such Independent Plan Fiduciary shall have elected in writing (the Election), on a form designated by Salomon Smith Barney from time to time for such purpose, to participate in the Automatic Reallocation Option under the TRAK Program, the affected Plan or participant account will be automatically reallocated whenever the Consulting Group modifies the particular asset allocation recommendation which the Independent Plan Fiduciary has chosen. Such Election shall continue in effect until revoked or terminated by the Independent Plan Fiduciary in writing.

(2) Except as set forth below in paragraph II(f)(3), at the time of a change in the Consulting Group's asset allocation recommendation, each account based upon the asset allocation model (the Allocation Model) affected by such change would be adjusted on the business day of the release of the new Allocation Model by the Consulting Group, except to the extent that market conditions, and order purchase and redemption procedures may delay such processing through a series of purchase

[5] The employee benefit plan, the IRA, the Keogh Plan and the Section 403(b) Plan are collectively referred to herein as the Plans.

and redemption transactions to shift assets among the affected Portfolios.

(3) If the change in the Consulting Group's asset allocation recommendation exceeds an increase or decrease of more than 10 percent in the absolute percentage allocated to any one investment medium (e.g., a suggested increase in a 15 percent allocation to greater than 25 percent, or a decrease of such 15 percent allocation to less than 5 percent), Salomon Smith Barney will send out a written notice (the Notice) to all Independent Plan Fiduciaries whose current investment allocation would be affected, describing the proposed reallocation and the date on which such allocation is to be instituted (the Effective Date). If the Independent Plan Fiduciary notifies Salomon Smith Barney, in writing, at any time within the period of 30 calendar days prior to the proposed Effective Date that such fiduciary does not wish to follow such revised asset allocation recommendation, the Allocation Model will remain at the current level, or at such other level as the Independent Plan Fiduciary then expressly designates, in writing. If the Independent Plan Fiduciary does not affirmatively ''opt out'' of the new Consulting Group recommendation, in writing, prior to the proposed Effective Date, such new recommendation will be automatically effected by a dollar-for-dollar liquidation and purchase of the required amounts in the respective account.

(4) An Independent Plan Fiduciary will receive a trade confirmation of each reallocation transaction. In this regard, for all Plan investors other than Section 404(c) Plan accounts (i.e., 401(k) Plan accounts), Salomon Smith Barney will mail trade confirmations on the next business day after the reallocation trades are executed. In the case of Section 404(c) Plan participants, notification will depend upon the notification provisions agreed to by the Plan recordkeeper.

(g) The Consulting Group will generally give investment advice in writing to an Independent Plan Fiduciary with respect to all available Portfolios. However, in the case of a Plan providing for participant-directed investments (the Section 404(c) Plan), the Consulting Group will provide investment advice that is limited to the Portfolios made available under the Plan.

(h) Any sub-adviser (the Sub-Adviser) that acts for the Trust to exercise investment discretion over a Portfolio will be independent of Salomon Smith Barney and its affiliates.

(i) Immediately following the acquisition by a Portfolio of any securities that are issued by Salomon Smith Barney and/or its affiliates, the percentage of that Portfolio's net assets invested in such securities will not exceed one percent.

(j) The quarterly investment advisory fee that is paid by a Plan to the Consulting Group for investment advisory services rendered to such Plan will be offset by such amount as is necessary to assure that the Consulting Group retains no more than 20 basis points from any Portfolio (with the exception of the Government Money Investments Portfolio and the GIC Fund Portfolio for which the Consulting Group and the Trust will retain no investment management fee) which contains investments attributable to the Plan investor.

(k) With respect to its participation in the TRAK Program prior to purchasing Trust shares,

(1) Each Plan will receive the following written or oral disclosures from the Consulting Group:

(A) A copy of the Prospectus for the Trust discussing the investment objectives of the Portfolios comprising the Trust, the policies employed to achieve these objectives, the corporate affiliation existing between the Consulting Group, Salomon Smith Barney and its subsidiaries and the compensation paid to such entities.[6]

(B) Upon written or oral request to Salomon Smith Barney, a Statement of Additional Information supplementing the Prospectus which describes the types of securities and other instruments in which the Portfolios may invest, the investment policies and strategies that the Portfolios may utilize and certain risks attendant to those investments, policies and strategies.

(C) A copy of the investment advisory agreement between the Consulting Group and such Plan relating to participation in the TRAK Program and, if applicable, informing Plan investors of the Automatic Reallocation Option.

(D) Upon written request of Salomon Smith Barney, a copy of the respective investment advisory agreement between the Consulting Group and the Sub-Advisers.

(E) In the case of a Section 404(c) Plan, if required by the arrangement negotiated between the Consulting Group and the Plan, an explanation by a Salomon Smith Barney Financial Consultant (the Financial Consultant) to eligible participants in such Plan, of the services offered under the TRAK Program and the operation and objectives of the Portfolios.

(F) A copy of PTE 94–50 as well as the proposed exemption and the final exemption pertaining to the exemptive relief described herein.

(2) If accepted as an investor in the TRAK Program, an Independent Plan Fiduciary of an IRA or Keogh Plan, is required to acknowledge, in writing, prior to purchasing Trust shares that such fiduciary has received copies of the documents described above in subparagraph (k)(1) of this Section.

(3) With respect to a Section 404(c) Plan, written acknowledgement of the receipt of such documents will be provided by the Independent Plan Fiduciary (i.e., the Plan administrator, trustee or named fiduciary, as the recordholder of Trust shares). Such Independent Plan Fiduciary will be required to represent in writing to Salomon Smith Barney that such fiduciary is (a) independent of Salomon Smith Barney and its affiliates and (b) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(4) With respect to a Plan that is covered under Title I of the Act, where investment decisions are made by a trustee, investment manager or a named fiduciary, such Independent Plan Fiduciary is required to acknowledge, in writing, receipt of such documents and represent to Salomon Smith Barney that such fiduciary is (a) independent of Salomon Smith Barney and its affiliates, (b) capable of making an independent decision regarding the investment of Plan assets and (c) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(l) Subsequent to its participation in the TRAK Program, each Plan receives the following written or oral disclosures with respect to its ongoing participation in the TRAK Program:

(1) The Trust's semi-annual and annual report which will include financial statement for the Trust and investment management fees paid by each Portfolio.

(2) A written quarterly monitoring statement containing an analysis and an

[6] The fact that certain transactions and fee arrangements are the subject of an administrative exemption does not relieve the Independent Plan Fiduciary from the general fiduciary responsibility provisions of section 404 of the Act. In this regard, the Department expects the Independent Plan Fiduciary to consider carefully the totality of fees and expenses to be paid by the Plan, including the fees paid directly to Salomon Smith Barney or to other third parties and/or indirectly through the Trust to Smith Barney.

evaluation of a Plan investor's account to ascertain whether the Plan's investment objectives have been met and recommending, if required, changes in Portfolio allocations.

(3) If required by the arrangement negotiated between the Consulting Group and a Section 404(c) Plan, a quarterly, detailed investment performance monitoring report, in writing, provided to an Independent Plan Fiduciary of such Plan showing, Plan level asset allocations, Plan cash flow analysis and annualized risk adjusted rates of return for Plan investments. In addition, if required by such arrangement, Financial Consultants will meet periodically with Independent Plan Fiduciaries of Section 404(c) Plans to discuss the report as well as with eligible participants to review their accounts' performance.

(4) If required by the arrangement negotiated between the Consulting Group and a Section 404(c) Plan, a quarterly participant performance monitoring report provided to a Plan participant which accompanies the participant's benefit statement and describes the investment performance of the Portfolios, the investment performance of the participant's individual investment in the TRAK Program, and gives market commentary and toll-free numbers that will enable the participant to obtain more information about the TRAK Program or to amend his or her investment allocations.

(5) On a quarterly and annual basis, written disclosures to all Plans of the (a) percentage of each Portfolio's brokerage commissions that are paid to Salomon Smith Barney and its affiliates and (b) the average brokerage commission per share paid by each Portfolio to Salomon Smith Barney and its affiliates, as compared to the average brokerage commission per share paid by the Trust to brokers other than Salomon Smith Barney and its affiliates, both expressed as cents per share.

(m) Salomon Smith Barney shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (n) of this Section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Salomon Smith Barney and/or its affiliates, the records are lost or destroyed prior to the end of the six year period, and (2) no party in interest other than Salomon Smith Barney shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (n) below.

(n)(1) Except as provided in section (2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (m) of this Section II shall be unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Service;

(B) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(D) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described above in subparagraphs (B)–(D) of this paragraph (n) shall be authorized to examine the trade secrets of Salomon Smith Barney or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this exemption,

(a) The term ''Salomon Smith Barney'' means Salomon Smith Barney Inc. and any affiliate of Salomon Smith Barney, as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of Salomon Smith Barney includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Salomon Smith Barney. (For purposes of this subsection, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) An ''Independent Plan Fiduciary'' is a Plan fiduciary which is independent of Salomon Smith Barney and its affiliates and is either—

(1) A Plan administrator, sponsor, trustee or named fiduciary, as the recordholder of Trust shares under a Section 404(c) Plan;

(2) A participant in a Keogh Plan;

(3) An individual covered under (A) a self-directed IRA, or (B) a Section 403(b) Plan which invests in Trust shares;

(4) A trustee, investment manager or named fiduciary responsible for investment decisions in the case of a Title I Plan that does not permit individual direction as contemplated by Section 404(c) of the Act; or

(5) A participant in a Plan, such as a Section 404(c) Plan, who is permitted under the terms of such Plan to direct, and who elects to direct the investment of assets of his or her account in such Plan.

Section IV. Effective Dates

This exemption is effective as of July 31, 1993 with respect to the transactions described in Section I.A. and B.(1). of this grant notice. It is also effective as of March 29, 1994 for transactions involving a daily-traded collective investment fund that was added to the TRAK Program pursuant to PTE 94–50. With respect to Section I.B(2) and Section II(f)(1)–(4) of the General Conditions of this grant notice, which set forth the amendments to PTE 94–50, this exemption is effective as of November 9, 1998.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the application change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant the case of continuing transactions, if any of the material facts or representations described in the application change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the proposed exemption and PTEs 92–77 and 94–50 which are cited above.

Signed at Washington, DC, this 30th day of March, 1999.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 99–8226 Filed 4–2–99; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99–13; Exemption Application No. D–10468, et al.]

Grant of Individual Exemptions; Wells Fargo Bank, N.A. (Wells Fargo), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Wells Fargo Bank, N.A. (Wells Fargo) Located in San Francisco, CA

[Prohibited Transaction Exemption (PTE) 99–13; Exemption Application No. D–10468]

Exemption

Section I. Exemption for the Conversion of Assets (the Conversion Transactions)

The restrictions of section 406(a) and section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code, shall not apply, effective September 16, 1996, to the exchange of the assets of various employee benefit plans (the Plans) that are either held in certain collective investment funds (the CIF or CIFs) maintained by Wells Fargo, or otherwise held by Wells Fargo as trustee, investment manager or in any other capacity as fiduciary on behalf of the Plans, for shares of any open-end investment company (the Fund or Funds) registered under the Investment Company Act of 1940 (the 1940 Act) to which Wells Fargo or any of its affiliates (collectively, Wells Fargo) serves as investment adviser and may provide other services, provided the following conditions are met:

(a) The Plans are not sponsored by Wells Fargo.

(b) No sales commissions are paid by a Plan in connection with a Conversion Transaction.

(c) All or a *pro rata* portion of the assets of a CIF or all or a *pro rata* portion of the assets of the Plans or any separate portfolio thereof held by Wells Fargo in any capacity as fiduciary on behalf of such Plans are transferred in-kind to the Funds in exchange for shares of such Funds. Notwithstanding the foregoing, the allocation of fixed-income securities held by a CIF among Plans on the basis of each Plan's *pro rata* share of the aggregate value of such securities will not fail to meet the requirements of this subsection if—

(1) The aggregate value of such securities does not exceed one (1) percent of the total value of the assets held by the CIF immediately prior to the transfer; and

(2) Such securities have the same coupon rate and maturity, and at the time of the transfer, the same credit ratings from nationally recognized statistical rating agencies.

(d) The Plans or the CIFs receive shares of the Funds that have a total net asset value equal in value to the assets of the Plans or the CIFs exchanged for such shares on the date of transfer.

(e) The current market value of the assets of a Plan or the CIF is determined in a single valuation performed in the same manner as of the close of the same business day with respect to all such Plans participating in the transaction on such day, using independent sources in accordance with the procedures set forth in Rule 17a-7b (Rule 17a-7) under the Investment Company Act of 1940 (the 1940 Act), as amended, and the procedures established by the Funds pursuant to Rule 17a-7 for the valuation of such assets.

(f) A second fiduciary (the Second Fiduciary) who is acting on behalf of each affected Plan and who is independent of and unrelated to Wells Fargo, as defined in paragraph (g) of Section III below, receives advance written notice of the Conversion Transaction and the disclosures described in paragraph (f) of Section II below.

(g) On the basis of the information described in paragraph (f) of Section II below, the Second Fiduciary authorizes in writing the Conversion Transaction, the investment of such assets in corresponding Funds and the fees received by Wells Fargo in connection with its services to the Funds. Such authorization by the Second Fiduciary is consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act. In addition, the Second Fiduciary must give prior approval, in writing, for the receipt of confirmation statements described below in paragraph (h)(2) and (i) by facsimile or electronic mail if the Second Fiduciary elects to receive such statements in that form.

(h)(1) For the Conversion Transaction which occurred on September 16, 1996, the written confirmation described below in paragraph (h)(2) was made by Wells Fargo to all Second Fiduciaries of the appropriate Plans within 38 business days of the transaction.

(2) Not later than 30 days after completion of each Conversion Transaction (except for the transaction described in paragraph (h)(1) above),

Wells Fargo sends by regular mail or personal delivery or, if applicable, by facsimile or electronic mail to the Second Fiduciary, a confirmation that contains the following information:

(A) The identity of each of the assets that was valued for purposes of the transaction in accordance with Rule 17a-7(b)(4) under the 1940 Act;

(B) The price of each of the assets involved in the transaction; and

(C) The identity of each pricing service or market maker consulted in determining the value of such assets.

(i) No later than 90 days after completion of each Conversion Transaction, Wells Fargo sends by regular mail or personal delivery or, if applicable, by facsimile or electronic mail to the Second Fiduciary, a confirmation that contains the following information:

(1) The number of CIF units held by such affected Plan immediately before the conversion (and the related per unit value and the aggregate dollar value of the units transferred); and

(2) The number of shares in the Funds that are held by such affected Plan following the conversion (and the related per share net asset value and the aggregate dollar value of the shares received).

(j) The conditions set forth in paragraphs (d), (e), (f), (n), (o), (p), and (q) of Section II below are satisfied.

Section II. Exemption for Receipt of Fees From Funds (transactions involving the receipt of Fees)

The restrictions of section 406(a) and section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(D) through (F) of the Code, shall not apply to the receipt of fees by Wells Fargo from the Funds for acting as the investment adviser, as well as for acting as the custodian, sub-administrator, or for providing any ''secondary service'' (the Secondary Service) to the Funds [as defined in Section III(h)], in connection with the investment in the Funds by the Plans for which Wells Fargo acts as a fiduciary, provided that:

(a) No sales commissions are paid by the Plans in connection with purchase or sale of shares of the Funds through a Conversion Transaction, and no redemption fees are paid in connection with the sale of such shares by the Plans to the Funds.

(b) The price paid or received by the Plans for shares of the Funds, in connection with a Conversion Transaction is the net asset value per share, as defined in paragraph (e) of Section III, at the time of the transaction and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Neither Wells Fargo nor an affiliate, including any officer or director purchases from or sells to any of the Plans shares of any of the Funds.

(d) As to each individual Plan, the combined total of all Plan-level and Fund-level fees received by Wells Fargo for the provision of services to such Plan and to the Funds (with respect to the Plan's assets invested in the Funds), respectively, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(e) Wells Fargo does not receive any fees payable pursuant to Rule 12b-1 under the 1940 Act (the 12b-1 Fees) in connection with the transactions.

(f) The Second Fiduciary receives, in advance of the investment by the Plan in a Fund, a full and detailed written disclosure of information concerning such Fund (including, but not limited to—

(1) A current prospectus for each Fund in which a Plan is considering investing;

(2) A statement describing the fees for investment advisory or similar services, any Secondary Services, and all other fees to be charged to or paid by the Plan and by the Funds, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why Wells Fargo may consider such investment to be appropriate for the Plan;

(4) A statement describing whether there are any limitations applicable to Wells Fargo with respect to which assets of a Plan may be invested in the Funds, and if so, the nature of such limitations; and

(5) Upon request of the Second Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, once such documents are published in the **Federal Register**.

(g) On the basis of the prospectus and disclosure referred to in paragraph (f) of this Section II, the Second Fiduciary gives prior approval for such purchases, holdings and sales of Fund shares through Conversion Transactions that is consistent with the responsibilities obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act. Such approval must be in accordance with the provisions of PTE 77–4 (42 FR 18732, April 8, 1977) or its successor, as it may be amended from time to time.

(h) The authorization, described in paragraph (g) of this Section II, is terminable at will by the Second Fiduciary of a Plan, without penalty to such Plan. Such termination will be effected by Wells Fargo redeeming the shares of the Fund held by the affected Plan by the close of the business day following the date of receipt by Wells Fargo, either by mail, hand delivery, facsimile, or other available means of written communication at the option of the Second Fiduciary, of the termination form (the Termination Form), as defined in paragraph (i) of Section III below, or any other written notice of termination; provided that if, due to circumstances beyond the control of Wells Fargo, the sale cannot be executed within one business day, Wells Fargo shall have one additional business day to complete such redemption.

(i) Each Plan satisfies either (but not both) of the following:

(1) For a Plan for which Wells Fargo serves as a non-discretionary trustee, the Plan does not pay any Plan-level investment management fees, investment advisory fees, or similar fees to Wells Fargo with respect to Plan assets invested in the Funds. (This condition does not preclude the payment of investment advisory fees or similar fees by a Fund to Wells Fargo under the terms of its investment advisory agreement adopted in accordance with section 15 of the 1940 Act, nor does it preclude the payment of fees for Secondary Services to Wells Fargo pursuant to a duly adopted agreement between Wells Fargo and the Funds.)

(2) For a Plan for which Wells Fargo serves as a discretionary fiduciary (i.e., a trustee or investment manager), such Plan pays Wells Fargo an investment advisory fee based on total Plan assets from which a credit has been subtracted representing such Plan's pro rata share of investment advisory fees paid by the Funds. (This condition also does not preclude the payment of fees for Secondary Services to Wells Fargo pursuant to a duly adopted agreement between Wells Fargo and the Funds.)

(j) In the event of an increase in the rate of any fees paid by the Funds to Wells Fargo regarding any investment management services, investment advisory services, or fees for similar services that Wells Fargo provides to the Funds over an existing rate for such services that had been authorized by a Second Fiduciary, in accordance with paragraph (g) of this Section II, Wells Fargo will, at least 30 days in advance of the implementation of such increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the increase in fees) to the Second Fiduciary of each of the Plans invested in a Fund which is

increasing such fees. Such notice shall be accompanied by the Termination Form, as defined in paragraph (i) of Section III below.

(k) In the event of an addition of a Secondary Service, as defined in paragraph (g) of Section III below, provided by Wells Fargo to the Fund for which a fee is charged or an increase in the rate of any fee paid by the Funds to Wells Fargo for any Secondary Service, as defined in paragraph (h) of Section III below, that results either from an increase in the rate of such fee or from the decrease in the number or kind of services performed by Wells Fargo for such fee over an existing rate for such Secondary Service which had been authorized by the Second Fiduciary of a Plan, in accordance with paragraph (g) of this Section II, Wells Fargo will, at least 30 days in advance of the implementation of such additional service for which a fee is charged or fee increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the additional service for which a fee is charged or the nature and amount of the increase in fees) to the Second Fiduciary of each of the Plans invested in a Fund which is adding a service or increasing fees. Such notice shall be accompanied by the Termination Form, as defined in paragraph (i) of Section III below.

(l) The Second Fiduciary is supplied with a Termination Form at the times specified in paragraphs (j), (k) and (m) of this Section II with instructions regarding the use of such Termination Form including the following information—

(1) The authorization is terminable at will by any of the Plans, without penalty to such Plans. Such termination will be effected by Wells Fargo redeeming shares of the Fund held by the Plans requesting termination within one business day following the date of receipt by Wells Fargo, either by mail, hand delivery, facsimile, or other available means at the option of the Second Fiduciary, of the Termination Form or any other written notice of termination; provided that if, due to circumstances beyond the control of Wells Fargo, the redemption of shares of such Plans cannot be executed within one business day, Wells Fargo shall have one additional business day to complete such redemption; and

(2) Failure by the Second Fiduciary to return the Termination Form on behalf of a Plan will be deemed to be an approval of the additional Secondary Service for which a fee is charged or increase in the rate of any fees, if such Termination Form is supplied pursuant to paragraphs (j) and (k) of this Section II, and will result in the continuation of the authorization, as described in paragraph (h) of this Section II, of Wells Fargo to engage in the transactions on behalf of such Plan.

(m) The Second Fiduciary is supplied with a Termination Form, annually during the first quarter of each calendar year, beginning with the first quarter of the calendar year that begins after the date the notice granting this proposed exemption is published in the **Federal Register** and continuing for each calendar year thereafter; provided that the Termination Form need not be supplied to the Second Fiduciary, pursuant to paragraph (m) of this Section II, sooner than six months after such Termination Form is supplied pursuant to paragraphs (j) and (k) of this Section II, except to the extent required by said paragraphs (j) and (k) of this Section II to disclose an additional Secondary Service for which a fee is charged or an increase in fees.

(n)(1) With respect to each of the Funds in which a Plan invests, Wells Fargo will provide the Second Fiduciary of such Plan:

(A) At least annually with a copy of an updated prospectus of such Fund;

(B) Upon the request of such Second Fiduciary, with a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) which contains a description of all fees paid by the Fund to Wells Fargo; and

(2) With respect to each of the Funds in which a Plan invests, in the event such Fund places brokerage transactions with Wells Fargo, Wells Fargo will provide the Second Fiduciary of such Plan at least annually with a statement specifying:

(A) The total, expressed in dollars, brokerage commissions of each Fund's investment portfolio that are paid to Wells Fargo by such Fund;

(B) The total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to Wells Fargo;

(C) The average brokerage commissions per share, expressed as cents per share, paid to Wells Fargo by each portfolio of a Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by each portfolio of a Fund to brokerage firms unrelated to Wells Fargo.

(o) All dealings between the Plans and any of the Funds are on a basis no less favorable to such Plans than dealings between the Funds and other shareholders holding the same class of shares as the Plans.

(p) Wells Fargo maintains, for a period of six years, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons, described in paragraph (q) of Section II below, to determine whether the conditions of this proposed exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Wells Fargo, the records are lost or destroyed prior to the end of the 6 year period; and

(2) No party in interest, other than Wells Fargo, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (q) of Section II below;

(q)(1) Except as provided in paragraph (q)(2) of this Section II and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (p) of Section II above are unconditionally available at their customary location for examination during normal business hours by —

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC);

(B) Any fiduciary of each of the Plans who has authority to acquire or dispose of shares of any of the Funds owned by such a Plan, or any duly authorized employee or representative of such fiduciary; and

(C) Any participant or beneficiary of the Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (q)(1)(B) and (q)(1)(C) of Section II shall be authorized to examine trade secrets of Wells Fargo, or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this exemption, (a) The term ''Wells Fargo'' means Wells Fargo Bank, N.A. and any of its affiliates, as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries,

controlling, controlled by, or under common control with the person.

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Fund'' or ''Funds'' means any diversified open-end investment company or companies registered under the 1940 Act for which Wells Fargo serves as investment adviser (including sub-adviser), and may also provide custodial or other services as approved by such Funds.

(e) The term ''net asset value'' means the amount for purposes of pricing all purchases and redemptions through the Conversion Transactions, calculated by dividing the value of all securities, determined by a method adopted by the Fund's board of directors in accordance with the 1940 Act, and other assets belonging to each of the portfolios in such Fund, less the liabilities charged to each portfolio, by the number of outstanding shares.

(f) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term ''Second Fiduciary'' means a fiduciary of a plan who is independent of and unrelated to Wells Fargo. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Wells Fargo if—

(1) Such Second Fiduciary directly or indirectly controls, is controlled by, or is under common control with Wells Fargo;

(2) Such Second Fiduciary, or any officer, director, partner, employee, or relative of such Second Fiduciary is an officer, director, partner, or employee of Wells Fargo (or is a relative of such persons);

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration from Wells Fargo for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner, or employee of Wells Fargo (or a relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in (A) the choice of the Plan's investment manager/adviser, (B) the approval of any purchase or redemption by the Plan of shares of the Funds through a Conversion Transaction, and (C) the approval of any change of fees charged to or paid by the Plan, in connection with any of the transactions described in Sections I and II above, then paragraph (g)(2) of Section III above, shall not apply.

(h) The term ''Secondary Service'' means a service, other than an investment management, investment advisory, or similar service, which is provided by Wells Fargo to the Funds, including but not limited to custodial, accounting, brokerage, administrative, or any other service.

(i) The term ''Termination Form'' means the form supplied to the Second Fiduciary, at the times specified in paragraphs (j), (k) and (m) of Section II above, which expressly provides an election to the Second Fiduciary to terminate on behalf of the Plans the authorization, described in paragraph (g) of Section II. Such Termination Form may be used at will by the Second Fiduciary to terminate such authorization without penalty to the Plans and to notify Wells Fargo in writing to effect such termination by redeeming the shares of the Fund held by the Plans requesting termination by the close of the business day following the date of receipt by Wells Fargo, either by mail, hand delivery, facsimile or other available means at the option of the Second Fiduciary, of written notice of such request for termination; provided that if, due to circumstances beyond the control of Wells Fargo, the redemption cannot be executed within one business day, Wells Fargo shall have one additional business day to complete such redemption.

EFFECTIVE DATE: This exemption is effective as of September 16, 1996 with respect to the Conversion Transactions described in Section I and effective as of the date of the grant with respect to Transactions Involving the Receipt of Fees, as described in Section II.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on January 27, 1999 at 64 FR 4132.

Written Comments

The Department received one written comment with respect to the Notice and no requests for a public hearing. The comment was submitted by Wells Fargo and suggested several modifications to the conditional language of the Notice and the Summary of Facts and Representations (the Summary). Presented below are a discussion of Wells Fargo's comments and the Department's responses to such comments.

1. *Section I(c) of the Notice.* On page 4133 of the Notice, Section I(c) states that all or a *pro rata* portion of the assets of a CIF or all or a *pro rata* portion of the assets of the Plans that are held by Wells Fargo in any capacity as fiduciary on behalf of such Plans are transferred in-kind to the Funds in exchange for shares of such Funds. Wells Fargo requests that the Department amend Section I(c) of the Notice by inserting the phrase ''or any separate portfolio thereof'' after the phrase ''all or a *pro rata* portion of the assets of the Plan.'' Wells Fargo states that it may serve as the directed trustee of a Plan which has a variety of investment portfolios that are managed by different investment managers. Under such circumstances, Wells Fargo notes that the Plan fiduciaries may exchange one or more, but less than all, of such portfolios. Wells Fargo believes the foregoing change to Section I(c) would clarify that the Plan can make the change without exchanging all shares that are held in a portfolio and managed by the other investment manager.

In addition, Wells Fargo notes that on page 42835 of PTE 97–41 (62 FR 42830, August 8, 1997), Section II(c) contains an exception to the requirement that assets transferred in a Conversion Transaction must constitute a *pro rata* portion of the CIF assets. Under this exception, which is applicable for Conversion Transactions occurring after August 8, 1997, if the CIF holds small positions that are not easily divisible, the securities will be allocated such that the transfer will include a *pro rata* share in the value of all such securities in the aggregate rather than in each security individually.

Specifically, Section II(c) of PTE 97–41 permits this type of allocation to be made for fixed-income securities if the following conditions are met:

- The aggregate value of such securities does not exceed one (1) percent of the total value of the CIF assets immediately prior to the transfer; and
- The securities have the same coupon rate and maturity and, at the time of the transfer, the same ratings from nationally recognized statistical ratings agencies.

Consistent with Section II(c) of PTE 97–41, Wells Fargo requests that the following sentence be added to Section I(c) of the Notice in order to allow a CIF (or, for that matter, a Plan) to avoid transaction costs associated with

liquidating small positions in fixed-income securities prior to maturity:

> * * * Notwithstanding the foregoing, the allocation of fixed-income securities held by a CIF among Plans on the basis of each Plan's *pro rata* share of the aggregate value of such securities will not fail to meet the requirements of this subsection if—
>
> (1) The aggregate value of such securities does not exceed one (1) percent of the total value of the assets held by the CIF immediately prior to the transfer; and
>
> (2) Such securities have the same coupon rate and maturity, and at the time of the transfer, the same credit ratings from nationally recognized statistical rating agencies.

In response to these comments, the Department has made the changes suggested by Wells Fargo.

2. *Section I(e) of the Notice.* On page 4133 of the Notice, Section I(e) provides that assets that are transferred by a Plan or a CIF to a Fund are to be valued using sources independent of Wells Fargo in accordance with Rule 17a–7. In particular, the last sentence of Section I(e) describes the procedures currently required under Rule 17a–7 of the 1940 Act for the valuation of Plan or CIF assets that are transferred in-kind to a Fund.

Wells Fargo requests that the last sentence of Section I(e) be deleted in order to make the condition consistent with PTE 97–41.* Wells Fargo believes that the reference to Rule 17a–7 should provide flexibility to permit the use of new pricing systems which are approved by the SEC by amendment to Rule 17a–7 without having the parties request an amendment to the exemption.

In response to this comment, the Department concurs with this clarification and has made the requested change.

3. *Sections I(g), I(h)(2) and I(i) of the Notice.* On page 4133 of the Notice, Section I(g) describes the written authorization that is to be given by the Second Fiduciary with respect to a Conversion Transaction. Also on page 4133 of the Notice, Sections I(h)(2) and I(i) provide for the types of confirmation statements that Wells Fargo is to send the Second Fiduciary of a Plan by regular mail.

Wells Fargo requests that these conditions be amended to permit personal delivery of the foregoing information and the use of facsimile or electronic mail. With respect to Section I(g) of the Notice, Wells Fargo suggests that the following new sentence be added as a second sentence:

> In addition, the Second Fiduciary must give prior approval, in writing, for the receipt of confirmation statements described below in paragraph (h)(2) and (i) by facsimile or electronic mail if the Second Fiduciary elects to receive such statements in that form.

Further, with respect to Sections I(h)(2) and I(i) of the Notice, Wells Fargo suggests that the phrase ''or personal delivery or, if applicable, by facsimile or electronic mail'' be added after the term ''regular mail.''

In response, the Department concurs with the requested clarifications and has made the changes suggested by Wells Fargo.

4. *Representation 1 of the Summary.* On page 4136 of the Summary, Representation 1 describes Wells Fargo, its parent, Wells Fargo & Company (WFC), and their various affiliates. Wells Fargo states that in a merger of equals effective November 2, 1998, WFC was merged with and into a wholly owned subsidiary of Norwest Corporation. In addition, Wells Fargo states that the name of the combined company is ''Wells Fargo & Company.''

To reflect these factual updates, the Department has revised Representation 1 by adding the following new, third paragraph:

> Effective as of November 2, 1998, WFC was merged with and into a wholly owned subsidiary of Norwest Corporation. The name of the combined company is ''Wells Fargo & Company.''

For further information regarding the Wells Fargo's comment letter or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10468) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, after giving full consideration to the entire record, including the written comments provided by Wells Fargo, the Department has made the aforementioned changes to the Notice and the Summary and has decided to grant the exemption subject to the modifications or clarifications described above.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

MONY Life Insurance Company (MONY)

Located in New York, NY

[Prohibited Transaction Exemption 99–14; Exemption Application No. D–10661]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective November 16, 1998, to the (1) receipt of common stock of the MONY Group, Inc. (the Holding Company), the parent company of MONY, or (2) the receipt of cash or policy credits, by or on behalf of any eligible policyholder (the Eligible Policyholder) of MONY which is a plan (the Plan), subject to applicable provisions of the Act and/or the Code, other than an Eligible Policyholder which is a Plan maintained by MONY or an affiliate for its employees, in exchange for such Eligible Policyholder's membership interest in MONY, in accordance with the terms of a plan of reorganization (the Plan of Reorganization) adopted by MONY and implemented pursuant to section 7312 of the New York Insurance Law.

This exemption is subject to the conditions set forth below in Section II.

Section II. General Conditions

(a) The Plan of Reorganization is implemented in accordance with procedural and substantive safeguards that are imposed under New York Insurance Law and is subject to review and approval by the Superintendent of Insurance of the State of New York (the Superintendent).

(b) The Superintendent reviews the terms of the options that are provided to Eligible Policyholders of MONY as part of such Superintendent's review of the Plan of Reorganization, and the Superintendent only approves the Plan of Reorganization following a determination that such Plan of Reorganization is fair and equitable to all Eligible Policyholders and is not detrimental to the public.

(c) Each Eligible Policyholder has an opportunity to vote to approve the Plan of Reorganization after full written

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* On page 58229 of the Preamble to the Notice underlying PTE 97–41 (61 FR 58224, November 13, 1996), the Department noted that the requirement that valuations of plan assets transferred from a CIF to a Fund be determined in accordance with Rule 17a–7 under the 1940 Act to provide flexibility for future transactions. Thus, if Rule 17a–7 was subsequently amended by the SEC to accommodate new pricing systems, the Department observed that Banks could take advantage of the amended Rule without having to request an amendment to the class exemption.

disclosure is given to the Eligible Policyholder by MONY.

(d) One or more independent fiduciaries of a Plan that is an Eligible Policyholder receives Holding Company stock, cash or policy credits pursuant to the terms of the Plan of Reorganization and neither MONY nor any of its affiliates exercises any discretion or provides investment advice with respect to such acquisition.

(e) After each Eligible Policyholder entitled to receive stock is allocated at least 7 shares of Holding Company stock, additional consideration is allocated to Eligible Policyholders who own participating policies based on actuarial formulas that take into account each participating policy's contribution to the surplus of MONY which formulas have been reviewed by the Superintendent.

(f) All Eligible Policyholders that are Plans participate in the transactions on the same basis within their class groupings as other Eligible Policyholders that are not Plans.

(g) No Eligible Policyholder pays any brokerage commissions or fees in connection with their receipt of Holding Company stock or in connection with the implementation of the commission-free sales and purchase programs.

(h) All of MONY's policyholder obligations remain in force and are not affected by the Plan of Reorganization.

Section III. Definitions

For purposes of this exemption:

(a) The term ''MONY'' means ''MONY Life Insurance Company'' and any affiliate of MONY as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of MONY includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with MONY. (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) The term ''Eligible Policyholder'' means a policyholder who is eligible to vote and to receive consideration under MONY's Plan of Reorganization. Such Eligible Policyholder is a policyholder of the mutual insurer on the date the Plan of Reorganization is adopted by the Board of Trustees of MONY and on the effective date of the reorganization.

(d) The term ''policy credit'' means: (1) Dividend additions under an individual participating nonvariable annuity contract, (2) an increase in accumulation value of an individual nonparticipating nonvariable annuity contract, (3) an increase in the accumulation value in the separate investment account under an individual participating variable annuity contract, (4) an increase in the accumulation value in the general account investment option under an individual nonparticipating variable annuity contract or individual nonparticipating variable life insurance policy, (5) dividend deposits or dividend additions, as appropriate (depending on the selection of the underlying policy), (6) an increase in fund value on an individual nonparticipating nonvariable life insurance policy, (7) an extension of the expiry date on a policy which is in force as extended term life insurance pursuant to a non-forfeiture provision of a life insurance policy, or (8) an increase in the accumulation account value in the general account investment option under a group annuity contract or certificate issued thereunder.

EFFECTIVE DATE: This exemption is effective as of November 16, 1998, the date of MONY's Plan of Reorganization.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) that was published December 16, 1998 at 63 FR 69314.

Written Comments

The Department received three written comments with respect to the Notice. Two comments were submitted by Plan participants who are Eligible Policyholders of MONY. The third comment was submitted by MONY.

The first commenter expressed general approval of the Notice and the form of consideration that he would be receiving as a result of MONY's Plan of Reorganization. The commenter also endorsed the idea that his Plan policy would continue to contribute to the financial success of MONY.

The second commenter indicated that her only concern was that her investment account with MONY would remain unaffected by the Plan of Reorganization. However, after discussing this matter with a Department representative who explained that the exemption was predicated on the requirement that all of MONY's policyholder obligations would remain in force and would not be affected by the Plan of Reorganization, the commenter decided to withdraw her comment.

The third commenter, MONY, suggested certain technical and clarifying changes to the Notice and the Summary of Facts and Representations (the Summary). In addition, MONY was provided with comments from the New York State Insurance Department (the New York Department), whose comments were, in turn, incorporated into the comments submitted by MONY.

Following is a discussion of the comments received from MONY and the Department's responses with respect thereto.

1. *Section I.* On page 69314 of the Notice, Section I describes MONY Group, Inc. as a subsidiary of MONY. MONY notes that while MONY Group was a subsidiary of MONY at the time MONY filed its exemption application, on the effective date of the reorganization (November 16, 1998), the MONY Group became the parent company of MONY when MONY issued all of its common stock to the MONY Group. In this regard, MONY suggests that the phrase ''a subsidiary'' be deleted and replaced with ''the parent company.''

The Department concurs with the requested modification and has revised Section I, accordingly.

Also on page 69314 of the Notice, Section I uses the phrase ''employee benefit plans'' to describe the Plans that are covered by the exemption. MONY wishes to clarify that it may be a disqualified person with respect to arrangements involving individual retirement accounts which are described in section 4975(e)(1) of the Code but which may not constitute ''employee benefit plans'' as that term is defined under the Act and the Department's regulations. Therefore, MONY suggests that the exemption use the phrase ''Plan subject to ERISA or section 4975(e) of the Code.''

The Department has considered this comment and concurs basically with MONY's clarification. However, for the sake of consistency in the use of defined terms in the Notice as well as for parallelism, the Department has decided to revise the phrase to state ''Plan subject to applicable provisions of the Act and/or the Code.''

2. *Section II(a).* On page 69314 of the Notice, Section II(a) states, in pertinent part, that the Plan of Reorganization is subject to review and supervision by the Superintendent of Insurance of the State of New York (the Superintendent). MONY suggests that the word ''supervision'' be replaced with the word ''approval'' because the New York Department believes the word ''approval'' more accurately reflects the

role of the Superintendent with respect to MONY's Plan of Reorganization.

The Department concurs and has modified Section II(a), accordingly.

3. *Section II(d).* On page 69315 of the Notice, Section II(d) states that an Eligible Policyholder may elect to receive Holding Company stock, cash or policy credits pursuant to the Plan of Reorganization provided the decision is made by one or more independent fiduciaries of such Plan and that neither MONY nor any of its affiliates exercises any discretion or provides investment advice with respect to such election. MONY wishes to clarify that the only election provided under its Plan of Reorganization is a cash election that is provided to certain policyholders that would otherwise receive Holding Company stock. Specifically, MONY notes that under its Plan of Reorganization, Eligible Policyholders who are allocated 75 shares or less of Holding Company stock will be provided the option to elect cash instead of stock. However, because the principal thrust of the condition is to ensure that an Eligible Policyholder's decision to receive Holding Company stock, cash or policy credits is not influenced by MONY or any of its affiliates, MONY suggests that the Department revise General Condition II(d) of the Notice to read as follows:

(d) One or more independent fiduciaries of a Plan that is an Eligible Policyholder receives Holding Company stock, cash or policy credits pursuant to the terms of the Plan of Reorganization and neither MONY nor any of its affiliates exercises any discretion or provides investment advice with respect to such acquisition.

The Department concurs and has modified Section II(d), accordingly.

4. *Section II(e).* On page 69315 of the Notice, Section II(e) provides that the actuarial formulas developed by MONY to determine the allocation of stock among Eligible Policyholders have been approved by the Superintendent. MONY suggests that the word ''approved'' be replaced by the word ''reviewed'' because the New York Department believes the word ''reviewed'' more accurately reflects their role with respect to the allocation methodology, which the New York Department did not specifically approve.

The Department concurs and has modified Section II(e), accordingly.

5. *Section III(d).* On page 69315 of the Notice, Section III(d) defines the term ''policy credit'' to mean ''an increase in the accumulation account value (to which no surrender or similar charges are applied) in the general account or an increase in an dividend accumulation on a policy.'' To make the definition more comprehensive, MONY suggests the following replacement definition of the term:

(d) ''Policy credit'' means (1) dividend additions under an individual participating nonvariable annuity contract, (2) an increase in accumulation value of an individual nonparticipating nonvariable annuity contract, (3) an increase in the accumulation value in the separate investment account under an individual participating variable annuity contract, (4) an increase in the accumulation value in the general account investment option under an individual nonparticipating variable annuity contract or individual nonparticipating variable life insurance policy, (5) dividend deposits or dividend additions, as appropriate (depending of the selection of the underlying policy), (6) an increase in fund value on an individual nonparticipating nonvariable life insurance policy, (7) an extension of the expiry date on a policy which is in force as extended term life insurance pursuant to a non-forfeiture provision of a life insurance policy, or (8) an increase in the accumulation account value in the general account investment option under a group annuity contract or certificate issued thereunder.*

In addition, MONY suggests that Footnote 2, which appears on page 69315 of the Notice, be placed at the end of the revised definition of the term ''policy credit'' where the asterisk is shown above.

The Department concurs with the revisions suggested by MONY and has made the requested changes.

6. *Representation 4.* On page 69316 of the Summary, the second sentence of the fourth paragraph of Representation 4 states that MONY hired the actuarial firm of Tillinghast Towers-Perrin (TT-P) to conduct the actuarial review of the Plan of Reorganization. MONY wishes to clarify that because the Superintendent actually selected the actuarial firm of TT-P to assist him in his actuarial review of the Plan of Reorganization, the word ''MONY'' should be deleted and replaced with the term ''the Superintendent.''

The Department concurs with this clarification.

7. *Representation 6.* On page 69316 of the Summary, the second sentence of the second paragraph of Representation 6 states that as a result of the reorganization, MONY's charter and by-laws were extinguished in accordance with New York Insurance Law. MONY wishes to clarify that it was required to amend and restate its charter and by-laws to reflect the new organizational structure of the company. Therefore, it suggests that the word ''extinguished'' be replaced with the words ''amended and restated.''

In response, the Department concurs with the requested modification.

8. *Footnote 9.* On page 69317 of the Summary, Footnote 9 of Representation 8 states that (as a result of MONY's demutualization) both the fixed and variable components of an insurance policy will be provided in exchange for the policyholder's membership interests. For purposes of clarification, MONY requests that the term ''insurance policy'' be deleted and replaced with the word ''consideration.''

In response to this change, the Department concurs that Footnote 9 should have read as follows:

[9] MONY notes that both the fixed and variable components of consideration will be provided in exchange for the policyholder's membership interests.

9. *Representation 9.* On page 69317 of the Summary, the first sentence of the first paragraph of Representation 9 states that amounts to be distributed to Eligible Policyholders that are Plans will be held in an escrow or similar arrangement in the event that the Department does not provide exemptive relief prior to the date of the reorganization. MONY wishes to point out that its Plan of Reorganization and exemption application provide that such amounts ''may'' be held in an escrow or similar arrangement pending the finalization of the exemption and that subsequent text in Representation 9 reflects the fact that the escrow arrangement may be determined to be unnecessary if the proposed exemption specifies the date of reorganization as the effective date of the exemption.

The Department concurs with this modification.

MONY also wishes to point out that after the Department issued the Notice specifying the date of reorganization as the effective date of the exemption, the New York Department did not require that amounts distributed to Eligible Policyholders be held in an escrow or similar arrangement. As such, MONY represents that the required distributions to the Plans have taken place.

10. *Representation 10.* On page 69317 of the Summary, the first sentence of the first paragraph of Representation 10 states that MONY's Plan of Reorganization provides for the establishment of a commission-free sales program (the Program) whereby Stock Eligible Policyholders who receive between 25 and 99 shares of Holding Company stock will be given the opportunity to sell their Holding Company stock on the open market within 60 days prior to the commencement date of the program. While this representation is generally accurate, MONY notes that it, subject to

the New York Department's review, has determined that policyholders who receive up to 99 shares may participate in the Program. In addition, MONY has determined that the Program will be offered for three months commencing August 17, 1999 and ending November 17, 1999, which date may be extended by MONY with the approval of the Superintendent.

For further information regarding the comments or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10661) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, after giving full consideration to the entire record, including the written comments received, the Department has decided to grant the exemption subject to the modifications and clarifications described above.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 30th day of March, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 99–8225 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans Employment and Training Service

Funding for Fiscal Year (FY) 1999; Federal Contractor Award Information System (FCAIS)

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training Service (OASVET), DOL.

ACTION: Notice.

SUMMARY: The Department of Labor invites proposal for one new award in FY 1999 as authorized under Title 38 United States Code, Section 4212. These awards will allow for the transition of the current FCAIS system to an efficient, interactive, and user-friendly data information system that will collect data from the Commerce Business Daily (CBD) and the Federal Procurement Data System (FPDS).

DATES: Applications will be accepted commencing with the issuance of this notice. The closing date for receipt of application is May 10, 1999, at 4:45 p.m. (Eastern Time) at the address below.

COPIES OF THE APPLICATION PACKAGE: Ms. Lisa Harvey, Procurement Services Center, 200 Constitution Ave., NW, Room N–5416, Washington, DC 20210. Requests by telephone and by fax will not be honored.

SUPPLEMENTARY INFORMATION: The Office of the Assistant Secretary for Veterans' Employment and Training announces the availability of $249,000 to allow for the transition of the current FCAIS system to an efficient, interactive, user-friendly data information system, and that will collect data from the Commerce Business Daily (CBD) and the Federal Procurement Data System (FPDS). The successful applicant will provide information received from the CBD and FPDS to State Employment Security Agencies (SESAs), and Workforce Development Boards (WDBs), on current and new Federal contracts for job development and job listing purposes. This information is used by SESA and WDB staff to advise covered Federal contractors of their obligations to consider hiring special disabled, Vietnam-era veterans, and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The grant recipient will be required to:

a. Collect and maintain a data base of CBD and FPDS contract award information and disseminate that information to SESA and WDB staff on at least some monthly bases.

b. Maintain, store, and update a database of Federal contractors as new contracts are awarded, and distribute this data to state service delivery agencies in the media and format requested.

c. Answer question by telephone about the FCAIS, and make referrals to VETS Staff, and State local service delivery offices and personnel.

d. Identify Federal contractor award needs and develop a system that satisfies DVOPs and LVERs staff requirements on Federal contractors, subcontractors and other employers listing with the State employment service work or workforce development local office.

The grantee will need to develop a nationally accessible system that will enable State staff to verify contractor information, and advise VETS when changes are needed. It is expected that when this new system is developed and approved, the grantee will no longer be responsible for maintaining the current FCAIS.

Eligible applicants must be State or local governments, commercial, or nonprofit entities capable of interfacing with the USDOL, all SESAs and WDBs. Grantees with slow start up of the FY 1999 program will be funded at less than total grant award.

However, the Office of the Assistant Secretary reserves the right not to fund a grantee who is performing poorly and

shows little promise of completing the agreed work.

Signed at Washington, DC this 29th day of March, 1999.

Lawrence J. Kuss,

Grant Officer.

[FR Doc. 99–8298 Filed 4–2–99; 8:45 am]

BILLING CODE 4510–79–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–053)]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee.

DATES: Thursday, April 22, 1999, 10:00 a.m. to 6:00 p.m.; and Friday, April 23, 1999, 8:00 a.m. to 12:00 Noon.

ADDRESSES: NASA Headquarters, Room 9H40, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley M. Carpenter, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1490.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Office of Life and Microgravity Sciences and Applications (OLMSA) Overview
—Subcommittee Summary Reports
—Biology Pillars
—International Space Station (ISS) Commercial Development Plan
—Price-Waterhouse-Coopers Grant Costing
—Review of ISS Research Directions Document
—Discussion of Committee Findings and Recommendations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: March 27, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–8215 Filed 4–2–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–054)]

NASA Advisory Council (NAC), Technology and Commercialization Advisory Committee (TCAC); Meeting

2**AGENCY:** National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Technology and Commercialization Advisory Committee.

DATES: Tuesday, April 27, 1999, 8:30 a.m. to 5 p.m. and Wednesday, April 28, 1999, 8 a.m. to 3 p.m.

ADDRESSES: Goddard Space Flight Center, Building 6, Room S119, Greenbelt Road, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory M. Reck, Code AF, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4700).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Status Report Update on NASA Technology
—Technology Panel Report Discussion
—Commercialization Panel Report Discussion

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: March 29, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–8216 Filed 4–2–99; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 AND 50–412]

Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, The Cleveland Electric Company, The Toledo Edison Company; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Duquesne Light Company (the licensee) to withdraw a portion of its October 15, 1998, application for proposed amendment to Facility Operating License Nos. DPR–66 and NPF–73 for the Beaver Valley Power Station, Unit Nos. 1 and 2, located in Shippingport, PA.

The withdrawn portion of the proposed amendment would have revised the Unit 1 and Unit 2 Technical Specifications (TSs) by deleting the description of the site exclusion boundary. This description will remain in the TSs.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on November 18, 1998 (63 FR 64111). However, by letters dated February 18, 1999 and February 23, 1999, the licensee withdrew this portion of the proposed change as discussed above.

For further details with respect to this action, see the application for amendment dated October 15, 1998, as supplemented by letter dated December 14, 1998, and the licensee's letters dated February 18, 1999, and February 23, 1999, which partially 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 B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this 26th day of March 1999.

For the Nuclear Regulatory Commission.

Daniel S. Collins,

Project Manager, Project Directorate I–1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–8313 Filed 4–2–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–389]

Florida Power & 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–16 issued to Florida Power & Light Company (the licensee) for operation of the St. Lucie Plant, Unit 2 located in St. Lucie County, Florida.

The proposed amendment would modify the St. Lucie, Unit 2, Technical Specifications to increase the capacity of the spent fuel storage pool, in part, by allowing a credit for a certain soluble boron concentration in the spent fuel pool.

The Commission had previously issued a Notice of Consideration of Issuance of an Amendment published in the **Federal Register** on February 25, 1998 (63 FR 9602), and December 16, 1998 (63 FR 69340). These notices contained the Commission's proposed determination that the requested amendment involved no significant hazards considerations, offered an opportunity for comments on the Commission's proposed determination, and offered an opportunity for the applicant to request a hearing on the amendment and for persons whose interest might be affected to petition for leave to intervene.

Due to an oversight, the Notice of Consideration of Amendment for each of the previously mentioned **Federal Register** notices did not provide notice that this application involves a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982. Such notice is required by the Commission's regulations, 10 CFR 2.1107.

The Commission hereby provides such notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to ''any matter which the Commission determines to be in controversy among the parties.''

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR part 2, subpart K, ''Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors'' (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

By May 5, 1999, 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 and to invoke the hybrid hearing procedures as set forth above 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 Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981-5596. 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. Requests for hearing and petitions for leave to intervene that do not seek to invoke the hybrid procedures are not authorized by this notice and would be considered untimely.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also

provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determinations is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene that seeks to invoke the hybrid hearing procedures in accordance with this notice 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 M.S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420, 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 December 31, 1997, as supplemented May 15, 1998, September 15, 1998, November 25, 1998, and January 28, 1999, which 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 Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

Dated at Rockville, Maryland, this 30th day of March 1999.

For the Nuclear Regulatory Commission.

William C. Gleaves,

Project Manager, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–8314 Filed 4–2–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. IA–98–006; ASLBP No. 99–765–02–EA]

Gary Isakoff; establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and Sections 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.

Gary Isakoff, Order Prohibiting Involvement in NRC–Licensed Activities, IA–98–006

In accordance with 10 CFR 2.202, this Board is established as a result of a request for hearing dated March 16, 1999, submitted by Attorney John F. O'Riordan on behalf of petitioner, Gary Isakoff. The request is pursuant to an NRC Order published in the **Federal Register** on March 10, 1999 (64 FR 11,954). The Order prohibits Mr. Isakoff from participating in NRC-licensed activities for a period of one year. The Order requires him to immediately cease his involvement in any NRC-licensed activities; inform the NRC of the name, address, and telephone number of the employer for which he was performing those activities; and provide a copy of the Order to that employer. In addition, the Order requires Mr. Isakoff to notify NRC of any employment involving NRC-licensed activities for one year following the prohibition period.

The Board is comprised of the following administrative judges:

Charles Bechhoefer, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001

Dr. Charles N. Kelber, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001

All correspondence, documents and other materials in this proceeding shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Rockville, Maryland, this 30th day of March 1999.

G. Paul Bollwerk III,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 99–8312 Filed 4–2–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on April 28 and 29, 1999, in Room T–2B3,

11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, April 28, 1999—1:00 p.m. until the conclusion of business

Thursday, April 29, 1999—8:30 a.m. until the conclusion of business

The Subcommittee will review the NRC staff's Safety Evaluation Report concerning Calvert Cliffs Plant License Renewal Application, and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: March 30, 1999.

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–8311 Filed 4–2–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Issuance of Directors Decision Under 10 CFR 2.206

Notice is hereby given that by petition dated October 15, 1998, the Natural Resources Defense Council (NRDC) has requested that the U.S. Nuclear Regulatory Commission (NRC) exert authority to ensure that the U.S. Army Corps of Engineers' (the Corps) handling of radioactive materials in connection with the Formerly Utilized Sites Remedial Action Program (FUSRAP) is effected in accord with properly issued license and all other applicable requirements. As NRDC notes in its petition, FUSRAP began in 1974 as a program of the U.S. Department of Energy (DOE), and that DOE had identified a total of 46 sites for cleanup under FUSRAP. By 1997, cleanup of 25 of these sites had been completed. There are currently 21 sites still in need of remediation. In October 1997, Congress transferred funding for FUSRAP from DOE to the Corps. NRDC believes that the Corps should obtain an NRC license to conduct activities under FUSRAP. At this time, the NRC has not required the Corps to obtain a license.

The request has been referred to the Director of the Office of Nuclear Material Safety and Safeguards. A copy of the petition was sent to DOE and the Corps, and DOE and the Corps were given the opportunity to comment.

By letter dated November 30, 1998, NRC acknowledged receipt of the October 15, 1998, Petition.

The Director, Office of Nuclear Materials Safety and Safeguards, has determined that the request should be denied for the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (DD–99–07), the complete text of which follows this notice and which is available for public inspection in the Commission's Public Document Room, the Gelman Building, located at 2120 L Street, N.W, Washington D.C. 20555, and is also available on the NRC Electronic Bulletin Board at (800) 952–9676.

A copy of this Decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, this Decision will constitute the final action of the Commission 25 days after the date of issuance unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 26 day of March 1999.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

Director's Decision Under 10 CFR § 2.206

I. Introduction

On October 15, 1998, Thomas B. Cochran, Ph.D., Director, Nuclear Program, Natural Resources Defense Council (NRDC) and James Sottile, IV, Caplin & Drysdale, Chartered, filed a petition on behalf of NRDC (the ''petitioner'') addressed to L. Joseph Callan, Executive Director for Operations, U.S. Nuclear Regulatory Commission (NRC). The petition requests that NRC exert authority to ensure that the Corps of Engineers' handling of radioactive materials in connection with the Formerly Utilized Sites Remedial Action Program (FUSRAP) is effected in accord with a properly issued license and all other applicable requirements.

II. Background

During the 1940s, 1950s, and 1960s, the Manhattan Engineer District and the Atomic Energy Commission performed work at a number of sites throughout the United States as part of the nation's early atomic energy program. Although many of the sites were cleaned up under guidelines in effect at the time, residual contamination remains at many of the sites today. The contaminants at these sites involved primarily low levels of uranium, thorium, and radium, with their associated decay products. The U.S. Department of Energy (DOE) began FUSRAP in 1974 to study these sites and take appropriate cleanup action. By 1997, DOE had identified 46 sites in the program and had completed remediation at 25 sites with some ongoing operation, maintenance, and monitoring being undertaken by DOE. Remedial action was planned, underway, or pending final closeout at the remaining 21 sites.

On October 13, 1997, Congress passed the 1998 Energy and Water Development Appropriations Act,[1] which transferred administration of FUSRAP to the U.S. Army Corps of

[1] Energy and Water Development Appropriations Act, 1998, Pub. L. No. 105–62, 111 Stat. 1326 (1997)

Engineers (the Corps or USACE) and appropriated $140,000,000 to the Corps for the completion of FUSRAP activities. The language in the law reads as follows:

For the expenses necessary to administer and execute the Formerly Utilized Sites Remedial Action Program to clean up contaminated sites throughout the United States where work was performed as part of the nation's early atomic energy program, $140,000,000, to remain available until expended: Provided, that the unexpended balances of prior appropriations provided for these activities in this Act or any previous Energy and Water Development Appropriations Act may be transferred to and merged with this appropriation account, and thereafter, may be accounted for as one fund for the same time period as originally enacted.[2]

The legislative history behind this provision offers little guidance regarding the details of the Corps' new involvement. The Conference Committee report states that ''(t)he conferees have agreed to transfer the Formerly Utilized Sites Remedial Action Program (FUSRAP) to the Corps of Engineers, and funding for this program is contained in Title I of the bill.''[3] The House Appropriations Committee report indicates that this change stems from concerns over the cost of the FUSRAP program under DOE. The Committee report concludes that ''(c)learly, the problem must be in the contract management and contract administration function performed by the Department of Energy and the management and operating contractors who actually subcontract for most of the cleanup work.''[4] Finally, citing the Corps' efforts under the Formerly Used Defense Sites (FUDS) program, the report indicates that there are significant cost and schedule efficiencies to be gained by ''. . . having the Corps of Engineers manage the Department of Energy's FUSRAP program as well.''[5]

Given the lack of guidance in the legislative history, two members of Congress sought to clarify the law's intent through subsequent correspondence. In a November 6, 1997, letter to Energy Secretary Federico Pena and Defense Secretary William Cohen, Senator Pete Domenici and Representative Joseph McDade indicated, among other things, that:

Transfer of the FUSRAP program to the U.S. Army Corps of Engineers makes management, oversight, programming and budgeting, technical investigations, designs, administration, and other such activities directly associated with the execution of remediation work at the currently eligible sites a responsibility of the Corps of Engineers. It should be emphasized that *basic underlying authorities for the program remain unaltered and the responsibility of DOE* [emphasis added].

The Energy and Water Development Appropriations Act for fiscal year 1999 (FY99), P.L. 105–245, continued the Corps' involvement as the implementing agency for the FUSRAP. In particular, the 1999 Act provided that response actions by the United States Army Corps of Engineers under FUSRAP shall be subject to the administrative, procedural, and regulatory provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. 9601 *et seq.*), and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR, Chapter 1, Part 300. In addition, the 1999 Act provided that, ''* * * except as stated herein, these provisions do not alter, curtail or limit the authorities, functions or responsibilities of other agencies under the Atomic Energy Act (42 U.S.C. 2011 *et seq.*) * * *''[6]

To date, NRC has not regulated activities conducted under FUSRAP, including those activities conducted by the Corps since the transfer of the program. The petitioner, however, believes that NRC should regulate the Corps' FUSRAP activities, arguing that the Appropriations Act did not purport to transfer authority over FUSRAP to the Corps. As such, according to the petitioner, the Corps may not legally administer the program absent proper oversight because, unlike DOE and (in most cases) DOE contractors, the Corps is not exempt from the licensing requirements of the Atomic Energy Act (see 42 U.S.C. 2014(s)). The petitioner further indicates that DOE has publicly stated that it cannot extend its licensing exemption for private contractors to the Corps and that DOE has no regulatory authority over the Corps for the latter's FUSRAP activities. The petitioner concludes that ''* * * the Corps does not have the legal authority to run FUSRAP without first obtaining a license from the NRC.''

In support of its position, the petitioner notes that the institutional mission of the Corps is not focused on the safety and security of the nation's nuclear activities. In addition, NRC's failure to regulate the Corps' FUSRAP activities is claimed to be inconsistent with the intent of the laws governing the utilization and cleanup of nuclear materials. Finally, the petitioner adds that, with very few exceptions, Congress intended that no person should be permitted to handle nuclear materials except in accordance with a license issued by NRC.

In a November 30, 1998, letter NRC informed the petitioner that the petition had been received and was currently under review. On the same date, NRC forwarded the petition to the DOE and the Corps for their comment. In a January 12, 1999, letter, the Chief Counsel for the Corps, Robert M. Andersen, responded to NRC's request. DOE responded to NRC's request in a January 14, 1999, letter from William J. Dennison, Assistant General Counsel for Environment.

The Corps' Response

In its response, the Corps states that it is not required to obtain a license from NRC for its FUSRAP activities. The Corps' response emphasizes that Congress directed the Corps to conduct its FUSRAP activities pursuant to the CERCLA.[7] The Corps' principal argument is that no NRC license is required because of the federal permit waiver for on-site removal or remedial actions in § 121(e)(1) of CERCLA. The Corps also believes that the AEA exempts FUSRAP activity from NRC licensing. In its opinion, ''Congress intended for USACE to fill the shoes of the AEC successor agency responsible for FUSRAP cleanup, that is DOE, an agency not considered a ''person'' subject to licensing under the AEA.'' The Corps further posits that, in transferring the FUSRAP program, Congress expressed no intent that the agency obtain an NRC license for that activity and, instead, sought a seamless transition ''unimpeded by procedural requirements outside of CERCLA.''

Nevertheless, the Corps commits to meeting the substantive requirements of both the Atomic Energy Act (AEA) and CERCLA. It acknowledges that NRC license requirements may apply to portions of FUSRAP response actions conducted off-site, beyond the scope of the permit waiver. The letter concludes by acknowledging that the substantive provisions of NRC regulations are applicable or relevant and appropriate requirements (ARARs) for many FUSRAP response actions under CERCLA and, as such, the Corps will look ''... to NRC for guidance in interpreting and implementing these requirements on the sites.''

DOE's Response

DOE's response differs in several respects from that of the Corps. On the

[2] *Id.*

[3] H.R. Conf. Rep. No. 271, 105th Cong., 1st Sess., 85 (1997).

[4] H.R. Rep. No. 190, 105th Sess., 99 (1997).

[5] *Id.*

[6] Pub. L. No. 105–245, Title I.

[7] 42 USC 9601 *et seq.*

matter of DOE's continued involvement with FUSRAP and oversight of the Corps, the Department ''respectfully disagrees'' with the Corps. According to its submittal, DOE is not authorized to regulate the Corps' FUSRAP activities and cannot transfer its AEA authorities to the Corps. In the Department's view, ''(t)he transfer legislation did not make the Corps a DOE contractor, or otherwise subject the Corps' activities to the control or direction of DOE.'' The letter also indicates that DOE and the Corps are currently developing a memorandum of understanding (MOU) to clarify their respective roles and responsibilities as a result of the legislative transfer. Nevertheless, DOE believes that, with the exception of a few ''administrative issues,'' there are no remaining issues between the two agencies that should affect NRC's disposition of the NRDC petition. The letter concludes that NRC should ''evaluate the licensability of the Corps' activities in the same manner as it would evaluate the activities of any other 'person' within the meaning of the Atomic Energy Act.'' DOE defers to NRC on this question. The letter does not contain a DOE position concerning the viability of the Corps' CERCLA argument.

III. Discussion

The NRC staff has completed its evaluation of the petitioner's requests and the responses from the Corps of Engineers and the Department of Energy. For the reasons discussed below, the NRC denies the petitioner's request insofar as it calls on NRC to require the Corps to obtain a license for activities conducted at FUSRAP sites.

CERCLA Permit Waiver

Pursuant to § 121(e)(1) of CERCLA, ''(n)o Federal, State, or local permit shall be required for the portion of any removal or remedial action conducted entirely onsite, where such remedial action is selected and carried out in compliance with this section.'' [8] This provision waives any NRC license requirements that would apply to the Corps' activities at FUSRAP sites conducted pursuant to CERCLA.

The Corps argues that, because Congress specifically subjected FUSRAP sites to the provisions of CERCLA in the 1999 Act, section 121(e)(1) applies to Corps' response actions at FUSRAP sites. In developing regulations for the implementation of CERCLA, the Environmental Protection Agency (EPA) addressed the § 121(e)(1) waiver provision for federal agency CERCLA response actions in § 300.400(e) of the National Contingency Plan (NCP). That provision states, in pertinent part:

> ''Permit requirements. (1) No federal, state, or local permits are required for on-site response actions conducted pursuant to CERCLA sections 104, 106, 120, 121, or 122. The term on-site means the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of response actions.'' [9]

In the preamble of the final rule which proposed this section, EPA provided:

> Proposed § 300.400(e)(1) states that the permit waiver applies to all on-site actions conducted pursuant to CERCLA sections 104, 106, or 122; in effect, this covers all CERCLA removal and remedial actions (all ''response'' actions). However, a number of other federal agencies have inquired as to whether this language would reach response actions conducted pursuant to CERCLA sections 121 and 120. In response, EPA has made a non substantive clarification of the applicability of the permit waiver in CERCLA section 121(e)(1) to include on-site response actions conducted pursuant to CERCLA sections 120 and 121. . . . The addition of CERCLA section 120 simply recognizes that the permit waiver applies to federal facility cleanups conducted pursuant to CERCLA section 120(e), which are also selected and carried out in compliance with CERCLA section 121.[10]

Section 121(e)(1) applies to federal agencies such as the Corps in this case. The Corps may take the role of ''lead agency'' in a CERCLA cleanup action. The NCP defines ''lead agency'' as ''the agency that provides the OSC/RPM to plan and implement response actions under the NCP. EPA, the USCG, another federal agency, or a state * * * may be the lead agency for a response action.'' [11] The NCP also states that ''Federal agencies listed in § 300.175 have duties established by statute, executive order, or Presidential directive which may apply to federal response actions following, or in prevention of, the discharge of oil or release of a hazardous substance, pollutant, or contaminant.'' [12] The Corps, a branch of the U.S. Department of Defense, is among the agencies listed.[13] In the case of the FUSRAP program, Congress specifically designated the Corps as the ''lead agency'' in passing the 1999 Appropriations Act.[14]

As the Corps acknowledges in its letter, the permit waiver in § 121(e)(1) has been rarely addressed in the courts. In support of its position, the Corps does cite *McClellan Ecological Seepage Situation (MESS)* v. *Cheney*, a case which held that a Resource Conservation and Recovery Act (RCRA) permit was not required when activities which might otherwise require a RCRA permit took place at a site only as part of a CERCLA removal or remedial action.[15] In *McClellan*, MESS, a citizens' group, filed suit against the Secretary of Defense, with regard to cleanup actions being taken at McClellan Air Force Base, under RCRA and certain state laws. MESS claimed, *inter alia*, that McClellan was required to obtain a RCRA permit for the management of certain hazardous wastes on the base. The court held that an RCRA permit was not required, because the remedial activities were taken pursuant to CERCLA. The court relied on § 121(e)(1), stating, ''Section 121(e) expressly provides that the activity does not have to be separately permitted.'' [16]

The Corps also cites *United States* v. *City of Denver* to uphold this interpretation of § 121(e)(1).[17] In that case, the court held that CERCLA preempted a zoning ordinance which was in actual conflict with EPA's remedial order. The court stated, ''[T]o hold that Congress intended that non-uniform and potentially conflicting zoning laws could override CERCLA remedies would fly in the face of Congress's [sic] goal of effecting prompt cleanups of the literally thousands of hazardous waste sites across the country.'' [18]

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[8] *See also*, 10 CFR 300.400(e).

[9] 40 CFR 300.400(e)(1).

[10] 55 FR 8666, 8689 (1990) (''National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule) (emphasis added). This change echoed EPA's intentions stated in the proposed rule: ''EPA proposes to state that on-site permits are not required for response actions taken by EPA, *other federal agencies*, States, or private parties pursuant to CERCLA sections 104, 106, or 122.'' 53 Fed. Reg. 51394, 51406 (1988) (''National Oil and Hazardous Substances Pollution Contingency Plan; Proposed Rule) (emphasis added).

[11] 40 CFR 300.5 (emphasis added). The definition goes on to state, ''The federal agency maintains its lead agency responsibilities whether the remedy is selected by the federal agency for non-NPL sites or by EPA and the federal agency or by EPA alone under CERCLA section 120.''

[12] 40 CFR 300.170.

[13] *See* 40 CFR 300.175(b)(4)(i).

[14] Pub. L. No. 105–245, Title I.

[15] 763 F. Supp. 431 (E.D. Cal. 1989). This holding was later vacated on the basis of subject matter jurisdiction. *See McClellan Ecological Seepage Situation (MESS)* v. *Perry*, 47 F.3d 325 (9th Cir. 1995).

[16] 763 F. Supp. 431, at 435. The court went on to note in dicta that where there has been treatment that requires a RCRA permit which is not associated with a remedial or removal action under CERCLA, such a permit would be required. *Id.*

[17] 100 F.3d 1509 (10th Cir. 1996).

[18] *Id.* at 1513. The Corps cited *Ohio* v. *USEPA*, 997 F.2d 1520 (D.C. Cir. 1993) in support of its § 121(e)(1) position. NRC would note that the case upholds a number of provisions in EPA's 1990 revision of the NCP, including § 121(e)(1). However, the court's discussion centers on EPA's definition of the term ''onsite,'' and does not discuss the exemption provision, as a whole, in detail.

In passing the 1998 and 1999 Appropriations Acts, Congress gave no indication that it intended to suspend the waiver provision in § 121(e)(1) of CERCLA in the context of the Corps' FUSRAP activities. The 1999 Act does say: ''Provided further, That, except as stated herein, these provisions do not alter, curtail or limit the authorities, functions or responsibilities of other agencies under the Atomic Energy Act (42 U.S.C. 2011 *et seq.*) * * *'' In its letter, DOE points to this language to support its argument that the Appropriations Act does not create any authority for it to regulate the Corps. In doing so, DOE interprets the term ''provisions'' as referring to the provisions of the Appropriations Act and not the provisions of CERCLA. The NRC staff agrees with DOE on this point. While the language appears to indicate that the transfer of the program to the Corps does not alter the extent of DOE and perhaps NRC authority under the AEA, there is no specific indication that the language is intended to direct NRC to regulate the Corps' administration of the FUSRAP program. In particular, there is no evidence that in including this phrase, Congress intended to limit the application of the § 121(e)(1) permit waiver to the Corps' FUSRAP activities. In fact, nowhere in the reports for either the 1998 or 1999 Acts or in the text of the laws themselves did Congress give any hint that it intended NRC to regulate the Corps in its administration of the FUSRAP program. Instead, the inclusion of the specific reference to CERCLA suggests that Congress intended NRC to continue to refrain from regulating activities under the FUSRAP program even after DOE's role was reduced or discontinued.

As DOE states in its letter, the Corps has ''consistently expressed the view that its authorities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) * * *'' are sufficient for the Corps' administration of the FUSRAP program. By the time the 1999 Appropriations Act was passed, the Corps' administration of the FUSRAP program under CERCLA was a matter of public record [19] and NRC had not taken any steps to require the Corps to obtain a license from NRC. If Congress had intended NRC to regulate the Corps' activities at FUSRAP sites, it is likely that it would have specifically directed NRC to do so in passing the 1999 Appropriations Act.

We note, however, that the waiver in § 121(e)(1) does not apply to off-site activities. To the extent that NRC and U.S. Department of Transportation (DOT) requirements apply to the transportation, transfer and disposal of Atomic Energy Act material taken off of FUSRAP sites, the Corps has committed to following applicable requirements, including those for transfer under the AEA, shipment under the Hazardous Materials Transportation Act, 49 U.S.C. 5101, and NRC manifest requirements (e.g., 10 CFR § 20.2006).[20]

NRC Authority Under UMTRCA

Many FUSRAP sites contain material over which NRC would have no regulatory jurisdiction regardless of whether the Corps is the lead agency in implementing the program and regardless of whether response actions by the Corps under the program are subject to CERCLA. In particular, of the 21 sites at which remediation has not yet been completed, 12 sites contain residual material resulting from activities that were not licensed by NRC at the time the Uranium Mill Tailings Act of 1978 (UMTRCA) became effective or at any time thereafter. As defined by the UMTRCA, NRC does not have authority to regulate cleanup of covered residual material resulting from an activity that was not so licensed.

The language of section 83 of the Atomic Energy Act (42 U.S.C. 2113(a)), was added to that Act by UMTRCA. Section 83 a. requires NRC to impose certain terms and conditions relating to cleanup with respect to any ''license issued or renewed after the effective date'' of section 83 for covered activities, and also imposes such terms or conditions on any such ''license in effect on the date of enactment'' of the section. No such responsibility was imposed upon NRC with respect to activities that were not under NRC license before the date of the enactment of section 83, if they were not licensed thereafter.

Prior to the enactment of UMTRCA, neither the AEC nor the NRC had statutory jurisdiction over residual material resulting from the processing of ore for source material. This position was taken by the AEC after careful legal analysis, and was subsequently adopted by the NRC when it succeeded to the AEC's regulatory functions. Though NRC exercised some control over such material in connection with licensed processing of ore for source material, it did not exercise jurisdiction at inactive sites where no license was in effect. UMTRCA was enacted because the Congress recognized that NRC did not have jurisdiction over radioactive residuals resulting from the extraction of uranium or thorium from ore processed for its source material content at inactive sites. This is evidenced by the floor remarks regarding the amended version of H.R. 13650, the bill that was enacted as UMTRCA. Senator Hart explained:

> Although the NRC licenses active uranium mining and milling activities, existing law does not permit the Commission to regulate the disposal of mill tailings once milling and mining operations cease and the operating license expires. It is that authority to regulate tailings after milling operations cease, that we propose be given to the NRC.[21]

Because the residual material at many FUSRAP sites was generated in activities that were not licensed when UMTRCA was enacted, or thereafter, NRC today has no basis to assert any regulatory authority over handling of the residuals at those sites.

The NRC staff notes that many of the remaining sites (i.e., sites containing materials other than mill tailings) also raise some significant jurisdictional questions in their own right. For instance, a few of the sites may still be in legal possession of DOE even though the Corps is conducting clean up at the site under FUSRAP. While the issue of possession appears to be a matter of continuing discussion between the Corps and DOE, it is highly unlikely that NRC would have authority to require a license for cleanup activities conducted at a site which continues to be a DOE-owned or controlled site. In addition, the concentration of radioactive material at some of the remaining sites may not be sufficient to trigger NRC license requirements. While NRC does not have information sufficient to reach a final conclusion for specific sites, it is the NRC staff's understanding that some of these sites may contain only ''unimportant quantities'' of source material as defined under 10 CFR § 40.13(a). If this is the case, the amount of material at these sites would not be sufficient to implicate NRC license requirements. Given the limitations of NRC jurisdiction under UMTRCA, the potential DOE ownership issues, and the possibility that several sites may

[19] See, e.g., Letter from Albert J. Genetti, Jr., U.S. Army Deputy Commander, U.S. Army Corps of Engineers, to Mr. Thomas B. Cochran and Ms. Barbara A. Finamore, Natural Resources Defense Council, May 20, 1998.

[20] While the Corps will be following NRC's requirements in this area, it is unlikely that any specific NRC license requirements would apply to shipments from FUSRAP sites. However, the staff will request that the Corps contact NRC if it plans to ship material that does not meet one of the exemptions for a specific license in NRC regulations. See, e.g., 10 C.F.R. § 71.10.

[21] 124 Cong. Rec. S18,748 (October 13, 1978).

contain ''unimportant quantities'' of source material, it is likely that the number of FUSRAP sites over which NRC may have jurisdiction would be very small even absent the CERCLA permit waiver.

The Corps' Authority Under the Appropriations Act

In its response, the Corps states that the AEA also exempts FUSRAP activity from NRC licensing because Congress intended the Corps to fill the shoes of DOE, an agency exempt from NRC regulatory requirements under most circumstances. DOE disagrees with this characterization, claiming that, for the most part, it has no role in the FUSRAP program at this time (regulatory, contractual, or otherwise). As such, in DOE's view, the Corps cannot rely on any exemption in the AEA to avoid regulation by NRC. Nevertheless, DOE acknowledges that the transfer to the Corps did not completely eliminate the Department's involvement with FUSRAP. While the issues have yet to be resolved, DOE may have responsibility for inventory reporting of government-owned FUSRAP sites to the General Services Administration and may be required to conduct post-cleanup monitoring at some sites after the Corps' clean up activities cease.

DOE and the Corps are working on an MOU to address their disagreements regarding the nature of the transfer of the FUSRAP program and their respective responsibilities under the program. Until the disagreement has been resolved, either by the agencies or by further direction from Congress, the NRC staff need not reach a conclusion on the matter. Nevertheless, in view of the clear applicability of CERCLA § 121(e)(1) to the Corps' activity at FUSRAP sites, the staff does not believe that it would be appropriate to require the Corps to obtain an NRC license for its activity at FUSRAP sites.

IV. Conclusion

In sum, Congress has given NRC no clear directive to oversee USACE's ongoing effort under CERCLA to complete the FUSRAP cleanup project. Indeed, Congress has provided NRC no money and no personnel to undertake an oversight role. In addition, Congress has made it clear that the Corps is to undertake FUSRAP cleanup pursuant to CERCLA which waives permit requirements for onsite activities. In these circumstances, we are disinclined to read our statutory authority expansively, and to commit scarce NRC resources, to establish and maintain a regulatory program in an area where, under Congressional direction, a sister federal agency already is at work and has committed itself to following appropriate safety and environmental standards.

Accordingly, I deny the petition insofar as it requests NRC to impose licensing and other regulatory requirements on the Corps for that agency's handling of radioactive material at FUSRAP sites. Both the permit waiver provision of CERCLA and the ambiguity regarding DOE's role in the program lead me to the conclusion that NRC should not inject itself into the FUSRAP program at this time. Absent specific direction from Congress to the contrary, NRC will continue to refrain from regulating the Corps in its clean up activities at FUSRAP sites.

As provided by 10 C.F.R. § 2.206, a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. The Decision will become the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland this 26th day of March 1999.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–8315 Filed 4–2–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26995]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 26, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 20, 1999, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 20, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Ameren Corporation, et al. (70–9427)

Ameren Corporation (''Ameren''), a registered holding company, Union Electric Company (''UE''), an electric and gas public utility subsidiary of Ameren, Union Electric Development Company (''UEDC''), an indirect nonutility subsidiary of Ameren, Ameren Development Company (''Ameren Development''), and ''energy-related company'' within the meaning of rule 58 and a subsidiary of Ameren, Ameren ERC, Inc., and ''energy-related company'' within the meaning of rule 58 and a wholly owned subsidiary of Ameren Development, all located at 1901 Chouteau Avenue, St. Louis, Missouri 63103, and Central Illinois Public Service Company (''CIPS''), an electric and gas public utility subsidiary of Ameren and CIPSCO Investment Company (''CIC''), a nonutility subsidiary of Ameren, both located at 607 East Adams, Springfield, Illinois 62739, (collectively, ''Applicants'') have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(c), 13(b) and rules 45, 46, 54, 87, 90 and 91 of the Act.

By order dated December 30, 1997 (''Merger Order''),[1] Ameren was authorized, among other things, to acquire all of the issued and outstanding common stock of UE and CIPS (collectively, the ''Operating Companies'') and Ameren Services, a subsidiary service company. By order dated March 13, 1998 (''Financing Order''),[2] Ameren was authorized, among other things to: issue and sell common stock and other securities; repay, redeem or retire securities of Ameren or its subsidiaries; and, provide working capital to its subsidiaries. Ameren was also authorized to issue guarantees and provide other forms of credit support in respect of the obligations of its existing and future nonutility subsidiaries in an aggregate principal amount not to exceed $300

[1] *See* Holding Co. Act Release No. 26809.

[2] *See* Holding Co. Act Release No. 26841.

million outstanding at any one time. Ameren's then existing nonutility subsidiaries were authorized to provide guarantees and other forms of credit support in respect of the obligations of other nonutility subsidiaries in an aggregate principal amount not to exceed $50 million outstanding at any one time.

Ameren now proposes, through December 31, 2003 (''Authorization Period''), to consolidate under Ameren Development, the direct and indirect ownership of various existing and future nonutility businesses and to engage in preliminary development activities (''Development Activities'')[3] and administrative and management activities (''Administrative Activities'')[4] associated with these investments.[5]

Ameren and Ameren Development request authority through the Authorization Period to organize and acquire, directly or indirectly, the equity securities of one or more nonutility subsidiaries (''Nonutility Subsidiaries'').[6] Ameren and Ameren Development further propose to acquire the securities of one or more intermediate subsidiaries, which would be organized exclusively for the purpose of acquiring, holding and/or financing the acquisition of the securities of, or other interest in, one or more exempt wholesale generator (''EWG''), foreign utility company (''FUCO''), exempt telecommunications company (''ETC'') (collectively, ''Exempt Subsidiaries''), ''energy-related company'' within the meaning of rule 58 (''Rule 58 Subsidiary''), or other Nonutility Subsidiaries.

Intermediate subsidiaries may be organized exclusively for the purpose of acquiring and holding the securities of other direct or indirect nonutility subsidiaries of Ameren Development and may engage in Development Activities and Administrative Activities. An intermediate subsidiary may be organized, among other things, (1) to facilitate the making of bids or proposals to develop or acquire an interest in any Exempt Subsidiary, or other nonutility company which, upon acquisition, would qualify as a Rule 58 Subsidiary or other Non-Exempt Subsidiary; (2) to facilitate closing on the purchase or financing of an acquired company; (3) to effect an adjustment in the respective ownership interests in the business held by Ameren or Ameren Development and non-affiliated investors; (4) to facilitate the sale of ownership interests in one or more acquired nonutility company; (5) to comply with applicable laws of foreign jurisdictions; (6) to provide tax planning; (7) to insulate Ameren and its Operating Companies from operational or other business risks that may be associated with investments in nonutility companies; or, (8) for other lawful business purposes.

Financing subsidiaries may be formed for the purpose of issuing securities to investors other than Ameren in order to finance, in whole or in part, Ameren's direct or indirect acquisitions of Exempt Subsidiaries and Rule 58 Subsidiaries. Ameren and Ameren Development request authority to acquire, directly or indirectly, the equity securities of one or more corporations, trusts, partnerships or other entities created specifically for the purpose of facilitating the financing of Ameren's and its subsidiaries' authorized and exempt activities (including exempt and authorized acquisitions) through the issuance of long-term debt or equity securities to third parties and the transfer of the proceeds of these financings to Ameren or any of its subsidiaries.

Ameren may guarantee or enter into expense agreements in respect of the obligations of any of these financing subsidiaries.[7] If the direct parent company of a financing subsidiary is authorized in this proceeding or any subsequent proceeding to issue long-term debt or similar types of equity securities, then the amount of the securities issued by that financing subsidiary would count against the limitation applicable to its parent for those securities. In these cases, however, the guaranty by the parent of that security issued by its financing subsidiary would not be counted against the limitation on guarantees by Ameren authorized in the Financing Order or guarantees by Ameren Development or any of its subsidiaries, as requested in this application-declaration. In other cases, in which the parent company is not authorized in this or in a subsequent proceeding to issue similar types of securities, the amount of any guarantee not exempt under rules 45(b)(7) and 52 that is entered into by the parent company with respect to securities issued by its financing subsidiary would be counted against the limitation on Ameren guarantees under the Financing Order or guarantees by Ameren Development and its subsidiaries, as requested in this application-declaration.

Special-purpose subsidiaries seek authority to engage in any of the businesses or activities that UEDC or CIC are currently authorized to engage in under the terms of the Merger Order and which would not otherwise qualify as permitted or exempt businesses under rule 58 or section 34 of the Act;[8] customer financing; development and project activities; bill payment insurance; economic development services; customer goodwill programs; and outage insurance.

UEDC and CIC are currently engaged directly, or through subsidiaries, in certain nonutility businesses, including automated meter reading, the sale of appliance warranties, and demand side management programs. UEDC and CIC therefore request authority, to the extent needed,[9] to sell or otherwise transfer these businesses or the securities of current subsidiaries engaged in some or all of these businesses to Ameren Development or a subsidiary of Ameren Development. To the extent required, Ameren Development or any subsidiary of Ameren Development request authority to acquire the assets of these businesses or securities of subsidiaries of UEDC and CIC engaged in these businesses.[10] UEDC and CIC would sell the assets or securities for an amount equal to their cost or, alternatively, transfers of the securities or assets may be effected by distributions by UEDC, CIC and UE to Ameren, followed by Ameren's contribution of these

[3] Development Activities will be limited to: due diligence and design review; market studies; preliminary engineering; site inspection; preparation of bid proposals, including posting of bid bonds; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, power purchasers, thermal hosts fuel suppliers and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and other preliminary activities as may be required in connection with the purchase, acquisition and construction of facilities.

[4] Administrative Activities will include ongoing personnel, accounting, engineering, legal, financial, and other support activities necessary to manage Ameren Development's Development Activities and investments in subsidiaries.

[5] Ameren Development proposes to expend up to $250 million during the Authorization Period on Development Activities.

[6] Nonutility Subsidiaries may include intermediate subsidiaries, financing subsidiaries and special-purpose subsidiaries.

[7] The terms and conditions of these guarantees, including the duration and expiration thereof, would be the same as now authorized under the Financing Order.

[8] UEDC holds a small equity interest in a company that may be certified as an ETC under section 34.

[9] The sale of securities, assets or an interest in another business to an associate company may be exempt under rule 43(b).

[10] It is contemplated that UEDC will remain a wholly owned subsidiary of UE. Ameren may, however, contribute the stock of CIC to Ameren Development at some point in the future.

securities or assets to Ameren Development.[11]

Investments in special-purpose subsidiaries by Ameren Development may take the form of purchases of common stock or other equity securities, loans, capital contributions, cash advances or guarantees, or any combination of the foregoing.[12] Special-purpose subsidiaries request approval, to the extent required, to purchase the assets of or securities held by UEDC and/or CIC in those businesses identified in the Merger Order in which UEDC and/or CIC are already engaged, directly or indirectly, and which would not qualify as permitted or exempt activities under section 34 or rule 58.[13]

Ameren Development, Ameren Energy, CIC and any existing or future subsidiary of any of the foregoing, propose through the Authorization Period to provide guarantees or other forms of credit support in respect of securities issued by or other obligations of each other in an aggregate principal amount oat any time outstanding not to exceed $300 million, provided that any guaranty or other form of credit support outstanding on December 31, 2003, shall remain in effect until it expires in accordance with its terms.[14]

Credit support may take the form of direct guarantees of securities issued by any direct or indirect subsidiary, stand-by equity funding commitments, obligations under capital maintenance agreements or under reimbursement agreements in respect of bank letters of credit, payment obligations under contracts, or other similar financial instruments or contractual undertakings.

Ameren Development, Ameren Energy, CIC and any direct or indirect Rule 58 Subsidiaries of Nonutility Subsidiaries (including any intermediate subsidiary) of Ameren Development request an exemption under section 13(b) from the cost standard of rules 90 and 91 as applicable to these transactions, in any case in which any of the following circumstances apply:

(1) The client company is a FUCO or foreign EWG that derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States;

(2) The client company is an EWG that sells electricity at market-based rates which have been approved by the Federal Energy Regulatory Commission (''FERC'');

(3) The client company is a ''qualifying facility'' (''QF'') within the meaning of the Public Utility Regulatory Policies Act of 1978, as amended (''PURPA'') that sells electricity exclusively (a) at rates negotiated at arms' length to one or more industrial or commercial customers purchasing electricity for their own use and not for resale and/or (b) to an electric utility company at the purchaser's ''avoided cost'' as determined in accordance with the regulations under PURPA; or (4) the client company is a domestic EWG or QF that sells electricity at rates based on its cost of service, as approved by FERC or any state public utility commission having jurisdiction, provided that the purchaser thereof is not an operating company within the Ameren System; or, (5) Ameren does not own 100% of the capital stock of the nonutility client company.

Applicants request an exemption from section 13(b) of the Act in connection with the performance of Administrative Activities or Development Activities for any client company that is an Exempt Subsidiary, Rule 58 Subsidiary or Non-Exempt Subsidiary if (a) the client company is a subsidiary of Ameren, the sole business of which is developing, owning, operating and/or providing services to other affiliated companies described in subparagraphs (1) through (5), above, or, (b) the client company is a subsidiary of Ameren, which does not derive, directly or indirectly, any material part of its income from sources within the United States and is not a public-utility company operating within the United States.

It is contemplated that Ameren Development will purchase management, marketing, development, accounting and administrative services from Ameren Services under a General Services Agreement.[15] In addition, utilizing a work order procedure, Ameren Development will request the Operating Companies to provide personnel and other resources as needed, from time to time, to consult and assist in engineering and other required functions in connection with the authorized business activities of Ameren Development and its subsidiaries. Ameren Development proposes to enter into a service agreement (''Nonutility Service Agreement'') with each Operating Company that will be substantially similar to the General Services Agreement to obtain these services. An Operating Company may, in its absolute discretion, elect not to participate, either through personnel or other resources in any of Ameren Development's projects and businesses. If additional personnel and resources are not obtainable from within the Ameren System they will be obtained or hired from external sources.

Ameren Services will also continue to provide assistance in connection with financial, accounting, and internal auditing functions for Ameren Development utilizing those accounting systems which are economically justifiable under the circumstances. The accounts of Ameren Development will continue to be subject to audit by the independent accountants of Ameren.

Ameren Services and the Operating Companies will be reimbursed promptly for their costs incurred in connection with rendering any services to Ameren Development or its subsidiaries. The Operating Companies will utilize cost accounting procedures designed to identify promptly all direct and indirect costs, including overheads, which are applicable to the work being performed by or with Operating Company personnel, material or other assets. Ameren Services will account for, allocate and charge its costs to Ameren Development or its subsidiaries using procedures permitted under rules 90 and 91 and currently applicable methods of allocation as set forth in the General Services Agreement. All transactions between Ameren Development and Ameren Services and the Operating Companies will be at cost in compliance with section 13 and rules 90, 91 and 92.

Rule 58 Subsidiaries and special-purpose subsidiaries request authority to sell goods and services to customers both within and outside of the United States. The goods and services may include brokering and marketing electricity, natural gas and other energy commodities; energy management services; performance contracting services; technical support services; certain retail services; monitoring and response goods and services; energy-peaking services; and, project development and ownership activities. Ameren Development proposes to perform energy management services and technical support services and

[11] The transactions proposed in this paragraph will not involve the sale or other disposition of any utility assets of the Operating Companies.

[12] Ameren Development proposes to invest in these entities in an aggregate amount at any time outstanding not to exceed $250 million.

[13] UEDC holds a small equity interest in one company that may be certified as an ETC under section 34 of the Act.

[14] The authorization requested herein is intended to replace and supersede the $50 million limitation on guarantees and other forms of credit support contained in the Financing Order. The terms and conditions of these guarantees, including the duration or expiration thereof, would be the same as now authorized under the Financing Order.

[15] The Commission approved the General Services Agreement as a part of the Merger Order.

engage in related customer financing on a worldwide basis.

Ameren Energy proposes to act as agent for Ameren Services and/or the Operating Companies in connection with the brokering and marketing of electricity and other energy commodities by the Operating Companies. Ameren Energy and Ameren Services and each of the Operating Companies propose to enter into an Agency Agreement wherein Ameren Energy would provide agency and any other incidental services, at cost, determined in accordance with rules 90 and 91. Ameren Energy would not receive any profits from these transactions and would not receive any other fee or commission for its services.

Ameren Energy (or any other energy marketing and brokering subsidiary hereafter acquired or formed by Ameren Development) request authority to acquire or construct in one or more transactions, from time to time through the Authorization Period, nonutility energy assets in the United States, including natural gas production, gathering, processing, storage and transportation facilities and equipment, liquid oil reserves and storage facilities, and associated facilities (collectively, ''Energy Assets''), that would be functionally related to and would assist Ameren Energy in connection with energy marketing, brokering and trading. Ameren Energy requests authorization to invest up to $400 million during the Authorization period in Energy Assets or in the equity securities of existing or new companies substantially all of whose physical properties consist or will consist of these Energy Assets. It is represented that either Ameren Energy nor any marketing subsidiary will require, directly or indirectly, any assets or properties the ownership or operation of which would cause a company to be considered an ''electric utility company'' or ''gas utility company'' as defined under the Act. In the event that Applicants acquire companies whose physical properties consist of Energy Assets which are engaged in energy (gas or electric or both) marketing activities, Applicants also request authorization to continue these activities.

Ameren Development seeks authorization, on behalf of itself and every direct or indirect Rule 58 Subsidiary and Non-Exempt Subsidiary, to pay dividends with respect to the securities of these companies, from time to time through the Authorization Period, out of capital and unearned surplus. Ameren Development, on behalf of itself and each of its current and future Rule 58 Subsidiaries and Nonutility Subsidiaries, represents that it will not declare or pay any dividend out of capital or unearned surplus in contravention of any law restricting the payment of dividends, Ameren Development also states that its subsidiaries will comply with the terms of any credit agreements and indentures that restrict the amount and timing of distributions to shareholders.

Ameren Development, on behalf of itself and its existing and future Rule 58 Subsidiaries and Nonutility Subsidiaries, also seeks authorization, to the extent needed, to enter into interest-rate hedging transactions with respect to anticipated-debt offerings (''Anticipatory Hedges''), subject to certain limitations and restrictions. Anticipatory Hedges would only be entered into with counterparties whose senior debt ratings, or the senior debt ratings of the parent companies of the counterparties, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB+, or an equivalent rating from Moody's Investors Service, Fitch Investor Service or Duff and Phelps.

All open positions under an Anticipatory Hedge will be closed on or prior to the date of the new issuance and Ameren Development will not, at any time, take possession of the underlying U.S. Treasury securities. Anticipatory Hedge positions will not be outstanding for more than 180 days. The overall guidelines, parameters and controls applicable to an Anticipatory Hedge transaction by Ameren Development or any Rule 58 Subsidiary or Non-Exempt Subsidiary will be the same as those described in the Financing Order. All Anticipatory Hedges will qualify as bona fide hedges and will meet the criteria established by the Financial Accounting Standards Board in order to qualify the hedge accounting treatment, and Ameren Development will comply with the then existing financial disclosure requirements of the Financial Accounting Standards Board associated with hedging transactions.

Ameren Development may determine to transfer the securities or the assets of the subsidiaries to other direct or indirect subsidiaries of Ameren Development or to liquidate or merge subsidiaries. The internal transactions would be undertaken in order to eliminate corporate complexities, to combine related business segments for staffing and management purposes, to eliminate administrative costs, to achieve tax savings, or for other ordinary and necessary business purposes. These transactions would only involve Ameren Development and its direct and indirect subsidiaries and would have no impact on any other associate companies in the Ameren System. Ameren Development request authority to engage in these transactions, to the extent that they are not exempt under the Act and rules thereunder, through the Authorization Period.

Consolidated Edison, Inc. (70–9447)

Consolidated Edison, Inc. (''CEI''), 4 Irving Place, New York, New York 10003, a New York electric and gas public utility holding company exempt from registration under section 3(a)(1) of the Act by rule 2, has filed an application under sections 9(a)(2) and 10 of the Act.

CEI proposes to acquire all of the issued and outstanding securities of Orange and Rockland Utilities, Inc. (''Orange and Rockland''), a New York electric and gas public utility holding company exempt from registration by order under section 3(a)(2) of the Act.[16]

CEI owns all of the common stock of Consolidated Edison Company of New York, Inc. (''Con Edison''), a New York electric and gas utility company as defined under the Act. Orange and Rockland owns two public utility subsidiaries, Rockland Electric Company (''RECO''), a New Jersey electric utility company, and Pike County Light & Power Company (''Pike''), a Pennsylvania electric and gas utility company. Under the terms of the Agreement and Plan of Merger among Orange and Rockland, CEI and C Acquisiton Corp.[17], dated May 10, 1998 (''Merger Agreement''), C Acquisition Corp. will be merged with and into Orange and Rockland. Orange and Rockland will be the surviving corporation in the Merger and become a wholly owned subsidiary of CEI and Orange and Rockland's two utility subsidiaries, RECO and Pike, will remain direct subsidiaries of Orange and Rockland.

Con Edison supplies electric service in all of New York City (except part of the Borough of Queens) and most of Westchester County, New York, an approximate 660 square mile service territory with a population of more than eight million. Con Edison also supplies gas in the Boroughs of Manhattan and the Bronx and parts of the Borough of Queens and Westchester County, New York, and provides steam in part of

[16] *See* Rockland Light and Power Co., 1 SEC 354 (1936). Rockland Light and Power Company subsequently became Orange and Rockland Utilities, Inc.

[17] C Acquisition Corp. is a New York corporation and a wholly owned subsidiary of CEI which was created solely for merger purposes.

Manhattan. Con Edison is regulated by the New York State Public Service Commission (''NYPSC'') as to retail rates, service, accounts, issuance of securities and in other respects. The Federal Energy Regulatory Commission (''FERC'') has jurisdiction over Con Edison under the Federal Power Act (''FPA'') in connection with electric transmission facilities and operations, wholesale sales of power and related transactions.

CEI's common stock is listed on the New York Stock Exchange. As of October 31, 1998, CEI had outstanding 233,186,794 common shares ($.10 par value). The issued and outstanding shares of Con Edison number 235,489,650 ($2.50 par value), all of which are held by CEI.

For the twelve months ended September 30, 1998, CEI's total operating revenues were $7.22 billion, of which approximately $5.74 billion were derived from electric operations, $1 billion were from gas operations, $355 million were from the steam business, and $113 million were from nonutility businesses. Consolidated assets of CEI at September 30, 1998, were approximately $14.5 billion.

In September 1997, the NYPSC approved a settlement agreement among Con Edison, the Staff of the NYPSC and other parties (''Con Edison Settlement Agreement'') providing for: (1) a transition to a competitive electric market through the development of a ''retail access'' plan; (2) a rate plan providing for substantial retail rate reductions through March 31, 2002; (3) a reasonable opportunity to recover ''strandable costs''; and (4) the divestiture by Con Edison to unaffiliated third parties of at least 50 percent of its New York City fossil-fueled electric generating capacity.

Under the Con Edison Settlement Agreement, Con Edison submitted a divestiture plan for its fossil-fueled electric generation in New York City (''Divestiture Plan''). The NYPSC approved Con Edison's electric generation Divestiture Plan in orders issued July 21, 1998 and August 5, 1998. Under the Divestiture Plan, Con Edison will auction off its New York City electric generation to unaffiliated third parties in three bundles. Closing on the sales of these three bundles is expected in the second half of 1999.

Under its Steam System Plan, announced on April 15, 1998, Con Edison will auction off the remainder of its electric generation in New York City in a fourth bundle, consisting of 463 MW of units that produce electricity and steam for Con Edison's steam delivery system. Con Edison plans to close on the sales of the fourth bundle by the end of 1999.

The NYPSC, in a July 21, 1998 order, gave Con Edison the option of having its unregulated affiliate participate in the auction to purchase one of the initial three bundles. On July 24, 1998, Con Edison advised the NYPSC that its affiliate would forego its right to participate in the auction.[18] Accordingly, Con Edison plans to divest all of its in-City generation to third parties.

In addition, Con Edison is in the process of divesting its 810 MW interest in the Bowline Point generating station (''Bowline Station'') located in Orange and Rockland's territory as part of Orange and Rockland's auction of its generation, as described below. Similarly, Con Edison has agreed to divest its 400 MW interest in the Roseton station located in the service area of Central Hudson Gas and Electric Corporation, a nonaffiliate, in conjunction with Central Hudson's divestiture auction. As a result of the divestitures described above, Con Edison no longer will own dispatchable generation resources.[19] Con Edison will, however, retain an obligation to serve load in its service territory. In order to serve that load, Con Edison will purchase capacity and energy in the competitive market.

Orange and Rockland and its public utility subsidiaries supply electricity and gas to a service territory covering approximately 1,350 square miles. The eastern boundary of the service area extends along the west bank of the Hudson, directly across the river from the service territory of Con Edison. Orange and Rockland's New York electric and gas service territory includes all of Rockland County, most of Orange County and part of Sullivan County. In New Jersey, RECO supplies electricity to the northern parts of Bergen and Passaic Counties and small areas in the northeastern and northwestern parts of Sussex County. Pike supplies electricity and gas to the northeastern corner of Pike County, Pennsylvania. The application states that Orange and Rockland, RECO and Pike jointly operate a single fully integrated electric production and transmission system serving parts of New York, New Jersey and Pennsylvania.

Orange and Rockland and its public utility subsidiaries furnish electric service to approximately 269,000 customers in 96 communities with an estimated population of 681,000 and gas service to approximately 114,000 customers in 57 communities with an estimated population of 482,000. Approximately 77 percent of Orange and Rockland's consolidated energy sales are from its New York electric and gas service territory, which includes all of Rockland County, most of Orange County and part of Sullivan County, with 21 percent of consolidated energy sales generated from RECO in New Jersey and approximately one percent of consolidated energy sales from Pike in Pennsylvania.

Orange and Rockland is regulated by the NYPSC. RECO is regulated by the New Jersey Board of Public Utilities and Pike is regulated by the Pennsylvania Public Utility Commission as to retail rates, service and accounts, issuance of securities and in other respects as to service provided in those individual states. FERC has jurisdiction under the FPA over certain of the electric facilities and operations of Orange and Rockland and its subsidiaries.

For the twelve months ended September 30, 1998, Orange and Rockland's total operating revenues on a consolidated basis were approximately $643,281,000 and total utility operating revenues were $642,524,000, of which approximately $496 million was derived from electric sales and $146 million from gas sales.[20] As noted above, 21 percent of total utility revenues is generated from New Jersey, approximately one percent is from Pennsylvania, and the balance is from operations in New York. Consolidated assets of Orange and Rockland and its subsidiaries at September 30, 1998, were approximately $1.3 billion

Orange and Rockland filed a plan (''Final Divestiture Plan'') to divest all of its electric generation facilities under the NYPSC divestiture orders. By orders issued April 16, 1998, and May 26, 1998, the NYPSC approved Orange and Rockland's Final Divestiture Plan. Orange and Rockland's Final Divestiture Plan provides for the divestiture of 100 percent of Orange and Rockland's generating assets by auction.

On November 24, 1998, Orange and Rockland agreed to sell all of its electric generating facilities, including its one-

[18] Con Edison's relinquishment of its affiliate's right to participate in the auction was based on certain understandings as to the treatment of any gain on the sales. On August 5, 1998, the NYPSC approved Con Edison's proposal in this regard, subject to one modification, which Con Edison accepted on August 10, 1998. Con Edison, accordingly, is proceeding with the divestiture.

[19] Con Edison will retain its interests in a nuclear power generating facility. It is expected that Con Edison's nuclear facility will operate whenever it is available and be bid into the generation market at an incremental price reflecting the ''to go'' costs.

[20] All intercompany balances and transactions have been eliminated.

third interest in the Bowline Station, to Southern Energy, Inc., a subsidiary of The Southern Company, a registered holding company. Also included in this sale is Con Edison's two-thirds interest in the Bowline Station. Orange and Rockland anticipates that this sale will be completed by April 30, 1999.

Con Edison and Orange and Rockland are members of the New York Power Pool (''NYPP''), a cooperative association consisting of the major electric utilities operating in the State of New York. NYPP is a ''tight'' power pool through which its members agree to coordinate their operations by operating their systems in parallel, by consulting on design, use and construction of capacity, by scheduling repair outages and by providing support to each other in meeting generating capacity and energy transmission needs. NYPP has a centralized computer system that monitors the available capacity on the system and the demand for energy of all of the NYPP members to determine which sources of capacity should be used to reliably provide economic energy to meet customer demand. Under the current NYPP structure, each member utility owns and controls its separate transmission system. Access to those systems is available through each utility's open access transmission tariff. Applicants state that NYPP has filed with the FERC a plan to reorganize and establish an Independent System Operator. Following the Merger, Con Edison and Orange and Rockland will continue to be members of NYPP and will continue to coordinate operations in accordance with applicable NYPP procedures. The Merger will be effected through the purchase of Orange and Rockland stock. Each share of Orange and Rockland common stock will be canceled and converted into the right to receive $58.50 in cash, without interest payable to the holder of such share upon surrender. Any Orange and Rockland common stock owned as treasury stock will be canceled and no payment will be due. All preferred stock and preference stock of Orange and Rockland will be redeemed, prior to the effective date of the Merger, at a redemption price equal to the respective amount set forth in Orange and Rockland's restated Certificate of Incorporation, together with all dividends accrued and unpaid to the date of redemption. The transactions relating to the Merger are expected to be taxable to the stockholders of Orange and Rockland for federal income tax purposes. The Merger Agreement is subject to customary closing conditions, including receipt of approval of the holders of Orange and Rockland's Common Stock and the approval of various state and federal regulatory agencies, including the Commission. Orange and Rockland held a meeting of its common stockholders on August 24, 1998, and the requisite two-third votes of its stockholders approved the Merger.

CEI states that following consummation of the Merger, CEI and Orange and Rockland will continue to be entitled to exemptions from all provisions of the Act, except sections 9(a)(2) and 10 of the Act. CEI requests an order granting it an exemption under section 3(a)(1) of the Act. CEI states that it will continue to satisfy the requirements for exemption because it and each of its public utilities are and will continue to be predominately intrastate in character and will continue to carry on their businesses substantially in New York.[21] Orange and Rockland will continue to rely on the Commission's order exempting Orange and Rockland from registration based on its status as a holding company which is predominantly a public utility company under section 3(a)(2) of the Act.

Allegheny Energy, Inc. (70–7888)

Allegheny Energy, Inc. (''Allegheny''), 10435 Downsville Pike, Hagerstown, MD 21740–1766, a registered holding company, has filed a post-effective amendment under sections 6(a) and 7 of the Act and rule 54 under the Act to application-declaration originally filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45 and 54 under the Act.

By orders dated January 29, 1992 (HCAR No. 25462), February 28, 1992 (HCAR No. 25481), July 14, 1992 (HCAR No. 25581), November 5, 1993 (HCAR No. 25919), November 28, 1995 (HCAR No. 26418), April 18, 1996 (HCAR No. 26506), and December 23, 1997 (HCAR No. 26804) (collectively ''Prior Orders''), Allegheny was authorized, among other things, to issue up to $400 million in short-term debt through December 31, 2001. Allegheny now proposes to: (1) Increase the limit on the issuance of short-term debt from $400 million up to $750 million under the terms and conditions stated in the Prior Orders; and (2) extend the period of authorization through December 31, 2007.

Allegheny states that the increase is necessary to enhance its ability to participate in evolving energy markets resulting form deregulation and, upon application and approval, to support acquisition and diversification plans.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8239 Filed 4–2–99; 8:45 am]

BILLING CODE 8010–01–M

[21] CEI states that after the Merger, 2% of its consolidated utility revenues will be derived from out of state operations. RECO, which operates only in New Jersey, will be 1.91% of the total. Pike, which operates only in Pennsylvania, is .09% of the total. CEI states that it does not have significant investments in nonutility businesses.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41218; File No. SR–NSCC–99–02]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding Exit Instructions for Exchange Orders

March 26, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 12, 1999, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change permits Mutual Fund Services (''Fund/SERV'') members to submit exit instructions for exchange orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A, B,

[1] 15 U.S.C. 78s(b)(1).

and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change, NSCC will modify its rules relating to Fund/SERV.[3] Among other things, Fund/SERV enables eligible members to electronically process and settle mutual fund orders. These orders include purchases, redemptions, and exchanges.

The proposed rule change permits NSCC to implement a request by a users advisory group to modify NSCC's Rule 52 to provide members with the option of submitting exit instructions for exchange orders they determine not to settle within Fund/SERV.[4]

Fund/SERV was originally established to provide a once-a-day or single-cycle processing service that executed a member's instructions only at the end of each business day. Since exchange orders are immediately set for settlement the night they are received, exit instructions to delete outstanding exchange orders were not permitted under NSCC rules because Fund/SERV's single-cycle processing environment did not provide an opportunity for exit instructions to be executed.

However, Fund/SERV's intra day or multi-cycle processing now allows a member to submit instructions throughout the day. Under the proposed rule change an exchange order will continue to settle on the next business day unless a member submits an exit instruction on the same day it is received. NSCC plans to notify members by an ''Important Notice'' on March 29, 1999, that it intends to implement the rule change.

NSCC believes the proposed rule change is consistent with Section 17A of the Act[5] and the rules and regulations thereunder because it facilitates the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received other than from the chairperson of the Investment Company Institute's NSCC Fund/SERV Enhancement Committee. Her comments are attached to the proposal as Exhibit C. NSCC will notify the Commission of any other written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[6] The Commission believes that the rule change is consistent with this obligation because the proposal provides Fund/SERV members with an automated method for deleting erroneous exchange orders. As a result, the proposed rule change reduces the likelihood that Fund/SERV members will need to go outside of Fund/SERV to correct an exchange order. Thus, the proposal promotes the prompt and accurate clearance and settlement of securities transactions.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing because accelerated approval will permit NSCC to implement this feature of Fund/SERV in a timely manner.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR–NSCC–99–02 and should be submitted by April 26, 1999.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–99–02) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8238 Filed 4–2–99; 8:45 am]

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[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] Specifically, NSCC is amending Rule 52, A. Fund/SERV, SEC. 10.

[4] *See* letter from Colleen Daly, Chairperson of the Investment Company Institute's NSCC Fund/SERV Enhancement Committee (February 4, 1999). A copy of the letter is included with NSCC's filing.

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Office of Overseas Schools

[Public Notice 3020]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Department of State.

ACTION: 30-day notice of information collection; overseas schools—grant status reports.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Renewal.

Originating Office: A/OPR/OS.

Title of Information Collection: Overseas Schools—Grant Status Reports.

Frequency: Annual.

Form Number: OMB No. 1405–0033.

Respondents: Recipients of grants.

Estimated Number of Respondents: 190.

Average Hours Per Response: .25.

Total Estimated Burden: 47.5 hours.

Public comments are being solicited to permit the agency to:

- 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 collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments or requests for additional information regarding the collection listed in this notice should be directed to Keith D. Miller of the Office of Overseas Schools (703) 875–7800, U.S. Department of State, Washington, DC 20520.

Dated: March 19, 1999.

Robert B. Dickson,

Executive Director, Bureau of Administration.

[FR Doc. 99–8191 Filed 4–2–99; 8:45 am]

BILLING CODE 4710–03–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5462]

Commercial Fishing Industry Vessel Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) will meet to discuss the Coast Guard's Fishing Vessel Casualty Task Force Report.

DATES: CFIVAC will meet on Wednesday, April 14, 1999, from 8:30 a.m. to 4:30 p.m. and Thursday, April 15, 1999, from 8:30 a. m. to 4:30 p.m.

ADDRESSES: CFIVAC will meet in the conference room of the Coast Guard National Pollution Funds Center, 4200 Wilson Boulevard, Suite 1000, Arlington, Virginia. This notice is available on the Internet at hhtp://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Commander Mark A. Prescott, Executive Director of CFIVAC, or Lieutenant Commander Randy Clark, Assistant to the Executive Director, telephone 202–267–1181, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Under the authority of the General Services Administration Federal Advisory Committee Regulations, 41 Code of Federal Regulations § 101–6.1015(b)(2), this notice is given with less than 15 days notice due to the exceptional circumstances. During the closing days of 1998 through the first three weeks of 1999 the commercial fishing industry lost four vessels and 11 lives off the Northeast and Mid-Atlantic coasts of the United States. This alarming death rate occurred in an industry that is considered one of America's most dangerous and if left unabated will be the deadliest year in over a decade. As a result, the Coast Guard chartered a Task Force to conduct a fast track study to: Determine the factual circumstances of these casualties; examine these incidents in the context of historical data for loss of life and property; provide quick feedback to industry; review the current fishing vessel safety program and past recommendations that have the potential for reducing loss of life and property; recommend the most significant measures that have great potential for reducing the loss of life and property; and develop a direction to be pursued by CFIVAC, the Coast Guard, and industry. The Coast Guard will complete the Task Force Report on, or about, April 5, 1999, and desires that CFIVAC review the report and make its recommendations as soon as possible. It is essential for CFIVAC to meet as quickly as possible due to the urgency of this matter. Therefore, it is not possible to provide 15 days prior notification of this meeting. Interested parties, including members of Congress, have been advised of this meeting.

Agenda of Meeting

Commercial Fishing Industry Vessel Advisory Committee (CFIVAC).

The agenda includes the following:

(1) Welcome, administrative issues.

(2) Review and comment on the Coast Guard's Fishing Vessel Casualty Task Force Report.

Procedural

The meeting is open to the public. This will be a working meeting of CFIVAC and there will be limited opportunity for public comment. Please note that the meeting may close early if all business is finished. Due to security procedures, members of the public must produce a photo ID to enter the building.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: March 31, 1999.

Robert C. North,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–8334 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Aircraft Engines Instructions for Continued Airworthiness

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circular and request for comments.

SUMMARY: This notice announces the availability of draft Advisory Circular (AC), No. 33–XX, Aircraft Engine Instructions for Continued Airworthiness.

DATES: Comments must be received on or before May 5, 1999.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA 01803–5299.

FOR FURTHER INFORMATION CONTACT: Chung Hsieh, Engine and Propeller Standards Staff, ANE–110, at the above address, telephone (781) 238–7115, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named under **FOR FURTHER INFORMATION CONTACT**. Interested persons are invited to comment on the proposed AC, and to submit such written data, views, or arguments as they desire. Commenters must identify the subject of the AC, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service, before issuance of the final AC.

Background

This AC is on the subject of continued airworthiness of aircraft engines type certificated under Title 14 of the Code of Federal Regulations, part 33 (14 CFR part 33). The information and guidance presented in this AC would provide a method that can be used to demonstrate compliance with the requirements of § 33.4 and Appendix A to part 33—Instructions for Continued Airworthiness.

This advisory circular would be published under the authority granted to the Administrator by 49 U.S.C. 106(g), 40113, 44701–44702, 44704 and would provide guidance for the requirements in 14 CFR part 33.

Issued in Burlington, Massachusetts, on March 26, 1999.

David A. Downey,

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

[FR Doc. 99–8242 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of the Record of Decision for Terminal Doppler Weather Radar to Serve John F. Kennedy International and LaGuardia Airports, New York City, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Availability of Record of Decision (ROD).

SUMMARY: Pursuant to 49 U.S.C. 44501 and 44502 and in accordance with requirements of the National Environmental Policy Act of 1969, as amended, and FAA Order 1050.1D—Policies and Procedures for Considering Environmental Impacts, the FAA has issued a Record of Decision for Terminal Doppler Weather Radar to Serve John F. Kennedy International and LaGuardia Airports, New York, New York. After careful review of the administrative record, including the final environmental impact statement (EIS) released in January 1999, it is the final determination of the FAA that installation and operation of the terminal Doppler weather radar (TDWR) to serve John F. Kennedy International (JFK) and LaGuardia (LGA) Airports at the U.S. Coast Guard (USCG) Air Station Brooklyn site in Kings County, New York, is approved. The installation of a single TDWR to serve both JFK and LGA Airports is consistent with the responsibilities of the FAA Administrator under 49 U.S.C. 44501 and 44502 et seq. This action is also consistent with direction provided by Congress in the 1995 Department of Transportation and Related Agencies Appropriations Bill, Pub L. 103–331 (Sept. 30, 1994) Conference Report on H.R. 4556, 103rd Congress, 2nd Session, 140 Congressional Record 9–603 (Sept. 26, 1994). In reaching this decision, careful consideration has been given to aviation safety and operational needs as well as potential environmental effects. Therefore, by order of the Administrator a single TDWR will be installed at U.S. Coast Guard Air Station Brooklyn site.

This order is subject to review within 60 days in the U.S. Court of Appeals in accordance with the provisions of 49 U.S.C. 46110. This ROD will be sent to those parties who have indicated an interest in this TDWR project. The FAA will publish legal notices in newspapers of the affected area of New York City announcing this decision and the availability of this ROD.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THE RECORD OF DECISION OR FINAL EIS, CONTACT: Jerome D. Schwartz, Environmental Specialist, Federal Aviation Administration, Environmental Lead for TDWR, AND–402, 800 Independence Avenue, SW, Washington, DC 20591.

Issued in Washington DC on March 30, 1999.

James C. Link,

Leader, Integrated Product Team for Surveillance, AND–400.

[FR Doc. 99–8243 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from April 19–22, 1999, from 9 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held in the MacCracken room, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Harrell, Executive Director, ATPAC, En Route/Terminal Operations and Procedures Division, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3725.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held April 19 through April 22, 1999, in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than April 16, 1999. The next quarterly meeting of the FAA ATPAC is planned to be held from July 26–29, 1999, in Osh Kosh, Wisconsin.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on March 25, 1999.

Eric Harrell,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 99–8318 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Aircraft Certification Procedures Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss aircraft certification procedures issues.

DATES: The meeting will be held on April 15, 1999, at 9:00 a.m. Arrange for oral presentations by April 9, 1999.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, 1400 K Street, N.W., Suite 801, Washington, DC 20005–2485.

FOR FURTHER INFORMATION CONTACT: Marisa Mullen, Transportation Industry Analyst, Office of Rulemaking (ARM–205), 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–7653, fax: (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463: 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on April 15, 1999, at 9:00 a.m. at the General Aviation Manufacturers Association, 1400 K Street, NW., Suite 801, Washington, DC 20005–2485.

The agenda for this meeting will include:

(1) A status report on the FAA submitted rulemaking projects for ''Type Certification Procedures for Changed Products'', ''Establishment of Organization Designation Authorization (ODA) Procedures'', and ''Production Certification and Parts Manufacturing'';

(2) A status report on the Delegation Working Group tasking;

(3) A status report on the Parts and Production Certification Working Group tasking; and

(4) A discussion of future meeting dates, locations, activities; and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by April 5, 1999, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on March 26, 1999.

Brian Yanez,

Assistant Executive Director for Aircraft Certification Procedures Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–8241 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–98–4334]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FHWA announces its decision to exempt 23 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: April 5, 1999.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Motor Carrier Research and Standards, (202) 366–2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

Twenty-four individuals petitioned the FHWA for a waiver of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Gary R. Andersen, Joe F. Arnold, Jack E. Atkinson, Gary A. Barrett, Ivan L. Beal, Johnny A. Beutler, Richard D. Carlson, David John Collier, Tomie L. Estes, Jay E. Finney, Britt D. Hazelwood, Jon R. Houston, Chad M. Kallhoff, Loras G. Knebel, Rodney D. Lemburg, Dexter L. Myhre, James H. Oppliger, Stephanie D. Randels, Duane L. Riendeau, Darrell Rohlfs, Marvin L. Swillie, Larry Waldner, and Ronald Watt. The FHWA evaluated the petitions on their merits, as required by the decision in *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration,* 95 F.3d 715 (8th Cir. 1996), and made a preliminary determination that the waivers should be granted. On December 1, 1998, the agency published notice of its preliminary determination and requested comments from the public (63 FR 66226). The comment period closed on December 31, 1998. One comment was received, and its contents were carefully considered by the FHWA in reaching the final decision to grant the petitions.

The FHWA has not made a decision on one applicant, Mr. Jon R. Houston of Iowa. Subsequent to the publication of the preliminary determination, the agency received additional information from the Iowa Department of Transportation, and we are evaluating that information. A decision on Mr. Houston's petition will be made in the future.

When the remaining 23 individuals filed their vision waiver applications on various dates before June 9, 1998, the FHWA was authorized by 49 U.S.C. 31136(e) to waive the vision standard if the agency determined the waiver was consistent with the public interest and the safe operation of CMVs. As the statute did not limit the effective period of a waiver, the agency had discretion to issue waivers for any period warranted by the circumstances of a request.

On June 9, 1998, the FHWA's waiver authority changed with enactment of the Transportation Equity Act for the 21st Century (TEA–21), Pub. L. No. 105–178, 112 Stat. 107. Section 4007 of TEA–21 amended the waiver provisions of 49 U.S.C. 31315 and 31136(e) to change the standard for evaluating waiver requests, to distinguish between a waiver and an exemption, and to establish term limits for both. Under revised sections 31315 and 31136(e), the FHWA may grant a waiver for a period of up to 3 months or an exemption for a renewable 2-year period. The 23 applications in this proceeding fall within the scope of an exemption request under the revised statute.

The amendments to 49 U.S.C. 31315 and 31136(e) also changed the criteria for exempting a person from application of a regulation. Previously an exemption was appropriate if it was consistent with the public interest and the safe

operation of CMVs. Now the FHWA may grant an exemption if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The new standard provides the FHWA greater flexibility and discretion to deal with exemptions than the previous standard. (See H.R. Conf. Rep. No. 105–550, at 489 (1998).)

Although the 23 petitions in this proceeding were filed before enactment of TEA-21, the FHWA is required to apply the law in effect at the time of its decision unless (1) its application will result in a manifest injustice or (2) the statute or legislative history directs otherwise. *Bradley* v. *School Board of the City of Richmond,* 416 U.S. 696 (1974). With respect to the new standard, nothing in the statute, its history, or the facts in this proceeding meets either of these two tests. In fact, the new standard is more equitable as it allows an exemption to be based on a reasonable expectation of equivalent safety, rather than requiring an absolute determination that safety will not be diminished. In addition, the ''public interest'' finding required under the previous standard is not necessary under the new exemption standard. These changes enhance the FHWA's discretion to consider exemptions, thus benefitting the 23 applicants rather than causing an injustice.

For that reason, we applied the new standard in our evaluation of these 23 petitions and determined that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption.

Vision and Driving Experience of the Applicants

The vision requirement in 49 CFR 391.41(b)(10) provides:

> A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

Since 1992, the FHWA has undertaken studies to determine if this vision standard should be amended. The latest report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., ''Visual Requirements and Commercial Drivers,'' October 16, 1998, filed in the docket). The panel's conclusion supports the FHWA's view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FHWA also recognizes that some drivers do not meet the vision standard but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 23 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal and corneal scars, and loss of an eye due to an accident. In most cases, their eye conditions were not recently developed. All but five applicants were either born with their vision impairments or have had them since childhood. They have lived with them for periods ranging from 16 to 46 years. The five individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 25 years.

Although each applicant has one eye which does not meet the vision standard in Section 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, can perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of a valid commercial driver's license (CDL). Before issuing a CDL, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate the CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL, these 23 drivers have been authorized to drive a CMV in intrastate commerce even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 4 to 36 years. In the past 3 years, the 23 drivers had a total of five moving violations among them. Two drivers were involved in minor accidents in their CMVs, but there were no injuries and neither person received a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in 63 FR 66226, December 1, 1998. Since the lone docket comment did not focus on the qualifications of a specific applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group, however, is supported by the information published in 63 FR 66226.

Basis for Exemption Determination

Under revised 49 U.S.C. 31315 and 31136(e), the FHWA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether applicants are likely to achieve an equal or greater level of safety driving in interstate commerce as they have achieved in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FHWA considered not only the medical reports about the applicants' vision but also their driving records and experience with the vision deficiency. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket.

We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrate the driving performance of monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996). That monocular drivers in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, with qualifications similar to those required by the waiver program, can also adapt to their vision deficiency and operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from

accident history coupled with other factors. These factors, such as age, sex, geographic location, mileage driven and conviction history, are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 23 applicants, we note that cumulatively the applicants have had only two minor accidents and five traffic violations in the last 3 years. None of the violations represented a serious traffic violation as defined in 49 CFR 383.5, and neither of the accidents involved bodily injury or resulted in a citation. The applicants achieved this record of safety while driving with their vision impairment, demonstrating they have adapted their driving skills to accommodate their condition. As the applicants' driving histories with their vision deficiencies are predictors of future performance, the FHWA concludes their ability to drive safely can be projected into the future.

In addition, we believe applicants' intrastate driving experience provides an adequate basis for evaluating their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways in the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrians and vehicle traffic than exist on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated a CMV safely under those conditions for at least 4 years, most for much longer. Their experience and driving records lead us to believe the applicants are capable of operating in interstate commerce as safely as they have in intrastate commerce.

Consequently, the FHWA finds that exempting applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FHWA will impose requirements on the 23 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) that each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

Discussion of Comment

The FHWA received one comment in this proceeding. In that comment, J.B. Hunt Transport, Inc. (Hunt) expresses general opposition to exemptions from the physical qualification standards and raises procedural objections to this proceeding.

On the procedural issue, Hunt maintains that the applicants should reapply under the standards which will be adopted in Docket No. FHWA–98–4145, *Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs; Rules and Procedures,* 63 FR 67600, December 8, 1998, to implement the TEA–21 changes to the agency's exemption authority. It asserts that the agency is disregarding the rulemaking process by considering vision waiver requests filed after the waiver program was closed and before rules are fully adopted to implement the new provisions of 49 U.S.C. 31315 and 31136(e).

Section 4007 of TEA–21 requires the Secretary of Transportation to promulgate regulations specifying the procedures by which a person may request an exemption. The statute lists four items of information an applicant must submit with an exemption petition and gives the Secretary 180 days (from June 9, 1998) to implement the new procedural regulations. On December 8, 1998, the agency published interim final rules in Docket No. FHWA–98–4145 to implement section 4007. The interim rules will govern exemption requests filed on or after June 9, 1998, until final rules are adopted in that proceeding.

Before publishing its notice of intent to grant these applications, the FHWA determined that applying the new procedural requirements of section 4007 of TEA–21 would adversely affect the applicants. As we explained in 63 FR 66226, December 1, 1998, it would have been manifestly unjust to hold applications filed before June 9, 1998, in abeyance until new procedural regulations were implemented in December, and then require the applicants to submit conforming, supplementary information to support their exemption request. Such delay not only would have been unjust but would have provided nothing to enhance safety. For these reasons, the FHWA decided not to apply the procedural requirements of section 4007 to exemption requests filed before its effective date, June 9, 1998. As these applications were filed before that date, we processed them under procedures in effect at the time they were filed, a decision supported by *Bradley* v. *School Board of the City of Richmond*, 416 U.S. 696 (1974).

The balance of Hunt's comments relate to its opposition to exemptions for drivers who cannot meet the existing medical standards. First, Hunt asserts that ''minimum safety standards'' should apply to every CMV driver in interstate commerce without the possibility of waiver or exemption. If the vision standard in 49 CFR 391.41(b)(10) is the appropriate minimum standard, Hunt urges, it should be applied without exception. If it is not, the standard should be reviewed in accordance with several guidelines suggested by Hunt in its comments.

The FHWA continues to review the vision standard in 49 CFR 391.41(b)(10), as evidenced by the medical panel's report dated October 16, 1998, filed in this docket, and we welcome Hunt's suggested guidelines to factor into our review process. Notwithstanding the

ongoing review of the vision standard, however, the FHWA must comply with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration,* 95 F.3d 715 (8th Cir. 1996), and grant individual exemptions under standards that are consistent with public safety. Meeting those standards, the 23 veteran drivers in this case have demonstrated to our satisfaction that they can operate a CMV with their current vision as safely in interstate commerce as they have in intrastate commerce. Accordingly, they qualify for an exemption under 49 U.S.C. 31315 and 31136(e).

Hunt also asserts that motor carriers should be given regulatory relief which would allow them to maintain the more stringent vision standard found in 49 CFR 391.41(b)(10) and the right to legally decline the use of a driver with an exemption. Absent that relief, Hunt urges that motor carriers ''forced to use a waived or exempted driver'' should receive a hold harmless agreement from the FHWA relieving them of liability in case a medically exempted driver has a traffic accident.

The FHWA's physical qualification standards are minimum requirements; thus, carriers already have the right to maintain standards that meet or exceed those established by the agency (49 CFR 390.3(d)). When motor carriers apply higher physical standards than required by the FHWA, however, they must be prepared to justify their requirements if challenged under the Americans with Disabilities Act, Pub.L. 101–336, 104 Stat. 327, or any other law. In short, a motor carrier has a legal obligation not to discriminate on the basis of a disability, and the FHWA cannot relieve a carrier of that obligation.

Conclusion

After considering the comment to the docket and based upon its evaluation of the 23 waiver applications in accordance with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration, supra,* the FHWA exempts Gary R. Andersen, Joe F. Arnold, Jack E. Atkinson, Gary A. Barrett, Ivan L. Beal, Johnny A. Beutler, Richard D. Carlson, David John Collier, Tomie L. Estes, Jay E. Finney, Britt D. Hazelwood, Jerome R. Jessen, Chad M. Kallhoff, Loras G. Knebel, Rodney D. Lemburg, Dexter L. Myhre, James H. Oppliger, Stephanie D. Randels, Duane L. Riendeau, Darrell Rohlfs, Marvin L. Swillie, Larry Waldner, and Ronald Watt from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with revised 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FHWA. The exemption will be revoked if (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FHWA for a renewal under procedures in effect at that time.

Authority: 49 U.S.C. 31315 and 31136; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: March 29, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 99–8196 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Tampa Bay Regional Rail System in Tampa, Florida

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) and the Hillsborough Area Regional Transit Authority intend to prepare an Environmental Impact Statement (EIS) for the Tampa Bay Regional Rail project in the City of Tampa and Hillsborough County, Florida. The EIS is being prepared in conformance with the National Environmental Policy Act (NEPA), and will also address the requirements of other federal and state environmental laws. The FTA will be the lead federal agency. The EIS will address the social, economic, and environmental effects of selected transportation improvements identified in the ''Early Action Plan'' identified as a result of the Alternatives for Mobility Enhancement Major Investment Study (MIS) which was completed in April of 1998. HART will perform this effort in coordination with the following consulting agencies: the Florida Department of Transportation (FDOT), the Hillsborough County Metropolitan Planning Organization (MPO), Hillsborough County, and the City of Tampa.

The EIS will evaluate selected transportation improvements in the corridors between the central business district in Tampa and three destinations: the University of South Florida to the north, Westshore/Hillsborough Community College to the west, and Port Tampa to the south. The EIS will evaluate the following transportation alternatives: a No Build Alternative, a Transportation System Management (TSM) Alternative, and Rail Transit Alternatives using Diesel Multiple Units. The No Build Alternative will consist of improvements that are existing or committed (i.e., funded). The TSM Alternative will consist of bus improvements and other transportation system management approaches. The Rail Transit Alternative Diesel Multiple Units are self-propelled rail transit cars that do not require electrification of the right-of-way, but can operate on tracks in streets or adjacent to freight rail tracks. In addition, reasonable alternatives suggested during the scoping process will be considered.

Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state and local agencies, as well as through public meetings. See **SUPPLEMENTARY INFORMATION** below for details.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to HART by May 21, 1999. See **ADDRESSES** below. Three Public Scoping Meetings and one Agency Scoping Meeting will be held on the following dates and times: Agency Scoping—April 13, 1999 at 9:00 to 11:00 a.m.; Public Scoping Meetings—April 13, 19, and 20, 1999 at 4:00 to 7:00 p.m. See **ADDRESSES** below.

ADDRESSES: Written comments should be sent to Mr. Steve Carroll, Project Manager, Hillsborough Area Regional

Transit Authority, 201 East Kennedy Boulevard, Suite 1600, Tampa, Florida, 33602. Phone: (813) 223–6831. The scoping meetings will be held at the following locations:

1. April 13, 1999—9:00 a.m. to 11:00 a.m. County Center, 601 E. Kennedy Boulevard 26th Floor, Room A, Downtown Tampa, Florida (located between Kennedy Blvd. and Jackson St., and Morgan St. and Pierce St.)

2. April 13, 1999—4:00 p.m. to 7:00 p.m. Marshall Center at the University of South Florida, 4202 E. Fowler Avenue, USF Campus, Tampa, Florida (located on Fowler Ave. between 30th St. and 56th St.)

3. April 19, 1999—4:00 p.m. to 7:00 p.m. TECO Hall in TECO Plaza, 702 N. Franklin Street, Downtown Tampa, Florida (located between Polk St. and Zack St., and Franklin St. and Tampa St.)

4. April 20, 1999—4:00 p.m. to 7:00 p.m. Port Tampa Library, 4902 Commerce Street, Port Tampa City, Florida (located just south of the apex at Interbay and Westshore Blvd. on Commerce St.)

Directions to meeting sites and information about special accommodation (Spanish translation, signing for hearing impaired, wheelchair access, etc.) is available from Vasti Amaro at HART at 201 East Kennedy Boulevard, Suite 1600, Tampa, Florida 33602, or (813) 254–4278.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Martin, Community Planner, Federal Transit Administration Region 4. Phone (404) 562–3500.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and HART invite interested individuals, organizations, and businesses and federal, state and local agencies to participate in defining the alternatives to be evaluated and identifying any significant social, economic, or environmental issues related to the alternatives. Comments on the appropriateness of the alternatives and impact issues are encouraged. Specific suggestions on additional alternatives to be examined and issues to be addressed are welcomed and will be considered in the development of the final study scope. Comments may be made orally at the meetings or in writing prior to May 21, 1999.

HART staff will be present at the scoping meetings to describe the corridor alternatives, answer any questions, and receive comments. Additional opportunities for public participation will be provided throughout the EIS preparation to review findings and results and to solicit comments. Interested persons will be notified of project progress through ongoing community information distributed to the project mailing list that will include all scoping participants.

Additional background information on the need for the project, the EIS process, alternatives, and impact issues to be addressed by the EIS is contained in a document entitled ''Project Scoping.'' Copies of the document have been distributed to affected federal, state and local agencies, and interested parties currently on the project mailing list. Others may request the document from HART. See **ADDRESSES** above.

II. Description of Study Area and Project Need

The study area is located in the City of Tampa and Hillsborough County. It extends approximately 28.5 miles between Downtown Tampa and the University of South Florida (USF) to the north, Hillsborough Area Community College to the west (Westshore), and Port Tampa to the south. Between USF and Port Tampa, approximately 18.5 miles of Diesel Multiple Unit rail transit facilities would generally follow the existing CSX Railroad tracks, which currently have active freight service. Between Downtown and Westshore/Hillsborough Community College, approximately 10 miles of Diesel Multiple Unit rail transit facilities would generally follow the I–275 corridor. The area is currently served by HART bus service, and there is no existing rail rapid transit or commuter service in the study area.

The study area includes and connects the three largest employment/activity centers in the Tampa Bay area: USF, Westshore, and Downtown. Residential areas in between and adjacent to these destinations would also be served. Availability of right-of-way in the study area is constrained, and substantial increases in travel demand will exceed existing and planned capacity of the roadway system. The adopted cost affordable Long Range Transportation Plan for the region calls for a combination of modal improvements, including widening of existing roadways, improvements to the bus system, pedestrian and bicycle facilities enhancement, application of technology to manage demand and improve system efficiencies, and introduction of Diesel Multiple Unit rail transit service.

In response to the study area needs, HART and the Hillsborough County MPO conducted a Major Investment Study in the study area. The results of the Major Investment Study, which was completed in April 1998, concluded with the selection of a Locally Preferred Strategy including Diesel Multiple Unit rapid rail service between Downtown, USF, Hillsborough Community College/Westshore and Port Tampa, and substantial improvements to bus service. The transit improvements are intended to increase the capacity of the transportation network, improve accessibility and mobility, diversify transportation choices, and help achieve regional air quality goals by providing alternatives to the single-occupant vehicle and the opportunity to reduce vehicle miles traveled.

Alternatives

The transportation alternatives proposed for consideration in this project area include:

(1) No-Build Alternative, which involves no change to transportation services or facilities in the Corridor beyond already committed projects;

(2) A Transportation System Management Alternative which focuses on operational and low to medium cost capital improvements to bus transit routes and services in the project area; and

(3) Diesel Multiple Unit rail rapid transit alternatives ranging from approximately 18.5 to approximately 28.5 miles of rail generally located parallel to existing CSX railroad corridors from USF through Downtown Tampa to Port Tampa, and the I–275 Corridor through Westshore. Stations would be located to serve potential significant trip generators and in areas where economic development efforts are planned or underway. The locations of stations and resulting impacts will be an important area of consideration during the study.

Potential Impacts for Analysis

The FTA and HART intend to evaluate significant social, environmental, and economic impacts of the alternatives analyzed in the EIS. Primary factors to be addressed include: land use, economic development, traffic and parking, coordination with ongoing transportation projects, grade crossing safety, noise and vibration, community impacts, environmental justice, historic/archaeological sites, water quality, air quality, contaminated materials and capital and operating costs. Impacts on other factors including aesthetics, parklands, ecosystems, threatened and endangered species, and energy will also be assessed. Other potential impact issues may be added as a result of scoping and agency coordination efforts. Mitigation measures will be identified for significant environmental impacts.

The subjects and level of detail addressed in the EIS will be consistent with the requirements of the joint FTA/FHWA environmental regulations (23 CFR 771 and 40 CFR 1500–1508) and other related regulations. The proposed impact assessment and evaluation will take into account both positive and negative effects, direct and indirect impacts, short-term (construction) and long-term impacts, and cumulative effects.

FTA Procedures

In accordance with federal transportation planning regulations and environmental procedures (40 CFR Part 1500–1508 and 23 CFR Part 771), the EIS will be prepared to consider reasonable alternatives, assess the potential impacts associated with reasonable alternatives, and provide the public with the opportunity to comment. The EIS will be prepared to address the components of the Locally Preferred Strategy identified in the 1998 Major Investment Study in the corridor between downtown Tampa and the University of South Florida, Hillsborough Community College, and Port Tampa. The Draft EIS will be circulated to solicit public and agency comments on the proposed action. Based on the comments received on the Draft EIS, HART will prepare the Final EIS. Opportunity for public comment will be provided throughout project development process.

Issued On: March 30, 1999.

Susan E. Schruth,

Regional Administrator.

[FR Doc. 99–8197 Filed 4–2–99; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the S&L Holding Company Registration Statement.

DATES: Submit written comments on or before June 4, 1999.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0020. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755; or they may be sent by e-mail to public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments over 25 pages in length should be sent to FAX number (202) 906–6956. Comments are available for inspection at 1700 G St. N.W., from 9:00 a.m. until 4:00 p.m. on business days.

Interested persons may also inspect copies of the Form with instructions at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days or from PubliFax, OTS' Fax-on-Demand system, at (202) 906–5660.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: S&L Holding Company Registration Statement.

OMB Number: 1550–0020.

Form Number: H–(e)____.

Abstract: This information is necessary to determine whether a company meets the statutory standards to become a savings and loan holding company.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Extension.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 135.

Estimated Time Per Respondent: 8 hours.

Estimated Total Annual Burden Hours: 1,080 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: March 29, 1999.

Celia Winter,

Director, Information Management and Services.

[FR Doc. 99–8323 Filed 4–2–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the S&L Holding Company Applications.

DATES: Submit written comments on or before June 4, 1999.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0015. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or they may be sent by e-mail to public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments over 25 pages in length should be sent to FAX number (202) 906–6956. Comments are available for inspection at 1700 G Street, N.W., from 9:00 a.m. until 4:00 p.m. on business days.

Interested persons may also inspect copies of the Form with instructions at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days or from PubliFax, OTS' Fax-on-Demand system, at (202) 906–5660.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Supervision, Office of Thrift Supervision, 1700 G Street,

NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: S&L Holding Company Applications

OMB Number: 1550–0015

Form Number: H–(b)10

Abstract: This information is collected to determine if a savings and loan holding company has adhered to the statutes, regulations, and condition of approval to acquire an insured institution and whether any of the holding company's activities would be injurious to the operation of the subsidiary savings institution.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Extension.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 154.

Estimated Time Per Respondent: 500 hours.

Estimated Total Annual Burden Hours: 77,000 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: March 29, 1999.

Celia Winter,

Director, Information Management and Services.

[FR Doc. 99–8324 Filed 4–2–99; 8:45 am]

BILLING CODE 6720–01–P

UNITED STATES INFORMATION AGENCY

Proposed Collection; Comment Request

AGENCY: United States Information Agency.

ACTION: Proposed Collection; Comment Request.

SUMMARY: The United States Information Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on an information collection requirement concerning the public use form entitled ''Application for Certificate of International Educational Character.'' This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A).

Comments are requested on the proposed information collection concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Send comments regarding this burden estimates or any other aspect of this collection of information to the United States Information Agency, M/AOL, 301 Fourth Street, SW, Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503.

DATES: Comments are due on or before June 4, 1999.

COPIES: Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that will be submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/AOL, 301 Fourth Street, SW, Washington, DC 20547; telephone (202) 619–4408, internet address: JGiovett@USIA. GOV; and OMB review: Mr. Jeff Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503, Telephone (202) 395–3176.

SUPPLEMENTARY INFORMATION: The information collection activity involved with this program is conducted pursuant to the mandate give to the United States Information Agency under the terms and conditions of the multilateral ''Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character,'' Public Law 89–634, and the ''World-Wide Free Flow Export-Import Of Audio-Visual Materials,'' 22 CFR—Part 502.

Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0007) is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the date needed, and completing reviewing the collection of information. Responses are required to retain benefits and respondents are required to respond on an as needed basis

Current Actions USIA is requesting OMB renewal of this currently approved information collection for a period of three years.

Title Application for Certificate of International Educational Character.

Form Number IAP—17.

Abstract This information collection is used to certify the international character of visual and auditory materials (motion pictures, videotapes, recordings, sound recordings, filmstrips, slides, maps, charts posters, models, etc.) for producers and distributors who have an interest in exporting their materials abroad in accordance with the provisions of Pub. L. 89–634 and 22 CFR part 502.

Proposed Frequency of Responses

No. of Respondents—400.

Recordkeeping Hours—.45

Total Annual Burden—)259.

Dated: March 29, 1999.

Rose Royal,

Federal Register Liaison.

[FR Doc. 99–8277 Filed 4–2–99; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0009]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the

proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed for vocational rehabilitation training, vocational education, and vocational planning.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 4, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0009'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Disabled Veterans Application for Vocational Rehabilitation, VA Form 28–1900.

OMB Control Number: 2900–0009.

Type of Review: Revision of a currently approved collection.

Abstract: Veterans with compensable service-connected disabilities use this form to apply for vocational rehabilitation under 38 U.S.C. chapter 31. The application obtains information used to determine basic entitlement, schedule an evaluation, determine final eligibility for the benefit.

Affected Public: Individuals or households.

Estimated Annual Burden: 13,625 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 54,500.

Dated: March 3, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–8187 Filed 4–2–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0253]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information that VA considers crucial to the evaluation of an underwriter's experience.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 4, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0253'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Nonsupervised Lender's Nomination and Recommendation of Credit Underwriter, VA Form 26–8736a.

OMB Control Number: 2900–0253.

Type of Review: Extension of a currently approved collection.

Abstract: The standards established by VA require that a lender have a qualified underwriter review all loans to be closed on an automatic basis to determine that the loan meets VA's credit underwriting standards. To determine if the lender's nominee is qualified to make such a determination, VA has developed VA Form 26–8736a that contains information that VA considers crucial to the evaluation of an underwriter's experience. The form is completed by the lender and the lender's nominee for underwriting and then submitted to VA for approval.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 1,000 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 3,000.

Dated: February 18, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–8188 Filed 4–2–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0270]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before May 5, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0270.''

SUPPLEMENTARY INFORMATION:

Title: Financial Counseling Statement, VA Form 26–8844.

OMB Control Number: 2900–0270.

Type of Review: Extension of a currently approved collection.

Abstract: The form is part of VA's supplemental servicing program for helping veteran-borrowers who are seriously delinquent on guaranteed or insured VA home loans. In VA's supplemental servicing effort, financial counseling is performed in appropriate cases to afford veteran-borrowers the maximum assistance possible to retain their homes during periods of temporary financial difficulty. The information collected is used by VA to make recommendations to the borrower in an effort to help the borrower cure the default status of the loan.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 24, 1998 at page 51120.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,750 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 5,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0029'' in any correspondence.

Dated: March 2, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–8189 Filed 4–2–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0463]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before May 5, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 8l0 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0463.''

SUPPLEMENTARY INFORMATION:

Title: Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances, VA Form 21–8951.

OMB Control Number: 2900–0463.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: This form is used by Reserve and National Guard personnel to waive either VA benefits or military pay and allowances. The law prohibits simultaneous payment of VA compensation or pension and military pay and allowances.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 71194.

Affected Public: Individuals or Households.

Estimated Annual Burden: 4833 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 29,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0463'' in any correspondence.

Dated: March 2, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–8190 Filed 4–2–99; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 64, No. 64

Monday, April 5, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 90

[FRL–6308–6]

RIN 2060–AE29

Phase 2 Emission Standards for New Nonroad Spark-Ignition Nonhandheld Engines at or Below 19 Kilowatts

Correction

In rule document 99–6175 beginning on page 15208 in the issue of Tuesday, March 30, 1999, make the following correction:

§90.207 Credit calculation and manufacturer compliance with emission standards.

On page 15241, in the third column,in §90.207 (a) under ''Load Factor'', the formula should read:

$$\sum_{i=1}^{n}(\%\text{MTT mode}_i)\times(\%\text{MTS mode}_i)\times(\text{WF mode}_i)$$

[FR Doc. 99–6175 Filed 4–2–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Monday
April 5, 1999

Part II

Department of Education

National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Years 1999–2000 for Certain Centers; Inviting Applications for a New Rehabilitation Research and Training Center and New Rehabilitation Engineering Research Centers for Fiscal Year 1999; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Notice of Final Funding Priorities for Fiscal Years 1999–2000 for Certain Centers

SUMMARY: The Secretary announces funding priorities for one Rehabilitation Research and Training Center (RRTC) and two Rehabilitation Engineering Research Centers (RERCs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1999–2000. 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 May 5, 1999.

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 one RRTC related to rehabilitation of persons with traumatic brain injury (TBI) and two RERCs related to universal design and the built environment, and telecommunications access. The final priorities refer to NIDRR's proposed Long-Range Plan (LRP). The LRP can be accessed on the World Wide Web at: http://www.ed.gov/legislation/FedRegister/announcements/1998–4/102698a.html

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. 762(g) and 764).

Note: This notice of final priorities does not solicit applications. A notice inviting applications is published elsewhere in this issue of the **Federal Register**.

Analysis of Comments and Changes

On January 15, 1999 the Secretary published a notice of proposed priorities in the **Federal Register** (64 FR 2730). The Department of Education received 13 letters commenting on the notice of proposed priority 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.

Rehabilitation Research and Training Centers

Priority 1: Rehabilitation of Persons with Traumatic Brain Injury.

Comment: Two commenters suggested that the RRTC should focus exclusively on persons with mild TBI. Three additional commenters suggested that the RRTC emphasize issues related to persons with mild TBI.

Discussion: NIDRR agrees that the RRTC should be required to carry out additional research on the rehabilitation of persons with mild TBI. However, NIDRR declines to require the RRTC to focus exclusively on persons with mild TBI because it is important for the RRTC to have the additional discretion to pursue promising research related to persons with moderate and severe TBI.

Changes: The second required activity has been revised to include an emphasis on persons with mild TBI, and the fourth required activity has been revised to include persons with mild TBI.

Comment: The RRTC should address postacute rehabilitation and support trials of specific interventions at the inpatient stage of rehabilitation.

Discussion: The priority is silent on the issue of the rehabilitation setting. Applicants have the discretion to propose to address the rehabilitation setting or settings. The peer review process will evaluate the merits of the proposals.

Changes: None.

Comment: Because universal design can have a significant impact on the functioning of persons with TBI, the ''Introduction'' should include the discussion in NIDRR's proposed LRP Plan on the interaction between individuals and the environment.

Discussion: There are numerous references to NIDRR's proposed LRP in NIDRR's FY 1999 priorities. For the sake of consistency and brevity, and in light of the fact that the LRP is easily accessible through the Internet, NIDRR prefers to include only references to the LRP in the priorities.

Changes: None.

Comment: The third required activity to develop and evaluate innovative interventions to assist families should be revised to include the requirement to utilize the physical and informational environments as a resource to enhance functional and social abilities.

Discussion: An applicant could propose to fulfill the requirements of the third activity by utilizing the physical and informational environments as a resource to enhance functional and social abilities. The peer review process will evaluate the merits of the proposal. NIDRR has no basis to determine that all applicants should be required to utilize the physical and informational environments as a resource to enhance functional and social abilities.

Changes: None.

Comment: The RRTC should be required to coordinate with the proposed RERCs on Universal Design and the Built Environment and Telecommunications Access.

Discussion: The RRTC is required to coordinate with entities carrying out related research or training activities including NIDRR's grantees on TBI. An applicant could propose to coordinate with the RERCs on Universal Design and the Built Environment and Telecommunications Access. NIDRR has no basis to determine that all applicants should be required to coordinate with the RERCs on Universal Design and the Built Environment and Telecommunications Access.

Changes: None.

Comment: The ''Introduction'' and the second required activity indicate that the RRTC will address all age groups. One commenter indicated that the target population of the RRTC is overly broad, and the four required research activities of the RRTC should focus exclusively on children and adolescents. A second commenter suggested that the priority should support separate geriatric and pediatric studies.

Discussion: NIDRR agrees that requiring the RRTC to address all age groups is too broad a task. However, NIDRR believes that requiring the RRTC to focus exclusively on children and adolescents may result in the RRTC neglecting equally important adult issues that are not being addressed by other research initiatives. NIDRR prefers to provide applicants with the discretion to propose the age groups that the RRTC will address. If an applicant proposes to emphasize issues related to children and adolescents, the peer review process will evaluate the merits of this proposal.

In regard to the comment on geriatric and pediatric studies, NIDRR prefers to provide applicants with the discretion to propose whether studies involving different age groups are conducted separately or jointly. The peer review process will evaluate the merits of the proposal. NIDRR has no basis to

determine that all applicants should propose to carry out the studies separately.

Changes: The ''Introduction'' and the second required activity have been revised to eliminate the requirement that the RRTC address all age groups. Applicants have the discretion to propose the age groups that the RRTC will address.

Comment: Several projects of the Centers for Disease Control (CDC) address the epidemiology and needs of persons with mild TBI. The priority should be revised to eliminate the epidemiological studies in order to avoid duplication.

Discussion: After consulting with officials from the CDC, NIDRR agrees that the requirement to carry out epidemiological studies would duplicate CDC research.

Changes: The requirement to carry out epidemiological studies has been eliminated.

Rehabilitation Engineering Research Centers

Priority 2: Universal Design and the Built Environment

Comment: Is the objective of the second required activity to develop an anthropometric database to be used to develop new universal designs for toilet and bathing facilities, or to develop an anthropometric database and conduct research related to accessing toilet and bathing facilities?

Discussion: The purpose of the second required activity is to develop an anthropometric database on the specific issue of access and use of toileting and bathing facilities, and in the process to develop a prototype anthropometric database that can be used as a model for future databases.

Changes: None.

Comment: Two commenters suggested that the target population for the fourth required activity should be broadened to include persons with disabilities.

Discussion: NIDRR agrees the RERC should serve as a national information resource for persons with disabilities.

Changes: Persons with disabilities has been added to the target population of the fourth required activity.

Comment: Two commenters expressed concern that the priority is too narrowly focused on physical access and does not address the needs of individuals with sensory disabilities. One of the commenters indicated that the RERC should expressly integrate acoustic and visually-based accommodations into its universal design efforts.

Discussion: NIDRR expects the RERC to address the principles of universal design as they apply to all persons with disabilities, including those with sensory disabilities. The priority does not indicate that the RERC is focused exclusively on physical access. NIDRR prefers to provide applicants with the discretion to propose the extent to which the RERC will address the needs of persons with sensory disabilities. The peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: Does the RERC have to develop all the technological solutions it evaluates under the first required activity, or can the RERC evaluate solutions that industry has already developed?

Discussion: As long as the RERC engages in certain activities that include both development and evaluation, applicants have the discretion to propose to carry out additional evaluation activities.

Changes: None.

Comment: Please clarify whether the prototype anthropometric database should include persons with cognitive disabilities.

Discussion: The only requirement that is placed on the target population for the prototype anthropometric database is that it must include persons who use manual or powered wheelchairs. In addition to manual or powered wheelchair users, an applicant could propose to include persons with cognitive disabilities in the database. The peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: The RERC should be required to coordinate on activities of mutual interest with the RRTCs on TBI and other RRTCs dealing with cognitive disabilities to ensure more utilization of universal design in the built environment for these individuals.

Discussion: There is a general requirement for the RERC to coordinate with other entities carrying out related research or training activities. An applicant could propose to coordinate with the RRTCs on Traumatic Brain Injury and other Centers dealing with cognitive disabilities. The peer review process will evaluate the merits of the proposal. NIDRR has no basis to determine that all applicants must coordinate with the RRTCs on Traumatic Brain Injury and other Centers dealing with cognitive disabilities.

Changes: None.

Priority 3: Telecommunications Access

Comment: The RERC should be required to address visual display access.

Discussion: NIDRR's RERC on Hearing Enhancement is currently conducting research and development in this area. However, an applicant could propose to address visual display access. The peer review process will evaluate the merits of the proposal. NIDRR has no basis to determine that all applicants should be required to propose research on visual display access.

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. 764(b)(2)). 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.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only applications that meet this absolute priority.

Priority 1: Rehabilitation of Persons With Traumatic Brain Injury (TBI)

Introduction

Chapter Four of NIDRR's proposed Long-Range Plan (63 FR 57204) addresses research on trauma rehabilitation, including brain injury. A 1998 draft National Institute of Health's Consensus Development Conference Statement on Rehabilitation of Persons with TBI identifies emotional, cognitive, behavioral, and physical symptoms of TBI that affect the individuals with TBI, family, friends, community, and society. The report raises important research issues related to children, the elderly, and persons who experience mild TBI symptoms.

This RRTC will emphasize, but not be limited to, the rehabilitation needs of persons with mild TBI. For the purpose of this priority, mild TBI is defined using the definition developed in 1991 by the Mild TBI Committee of the Head Injury Interdisciplinary Special Interest Group of the American Congress of Rehabilitation Medicine definition (see Esselman, P. and Uomoto, J., ''Classification of the Spectrum of Mild Traumatic Brain Injury,'' *Brain Injury*, Vol. 9, No. 4, pgs. 417–424, 1995).

NIDRR has a long history of support for research on TBI that has focused primarily on adults with moderate and severe injuries. This RRTC may address the needs of all, or selected, age groups including children and the elderly.

Priority

The Secretary will establish an RRTC for the purpose of developing interventions to improve the functional abilities and promote the independence of persons with TBI. The RRTC must:

(1) Develop and evaluate methodologies to assess the long term consequences of mild TBI and identify interventions for rehabilitation;

(2) Develop and evaluate innovative methods of diagnosis and treatment of the medical, psychological, and neurobehavioral sequelae of TBI with an emphasis on persons with mild TBI;

(3) Develop and evaluate innovative interventions to assist families;

(4) Develop and test prognostic indicators of rehabilitation outcomes including early predictors of functional outcomes for persons with TBI including those with mild TBI;

(5) Provide training on research methodology and applied research experience, and training on knowledge gained from the Center's research activities to persons with disabilities and their families, service providers, and other appropriate parties;

(6) 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;

(7) Involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, training, and dissemination activities, and in evaluating the Center;

(8) 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; and

(9) Coordinate with other entities carrying out related research or training activities including NIDRR's grantees on TBI.

Description of Rehabilitation Engineering Research Centers

RERCs carry out research or demonstration activities by:

(a) Developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to (1) solve rehabilitation problems and remove environmental barriers, and (2) study new or emerging technologies, products, or environments;

(b) Demonstrating and disseminating (1) innovative models for the delivery of cost-effective rehabilitation technology services to rural and urban areas, and (2) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or

(c) Facilitating service delivery systems change through (1) the development, evaluation, and dissemination of consumer-responsive and individual and family-centered innovative models for the delivery to both rural and urban areas of innovative cost-effective rehabilitation technology services, and (2) other scientific research to assist in meeting the employment and independent needs of individuals with severe disabilities.

Each RERC must provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations.

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 RERC, 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 RERC Requirements

The following requirements apply to these RERCs pursuant to these absolute priorities unless noted otherwise. An applicant's proposal to fulfill these requirements will be assessed using

applicable selection criteria in the peer review process.

The RERC must have the capability to design, build, and test prototype devices and assist in the transfer of successful solutions to relevant production and service delivery settings. The RERC must evaluate the efficacy and safety of its new products, instrumentation, or assistive devices.

The RERC must disseminate research results and other knowledge gained from the Center's research and development activities to persons with disabilities, their representatives, disability organizations, businesses, manufacturers, professional journals, service providers, and other interested parties.

The RERC must develop and carry out utilization activities to successfully transfer all new and improved technologies developed by the RERC to the marketplace.

The RERC must involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, development, training, and dissemination activities, and in evaluating the Center.

The RERC 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.

The RERC must coordinate with other entities carrying out related research or training activities.

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.

Priority 2: Universal Design and the Built Environment Introduction

Chapter 5 of NIDRR's proposed Long-Range Plan (63 FR 57207) discusses the importance of improving access to the built environment through universal design. Universal design is a process whereby environments and products are designed with built-in flexibility so they are usable by all people, regardless of age and ability, at no additional cost to the user. For the purpose of this priority, the built environment includes public and private buildings, houses, landscapes, and tools and objects of daily use (e.g., door openers, environmental control systems, and appliances).

In order to create environments that are universal in nature, it is necessary to have a database of physical measurements of the human body (i.e., anthropometric data) that includes persons with disabilities. There is a need for more anthropometric data on persons with disabilities. A 1996 report from the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) concluded that research was needed regarding how people with disabilities access toilet and bathing facilities. NIDRR expects this RERC to develop a prototype anthropometric database that can be used to create universally designed toileting facilities and adapted for the development of other anthropometric databases for persons with disabilities.

Priority

The Secretary will establish an RERC on universal design and the built environment to advance the field of universal design and improve the accessibility of the built environment. The RERC must:

(1) Develop and evaluate universally designed plans and products for the built environment;

(2) Develop a prototype anthropometric database, both static and dynamic, of persons with disabilities, including those who use manual or powered wheelchairs, to access and use toilet and bathing facilities;

(3) Identify, develop and evaluate strategies for promoting adoption of universal design in the building and product manufacturing industries, and design and architecture curricula; and

(4) Serve as a national information resource on universal design standards, plans, building products, funding sources, and performance evaluations for persons with disabilities, designers, builders and manufacturers.

In carrying out these purposes, the RERC must coordinate on activities of mutual interest with the RERCs on Telecommunications Access and Information Technologies Access, and the Access Board.

Priority 3: Telecommunications Access

Introduction

Chapter 5 of NIDRR's proposed Long-Range Plan (63 FR 57207) discusses the importance of telecommunications accessibility and the need for continued research and development. For the purpose of this priority, telecommunications systems and products include, but are not limited to, wireless communication technologies, networks, multimedia conferencing systems, and software supporting these technologies, products, and systems.

The RERC on Telecommunications Access faces the challenge of promoting access to a highly dynamic field. In order to keep pace with developments in the field, NIDRR expects this RERC to undertake its research and development activities in close collaboration with private industry as well as with public entities that regulate the telecommunications industry. NIDRR expects this RERC to contribute to improving the employment status of persons with disabilities by providing employers with technical assistance and by providing persons with disabilities with information to make them better consumers.

Priority

The Secretary will establish an RERC on telecommunications access for the purpose of developing technological solutions and promoting access for persons with disabilities to current and emerging telecommunications systems and products. The RERC must:

(1) Develop and evaluate in collaboration with industry technological solutions to promote accessibility and universal design at the outset of the development of telecommunications systems and products;

(2) Develop and disseminate strategies for integrating current accessibility features into newer generations of telecommunications systems and products;

(3) Provide technical assistance to public and private organizations responsible for developing policies, guidelines, and standards that affect the accessibility of telecommunications technology products and systems, including the Access Board and the Federal Communications Commission; and

(4) Provide technical assistance and guidance to individuals with disabilities and employers on accessibility issues affecting current telecommunications systems and products.

In carrying out these purposes, the RERC must coordinate on activities of mutual interest with the RERCs on Information Technology Access, Telerehabilitation, Hearing Enhancement, Blindness and Low Vision, and Universal Design and the Built Environment.

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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.

(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Centers and 84.133E, Rehabilitation Engineering Research Centers)

Program Authority: 29 U.S.C. 760–762.

Dated: March 29, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

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DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.133B and 84.133E]

National Institute on Disability and Rehabilitation Research, Notice Inviting Applications for a New Rehabilitation Research and Training Center and New Rehabilitation Engineering Research Centers for Fiscal Year 1999

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.

These programs support 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 and *Rehabilitation Engineering Research Centers* in Subpart D.

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 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.

APPLICATION NOTICE FOR FISCAL YEAR 1999 REHABILITATION RESEARCH AND TRAINING CENTERS CFDA NO.84–133B–10

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)*	Project period (months)
Rehabilitation for Persons with Traumatic Brain Injury	6/03/99	1	$650,000	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 an RRTC on Rehabilitation for Persons with Traumatic Brain Injury under the RRTC program. (See section 350.54)

(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).

(h) *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).

(i) *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).

(j) *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).

(k) *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).

(l) *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).

Program Title: Rehabilitation Engineering Research Centers (RERCs).

CFDA Number: 84.133E.

Purpose of Program: RERCs conduct research, demonstration, and training activities regarding rehabilitation technology—including rehabilitation engineering, assistive technology devices, and assistive technology services, in order to enhance the opportunities to better meet the needs of, and address the barriers confronted by, individuals with disabilities in all aspects of their lives.

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.

APPLICATION NOTICE FOR FISCAL YEAR 1999, REHABILITATION ENGINEERING RESEARCH CENTERS, CFDA NO. 84–133E

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)*	Project period (months)
84.133E–1 Universal Design and the Built Environment	6/03/99	1	$675,000	60
84.133E–7 Telecommunications Access	6/03/99	1	675,000	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)).

RERC Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for RERCs on Universal Design and the Built Environment, and Telecommunications Access under the RERC program. (See section 350.54)

(a) *Importance of the problem* (8 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 rehabilitation service providers (2 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 an application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the application's responsiveness 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* (20 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 (3 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 (3 points);

(B) Each research hypothesis is theoretically sound and based on current knowledge (3 points);

(C) Each sample population is appropriate and of sufficient size (3 points);

(D) The data collection and measurement techniques are appropriate and likely to be effective (3 points); and

(E) The data analysis methods are appropriate (3 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 (2 points).

(d) *Design of development activities* (20 points total).

(1) The Secretary considers the extent to which the design of development activities is likely to be effective in accomplishing the objectives of the project.

(2)(i) 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:

(ii) The extent to which the plan for development, clinical testing, and evaluation of new devices and technology is likely to yield significant products or techniques, including consideration of the extent to which—

(A) The proposed project will use the most effective and appropriate technology available in developing the new device or technique (3 points);

(B) The proposed development is based on a sound conceptual model that demonstrates an awareness of the state-of-the-art in technology (4 points);

(C) The new device or technique will be developed and tested in an appropriate environment (3 points);

(D) The new device or technique is likely to be cost-effective and useful (3 points);

(E) The new device or technique has the potential for commercial or private manufacture, marketing, and distribution of the product (4 points); and

(F) The proposed development efforts include adequate quality controls and, as appropriate, repeated testing of products (3 points).

(e) *Design of training activities* (4 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 factor: The extent to which the type, extent, and quality of the proposed clinical and laboratory research experience, including the opportunity to participate in advanced-level research, are likely to develop highly qualified researchers (4 points).

(f) *Design of dissemination activities* (7 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 (2 points); and

(B) If appropriate, is based on new knowledge derived from research activities of the project (2 points).

(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 information to be disseminated will be accessible to individuals with disabilities (1 point).

(g) *Design of utilization activities* (2 points total).

(1) The Secretary considers the extent to which the design of utilization 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 factor: The extent to which the potential new users of the information or technology have a practical use for the information and are likely to adopt the practices or use the information or technology, including new devices (2 points).

(h) *Design of technical assistance activities* (2 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 factor: The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (2 points).

(i) *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).

(j) *Collaboration* (4 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 agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (2 points).

(ii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities (2 points).

(k) *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).

(l) *Plan of evaluation* (9 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: 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—

(i) Are clearly related to the intended outcomes of the project and expected impacts on the target population (5 points); and

(ii) Are objective, and quantifiable or qualitative, as appropriate (4 points).

(m) *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).

(n) *Adequacy and accessibility of resources* (4 points total).

(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 (2 points).

(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 (1 point).

(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 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)).

The Secretary strongly recommends the following:

(a) A one-page abstract;

(b) An Application Narrative (i.e., Part III that addresses the selection criteria that will be used by reviewers in evaluating individual proposals) of no more than 125 pages double-spaced (no more than 3 lines per vertical inch) 8½ × 11'' pages (on one side only) with one inch margins (top, bottom, and sides). The application narrative page limit recommendation 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; and

(c) A font no smaller than a 12-point font and an average character density no greater than 14 characters per inch.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant must—

(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, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, DC 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, SW., Washington, DC.

(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.)

Certification of Eligibility for Federal Assistance in Certain Programs (ED Form 80–0016).

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure 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, Department of Education, 400 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, 400 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) 205–9136. 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.

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: March 30, 1999.

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 rate of 15%.

An applicant for an RERC is limited to the organization's approved indirect cost rate. If the organization does not have an approved indirect cost rate, the application should include an estimated actual rate.

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–U

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
   Legal Name: _____
   Address: _____
   _____
   City _____ State _____ County _____ ZIP Code + 4 _____ - _____

   Organizational Unit

2. Applicant's D-U-N-S Number [ ][ ][ ][ ][ ][ ][ ][ ][ ]

3. Catalog of Federal Domestic Assistance #: 8 4 [ ][ ][ ][ ] ➡ Title: _____

4. Project Director: _____
   Address: _____
   City _____ State _____ ZIP Code + 4 _____ - _____
   Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____
   E-Mail Address: _____

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
   (If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)* ☐

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*: _____

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?
   ☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____
   ☐ No *(If "No," check appropriate box below.)*
   ☐ Program is not covered by E.O. 12372.
   ☐ Program has not been selected by State for review.

10. Proposed Project Dates: **Start Date:** ___/___/_____ **End Date:** ___/___/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
    a. If "Yes," Exemption(s) #: [ ] ***OR*** b. Assurance of Compliance #: [ ]
    c. IRB approval date: _____ { ☐ Full IRB **or** ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application 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. Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____

d. E-Mail Address:

e. **Signature of Authorized Representative** Date: ___/___/_____

REV. 1/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number 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: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). 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. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are not planned at any time during the proposed project period, check **"No." The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If all the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If some or all of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** 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.

13. **Estimated Funding.** 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 only 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 13.

14. **Certification.** 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.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 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 for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

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 cost) 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 19 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 Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination 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, as applicable, 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. §§1721 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 Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

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

Standard Form 424B (Rev. 7-97) Back

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 per response, including the time 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 DC 20503.

INSTRUCTIONS FOR ED FORM 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.

BILLING CODE 4000–01–C

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 Centers (CFDA No. 84.133B) 34 CFR Part 350.

Rehabilitation Engineering Research Center (CFDA No. 84.133E) 34 CFR Part 350.

BILLING CODE 4000–01–U

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, 400 Maryland 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, 400 Maryland 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.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	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)

Certification of Eligibility for Federal Assistance in Certain Programs

I understand that 34 CFR 75.60, 75.61, and 75.62 require that I make specific certifications of eligibility to the U.S. Department of Education as a condition of applying for Federal funds in certain programs and that these requirements are in addition to any other eligibility requirements that the U.S. Department of Education imposes under program regulations. Under 34 CFR 75.60 – 75.62:

I. I certify that

A. I do not owe a debt, or I am current in repaying a debt, or I am not in default (as that term is used at 34 CFR Part 668) on a debt:

1. To the Federal Government under a nonprocurement transaction (e.g., a previous loan, scholarship, grant, or cooperative agreement); or

2. For a fellowship, scholarship, stipend, discretionary grant, or loan in any program of the U.S. Department of Education that is subject to 34 CFR 75.60, 75.61, and 75.62, including:

- Federal Pell Grant Program (20 U.S.C. 1070a, et seq.);
- Federal Supplemental Educational Opportunity Grant (SEOG) Program (20 U.S.C. 1070(b), et seq.):
- State Student Incentive Grant Program (SSIG) 20 U.S.C. 1070c, et seq.);
- Federal Perkins Loan Program (20 U.S.C. 1087aa, et seq.);
- Income Contingent Direct Loan Demonstration Project (20 U.S.C. 1087a, note);
- Federal Stafford Loan Program, Federal Supplemental Loans for Students [SLS], Federal PLUS, or Federal Consolidation Loan Program (20 U.S.C. 1071, et seq.);
- Cuban Student Loan Program (20 U.S.C. 2601, et seq.);
- Robert C. Byrd Honors Scholarship Program (20 U.S.C. 1070d-31, et seq.);
- Jacob K. Javits Fellows Program (20 U.S.C. 1134h-1134l);
- Patricia Roberts Harris Fellowship Program (20 U.S.C. 1134d-1134g);
- Christa McAuliffe Fellowship Program (20 U.S.C. 1105-1105i);
- Bilingual Education Fellowship Program (20 U.S.C. 3221-3262);
- Rehabilitation Long-Term Training Program (29 U.S.C. 774(b));
- Paul Douglas Teacher Scholarship Program (20 U.S.C. 1104, et seq.);
- Law Enforcement Education Program (42 U.S.C. 3775);
- Indian Fellowship Program (29 U.S.C. 774(b));

OR

B. I have made arrangements satisfactory to the U.S. Department of Education to repay a debt as described in A.1. or A.2. (above) on which I had not been current in repaying or on which I was in default (as that term is used in 34 CFR Part 668).

II. I certify also that I have not been declared by a judge, as a condition of sentencing under section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862), ineligible to receive Federal assistance for the period of this requested funding.

I understand that providing a false certification to any of the statements above makes me liable for repayment to the U.S. Department of Education for funds received on the basis of this certification, for civil penalties, and for criminal prosecution under 18 U.S.C. 1001.

_____ _____
(Signature) (Date)

_____
(Typed or Printed Name)

Name or number of the USDE program under which this certification is being made: _____

ED 80-0016 (9/92)

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

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 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.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

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 provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers 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 for GEPA Requirements

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.

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

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: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application _____ b. initial award c. post-award	**3. Report Type:** a. initial filing _____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: ____ Prime _____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* $	
10. a. Name and Address of Lobbying 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. 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:** _____ **Print Name:**_____ **Title:**_____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

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, at 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. 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 followup 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 contract 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; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included 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 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. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, 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 OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 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 for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

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Monday
April 5, 1999

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Safe Start Demonstration Project and Evaluation of the Safe Start Initiative; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1217]

RIN 1121–ZB51

Safe Start Demonstration Project and Evaluation of the Safe Start Initiative

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of funding availability.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to Pub. L. 105–277, October 19, 1998, Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the Fiscal Year Ending September 30, 1999, and for Other Purposes, is issuing a program announcement and solicitation for applications from all communities to create a comprehensive system that will improve the access, delivery, and quality of services for young children at high risk of exposure, or who have been exposed to violence. OJJDP is also issuing an evaluation announcement and solicitation for applications to conduct an evaluation of this initiative.

The FY 1999 appropriation will provide up to 12 sites with funding of up to $250,000. These awards will be made through a competitive grant process, to be administered by OJJDP. The FY 1999 appropriation also will provide funding up to $1 million for a national evaluator to conduct an evaluation of the sites.

DATES: Applications under this program must be received no later than 5 p.m. ET June 14, 1999.

ADDRESSES: Applications should be submitted to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850. Interested applicants need to obtain the Safe Start Initiative Application Package, which includes the two program announcements, application instructions, and forms. The package is available online at OJJDP's Web site: www.ojjdp.ncjrs.org (click on the Grants and Funding prompt). The package is also available by mail (call OJJDP's Clearinghouse at 800–638–8736 and request SL 334) or via e-mail (at puborder@ncjrs.org). For packages being mailed, please allow 3–5 days for delivery.

FOR FURTHER INFORMATION REGARDING THE SAFE START INITIATIVE, CONTACT: Michelle Avery, Program Manager, Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street, NW, Washington, DC 20531, 202–514–5084; e-mail: Averym@ojp.usdoj.gov. For further information regarding the Evaluation of the Safe Start Initiative, contact Dean Hoffman, Program Manager, Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street, NW, Washington, DC 20531, 202–353–9256; e-mail: Hoffmand@ojp.usdoj.gov. [These telephone numbers are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of the Safe Start demonstration project is to develop a demonstration initiative to prevent and reduce the impact of family and community violence on young children (primarily from birth to 6 years of age). The project seeks to create a comprehensive service delivery system by helping communities to expand existing partnerships among service providers in the fields of early childhood education/development, health, mental health, family support and strengthening, domestic violence, substance abuse prevention and treatment, crisis intervention, child welfare, law enforcement, courts, and legal services. This comprehensive service delivery system should improve access to, delivery of, and quality of services for young children at high risk of exposure to violence or who have been exposed to violence, [1] along with their families, and their caregivers, at any point of entry into the system.

Background

Throughout America, millions of children are exposed to violence at home, in their neighborhoods, and in their schools.

In 1996 nearly 3 million children were the subjects in 2 million reports of child abuse and neglect (Poe-Yamagata, 1997). A 1994 study found that 1 out of every 10 children treated in the Boston City Hospital primary care clinic had witnessed a shooting or stabbing before the age of 6. Almost all (94 percent) of the children had been exposed to multiple forms of violence, and half had been exposed to violence within the past month. Half of the children witnessed such violence in the home, and half witnessed it in the streets. The average age of these children was 2.7 years (Taylor et al., 1994).

It has been estimated that each year in the United States between 3.3 million (Carlson, 1984) and 10 million (Straus, 1991) children witness violence in the home, including a range of behaviors from intense verbal arguments to fatal assaults with guns and knives.

Family violence also encompasses violence between siblings. According to one study, 77 percent of children under the age of 9 had recently been violent toward a sibling (Steinmetz, 1977). Another study found that 80 percent of children committed violent acts toward their siblings every year (Straus, Gelles, and Steinmetz, 1980).

Young children are particularly at risk of and affected by violence and exposure to violence.

In a comparison study of census data from five cities, domestic violence was shown to have occurred disproportionately in homes with children under the age of 5. Children in this age group also were more likely than older children to witness multiple acts of domestic violence and substance abuse (Fantuzzo et al., 1997). Research indicates that because of their age and limited ability to understand violent episodes, younger children are more vulnerable to the impact of victimization. Children's exposure to violence and maltreatment is significantly associated with increased depression, anxiety, posttraumatic stress, anger, greater alcohol and drug abuse, and lower academic achievement (Zero to Three, 1994). Exposure to violence shapes how they remember, learn, and feel. Numerous studies cite the connection between abuse or neglect of a child and later development of violent and delinquent behavior (Thornberry, 1994; Wright and Wright, 1994; Widom, 1992). Children who experience violence either as victims or as witnesses are at increased risk of becoming violent themselves. This danger is greatest for the youngest children, who depend almost completely on their parents and other caregivers to protect them from trauma.

Children exposed to violence do not receive adequate intervention or treatment to address harmful aftereffects.

According to the U.S. Advisory Board on Child Abuse and Neglect (U.S. Department of Health and Human Services, 1995), more than 90 percent of children who were abused or neglected did not get the services they needed. Rarely are such children provided treatment or help in dealing with the traumatic effects of maltreatment. Also, too often, referrals to victim services

[1] ''Exposure to violence'' means being a victim of abuse, neglect, or maltreatment or a witness to domestic violence, or other violent crime.

made during investigations of domestic violence and other violent crime are limited to the adult victim rather than focusing on both adult and child victims and witnesses, leaving these children without services.

There is broad consensus that current juvenile justice practice is often inadequate in preventing or intervening in exposure of children to violence. Services are crisis oriented and divide children and families into distinct, often arbitrary categories. Communication among service providers is often poor, resulting in an inability to treat families holistically, meet their needs, and develop comprehensive solutions (Melaville and Blank, 1993).

There is a movement toward a coordinated system response.

As the juvenile justice field continues to recognize prevention as central to its mission and to focus its prevention efforts on those factors that place children at risk for both victimization and delinquent activity, practitioners are increasingly recognizing that the segmentation and fragmentation of community service delivery systems are serious obstacles to effective services for at-risk and victimized children (Gerry and Morrill, 1990). In addition, practitioners and policymakers are beginning to recognize the effectiveness of engaging communities in addressing problems related to delinquency and violence.

The Federal Government has a critical role, not only in reorganizing and restructuring its own activities to promote and facilitate such reorganization on the community level, but also in stimulating community-based systems improvement by providing financial and technical assistance to communities engaged in collaborative processes (Conly and McGillis, 1996). In recent years, Federal agencies have funded a variety of programs to promote collaboration among service providers for children and families. For example:

- In 1994, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the U.S. Department of Justice (DOJ) provided initial support to document the Child Development-Community Policing (CDCP) Program model, which was developed by the Yale University Child Study Center and the New Haven Department of Police Services in 1991. Since then, with continuing support from OJJDP and support from DOJ's Office for Victims of Crime and Violence Against Women Grants Office, CDCP has expanded its scope of work and replicated its model in other cities. The program provides assistance to children and adolescents who have been exposed to or victimized by family or community violence and consequently placed at significant psychological and developmental risk. Through this partnership, police and mental health professionals participate in activities such as cross-disciplinary training, seminars on child and adolescent development, policing strategies, case conferences, and 24-hour consultation services.
- In 1997, the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services (HHS), in conjunction with the Casey Family Program, established the Starting Early/Starting Smart initiative. This public/private collaboration integrates mental health and substance abuse prevention and treatment services with primary health care or early childhood care settings for children from birth to 7 years.
- In 1995, OJJDP began SafeFutures, a 5-year demonstration program in six communities. Under this program, communities are implementing comprehensive community programs designed to reduce youth violence, delinquency, and victimization through a continuum of care system for youth ages 0–18 and their families. This continuum assists communities in responding to the needs of youth at critical stages of their development through a range of prevention, intervention, treatment, and sanctions programs.
- In 1996, several components of the Office of Justice Programs within the Department of Justice joined to initiate the Safe Kids/Safe Streets program. This 5½-year demonstration program, designed to foster coordinated community responses to child abuse and neglect and break the cycle of early childhood victimization and later criminality, is currently being implemented in five sites in the United States.
- HHS's Comprehensive Community Mental Health Services for Children and their Families Program includes intensive community-based services for children with serious emotional disturbances and their families based on a multiagency, multidisciplinary approach involving both the public and private sectors. The key goal of the program is to develop comprehensive interagency systems of care, including collaboration between a variety of providers, *e.g.*, juvenile justice, child welfare, schools, health, and mental health providers.

Through these programs, and others, communities have established formal collaboration between two or more service providers in order to improve service delivery to children, their families, and caregivers. To help communities expand partnerships to include additional providers, in fiscal year 1999 Congress appropriated $10 million to establish the Safe Start initiative. These funds will assist communities that are doing the type of work identified in the five examples above. (Eligibility is not limited to the communities mentioned above-see the ''Eligibility Requirements'' section below.) Safe Start will provide up to 12 communities with funds to develop and coordinate services to prevent and reduce the impact of family and community violence on young children. The program seeks to accomplish this goal by enhancing and expanding existing community partnerships focused on this problem through integrating public and private support.

Goal

The goal of this project is to create a holistic approach to prevent and reduce the harmful effects of exposure to violence on young children by improving access to, delivery of, and quality of services to children and responding to the needs of children and their families at any point of entry into relevant (*e.g.*, legal, social services, medical) systems.

Objectives

In order to achieve its goal, the Safe Start demonstration project seeks to develop a comprehensive and coordinated community system for preventing and responding to the harmful effects of exposure to violence on young children by:

- Assessing the extent and nature of children's exposure or risk of exposure to violence and the circumstances within the community under which this exposure occurs.
- Increasing awareness within communities and among professionals of the impact of exposure to violence on children and ways to prevent children's exposure to violence.
- Increasing children's access to quality prevention programs.
- Improving identification, referral, and interventions for children, along with their families.
- Facilitating collaboration and coordination of services to improve cross-agency prevention and response, increasing professional cross-training, and reducing barriers to accessing services.
- Providing specific training and support to direct service providers in preventing and dealing with the

psychological and developmental effects of children's experience with violence.

- Addressing the multiethnic, racial, and gender needs of young children who are at high risk of or who have been exposed to violence.
- Fostering and facilitating organizational change that promotes improvements in a variety of prevention, protection/intervention, and treatment services provided by relevant agencies and service providers.
- Developing and implementing specific protocols, procedures, and research-based programs for responding to the needs of children at high risk of, or exposed to, violence and strengthening violence prevention programs designed to reduce such exposure.

The approach through which grantees under the Safe Start initiative are to achieve these objectives will involve:

- Expanding a comprehensive planning and implementation effort that must substantially include representatives from relevant public and private agencies and programs who have a thorough understanding of child development, violence, and its impact on children.
- Assessing and addressing the current levels and seriousness of critical health, mental health, and educational consequences and needs of children at high risk of, or exposed to, violence in their communities.
- Assessing and addressing the policies, procedures, and services directed at the needs of children who are at high risk of, or exposed to, violence in the community.
- Identifying and reducing gaps, deficiencies, and barriers in prevention and intervention policies, procedures, and services.
- Identifying and accessing training and technical assistance that supports the coordinated prevention and intervention services, policies, and procedures.

Program Strategy

OJJDP will competitively select up to 12 communities to receive cooperative agreements for up to 5½ years under the Safe Start initiative.

Project Phases

The strategy for establishing this comprehensive service delivery system involves a multiyear development process (see chart below). The initiative will be conducted in three phases.

During Phase I, which will correspond to the first 12 months of the initiative, selected sites are to conduct assessment, planning, and initial development activities, which are discussed in detail below. Applicants are required to include a strategy for the Phase I assessment and planning as part of the initial application for selection as a Safe Start site. Selected sites will need to successfully complete their Safe Start 5-year strategic plan and an 18-month program implementation plan by month 9 of Phase I to be eligible for funding in Phase II. The 5-year strategic plan and 18-month program implementation plan will serve as major components of the application for continuation funding for Phase II.

Applicants will begin Phase II in month 12 upon OJJDP approval of the 5-year strategic plan and 18-month implementation plan. In Phase II, sites will begin implementation of their Safe Start activities and services. Specifically, Phase II consists of 18 months of initial implementation, training, capacity building, and evaluation of those activities and services planned during Phase I.

Phase III includes the remaining three annual budget periods of the 5½-year initiative. In budget periods 3 and 4, sites will focus on full implementation and maintenance of the program based on the plan developed during Phase I and initial implementation of Phase II. By budget period 4, sites will also actively identify and implement ways to sustain improvements achieved under Safe Start by conducting long-range planning beyond the conclusion of the initiative and developing alternative funding. Finally, in budget period 5, sites will continue full implementation of services and activities, finalize long-range planning, and ensure sustainability.

Project Funding

- Selected applicants will be awarded up to $670,000 for the first budget period of 18 months. (Note that the budget periods and phases of this project overlap). Selected applicants will be able to use up to $250,000 for Phase I assessment, planning, and initial development activities.[2]
- For applicants that successfully complete Phase I, the remaining funding available from the first budget period of up to $420,000 will be available along with $670,000 of funding from the second budget period of 12 months to support activities during Phase II (months 13–30) for a total of up to $1,090,000 of funding support per site. Grantees will receive the highest level of funding for the demonstration program in Phase II. Funding will vary based on a variety of factors including size of the target area and population, site-specific needs identified and supported in the Phase I plan and to be implemented during Phase II, and successful completion of the products and activities identified for Phase I. These funds will cover any infrastructure building, startup costs, and training, evaluation, and program services needed to enhance existing resources.
- Funding in Phase III (budget periods 3, 4, and 5) will be up to $670,000 per site in year 3 and will decrease each subsequent budget period. Selected sites will be expected to ensure that local resources are leveraged to sustain the project during years 4 and 5 of Phase III and beyond the 5½-year project period.

Phase	Years	Activities	Funding
Phase I (12 mos.)	Year 1:		
	months 0–9	Assessment & planning	$250,000
	months 10–12	xlInitial development.	
	month 12	xlOJJDP review of site plans completed.	
Phase II (18 mos.)	Year 2: months 13–30	Initial implementation	420,000 +670,000 1,090,000
Phase III (36 mos.)	Year 3: months 31–42	Full Implementation	670,000
	Year 4: months 43–54	Sustainability	>670,000

[2] Applicants are requested to submit award requests for the amount of $670,000; however, selected grantees will only have access to $250,000 for planning through month 12. The remaining $420,000, plus additional funds under a supplemental award for initial implementation in Phase II will be made available in month 12 upon successful completion of Phase I and OJJDP approval of plans. See ''Award Amount'' and ''Award Period'' sections below.

Phase	Years	Activities	Funding
	Year 5 months 55–66	.....	>670,000

Funding in this demonstration initiative is intended to supplement existing services provided through Federal, State, local, and tribal sources and to be used for the purpose of coordinating and supplementing an existing system of care. In each community's system of care, the primary objective is to capitalize on and reshape existing staff time and services while also filling service gaps.

Target Population and Area

This demonstration initiative has been developed to target young children (primarily from birth to 6 years of age) who are at high risk of exposure or who have been exposed to violence, along with their families and other caregivers. The target age range is somewhat flexible based on the justified needs of a community. Applicants need to specify what particular age range is targeted, how and why this range was identified and is appropriate to the geographic area to be served, and how ''high risk of exposure to violence'' and ''exposed to violence'' are defined in the community.

Sites funded under this initiative must address the multiethnic, racial, and gender-specific needs of young children who are at high risk of or who have been exposed to violence. Sites may direct their efforts to the entire jurisdiction or to specific geographical areas of special need. However, the identified need must be clearly justified as described below. For instance, applicants may choose to direct program efforts toward children in one or more communities within a larger urban, rural, or tribal area.

Applicants must justify the target area and population in terms of both need and appropriateness to the accomplishment of program objectives. Applicants must show that targeted geographic areas represent identifiable communities or neighborhoods where the investment of Safe Start resources will result in appreciable improvements for children who live there. Appropriateness of the target area also must be justified in part by demonstrating particular community strengths or existing resources from which to build Safe Start.

Collaboration/Coordination

Collaboration and coordination are central components of the Safe Start program. At the national level, OJJDP has developed this initiative in coordination with other Federal agencies and offices, including the Department of Health and Human Services and DOJ's Violence Against Women Grants Office and Office for Victims of Crime. At the local level, Safe Start sites are expected to demonstrate and continue coordination and collaboration with other Federal, State, and local agencies; national and community foundations; and private sector programs, including community-based organizations and faith communities. To ensure that a comprehensive service delivery system is provided, key partnerships must be established and expanded. A list of relevant partners and service providers follows to highlight the full range of disciplines and sectors to be involved. Primary partners represent key points of entry for prevention and intervention; secondary partners can provide support resources as needed.

Primary partners include the following:

- Battered women's shelters and domestic violence advocacy agencies.
- Child advocacy centers.
- Courts: Judges, attorneys, guardians *ad litem*, court appointed special advocates, administrative staff in the dependency/juvenile courts, family courts, domestic violence courts, and drug courts.
- Domestic violence, family violence prevention, and hotline services.
- Early childhood development and child care.
- Faith leaders and communities.
- Head Start and Early Head Start.
- Law enforcement.
- Mental health services.
- Primary health care providers, hospitals, and emergency medical services.
- Schools.
- Social services and child protective services.
- Substance abuse prevention and treatment services.

Secondary partners include the following:

- Business and private sector.
- Housing.
- Income maintenance personnel (Temporary Assistance for Needy Families; General Assistance; Supplemental Security Income; Women, Infants, and Children Program, *etc.*).
- Labor.
- Media.
- Transportation.

Under Safe Start, communities will be expected to develop a coordinated prevention and response system composed of core services identified below under the ''Activities/Services'' section. Additional primary and secondary partners will vary based on the particular needs and existing service delivery systems of individual communities. Grantees will be selected based in large part on their demonstration of active partnerships and their ability to expand and sustain the partnerships to broadly encompass partners needed in the community. Collaboratives should display the following elements:

- A shared, focused objective that is narrow enough to have an impact yet broad enough to engage the interests of multiple agencies (since children at high risk of, or exposed to, violence have critical health, mental health, education, safety, housing, and transportation needs).
- Leadership and ongoing support from the highest agency levels.
- Dedicated administrative budget and staff to support the initiative's goals and objectives.
- Systemwide implementation that is sufficiently broad in scope to gain sustained policy-level attention and impact key agency practices.
- Demonstrated ability to leverage public and private funding to ensure commitment during the project and sustainability of improved services and coordination after Safe Start funding has ended.
- A focus on outcomes, with measurable, tracked, and evaluated progress toward planned goals and objectives.
- Ongoing support and technical assistance to promote community coordination.
- Experience in problem solving to enhance individuals' and agencies' abilities to prevent violence and trauma before they occur.

Activities/Services

To accomplish the goal of Safe Start, communities will have to improve their service delivery systems (*e.g.*, by improving identification, assessment, and referral mechanisms; addressing confidentiality issues; implementing organizational change; enhancing information sharing and management information systems; creating protocols and multidisciplinary teams, *etc.*), and they will have to implement programs

that research has proven effective (*e.g.*, Functional Family Therapy, Nurse Home Visitation).

Through the Safe Start planning (Phase I) and implementation (Phases II and III) process, communities should build on existing services to develop a coordinated prevention and response system that contains the following minimum core components: a protocol between police, mental health, medical, and child protective services; child advocacy centers; early childhood development and education; family strengthening services; a home visitation program; domestic violence services for battered mothers whose children are at high risk of exposure, or exposed to, intimate partner violence; substance abuse prevention and treatment services; and model dependency courts. The process of planning and implementation that selected sites will be required to perform is described below.

Phase I—Planning and Initial Development

During Phase I, selected sites will be required to prepare a 5-year strategic plan that outlines how the local community will create an integrated prevention and response system of care for preventing and reducing the impact of exposure to violence on children along with their families or caregivers. This plan should provide a framework for activities, policy changes, and resource adjustments for the remaining years of the award and beyond to continue the community assessment and planning as part of ongoing maintenance of the effort. The 5-year strategic plan should provide the overarching structure/framework for all efforts to improve the prevention of and a community response to children's exposure to violence. It is both a state-of-the-community report on children at high risk of, or exposed to, violence and a step-by-step guide for action.

Phase I planning also should include identifying and assessing existing community services, including gaps in services; identifying and assessing all resources currently used and available for use (human, technological, and fiscal); assessing financial strategies; and assessing existing policies and procedures within and across agencies and providers responding to children who are at high risk of, or exposed to, violence along with their families.

To accomplish these purposes, the strategic plan must provide a data-driven risk and resource assessment about the current community in quantifiable terms-numbers, percentages-that can inform decisionmakers and serve as baseline measures against which to judge progress. It must also delineate a list action steps—a blueprint—that, among other items, includes responsibilities (by individual and organization), and timelines for achieving an integrated service delivery system.

The strategic plan must substantially involve key leaders (*e.g.*, policy, administrative, and community) necessary for a comprehensive prevention system and response to exposure to violence in terms of assessment information, outcomes, policies, financing and programming strategies, staffing, training, coordination, and services. Services that are administered at a city, county, tribal, or State level must be identified and involved. The strategic plan should include the basic elements of any planning document such as the vision, mission, goals, objectives, assessment findings (including a description of the current continuum), and a list of prioritized actions for the next 5 years. These prioritized actions should include the target date by which they will be implemented and the agency/persons that have lead responsibility for them. It is expected that prioritized actions will include a range of strategies such as policy and systems changes, service delivery changes (*e.g.*, expanded service hours), service integration, program enhancements, and new programming (including but not limited to those strategies supported under the Safe Start grant funds). These strategies should occur at all of the following levels: Policy, legislative, management, and frontline service delivery.

In addition to the 5-year strategic plan, sites will also be required to submit an 18-month detailed initial implementation plan (application) for funding for Phase II.

Phase I—Deliverables Required of Selected Grantees To Proceed to Phase II

Assessment and planning activities conducted by sites during Phase I should position selected sites to begin implementation of improved service delivery to children and their families in Phases II and III. By month 9 of Phase I, participants are expected to have developed and submitted a comprehensive 5-year strategic plan that builds on previous activities in the community that includes, at a minimum, the following:

- Vision Statement (5 years).
- Description of Planning Process (participants and planning methods).
- Defined Target Area and Population.
- Community Assessment (based on data, where appropriate).
  - —Map of current services in the delivery system for both prevention and reduction.
  - —Identification of resources currently invested in the issue of exposure.
  - —Identification of priority risk and protective factors.
  - —Identification of gaps in the current service delivery system.
  - —Analysis of community strengths, resources, and opportunities available to support the system.
  - —Identification of service barriers among key service providers, including availability, accessibility, and appropriateness.
  - —Identification of program and policy priorities for putting an integrated system in place.
  - —Description of plan for maintaining and updating initial assessment findings.
- Goals and Objectives for Prevention and Reduction of the Impact of Exposure.
- Action Plan.
  - —Policy and system changes to address priorities for prevention and reduction. Services and programming (including Safe Start-funded activities and other services).
  - —Task and timeline plan.
- Plan for Measuring Progress.
  - —Plan for ongoing assessment.
  - —Benchmarks for measuring progress.
  - —Description of who will participate in measuring progress and how decisions about necessary changes and refinements will be made.
- Training and Technical Assistance Plan (see below).
- Local Evaluation Plan (see below).
- Statement of Collaborative Phase I Plan Development.
  - —Because the strategic plan is to be the product of a collaborative, communitywide planning process including all policymakers involved in the prevention and reduction of exposure to violence, selected sites will need to include a signed statement in which each supporting party attests to his or her substantial involvement in the development of the strategic plan. The statement must contain each person's original signature, typed/printed name, address, telephone number, and affiliation (agency head, parent, youth). In addition, signed statements of the staffing group members who participated and a description of the roles of the key leaders, in the preparation of the strategic plan are required.

In addition, by month 9 of Phase I, sites will be required to submit a

detailed implementation plan (*i.e.*, full application) for Phase II of the Safe Start initiative. The implementation plan/application must detail the activities and strategies to be implemented, and provide a timeline and a budget for the 18 months of initial program startup and implementation. The Phase II application must include a training and technical assistance plan and a local evaluation plan. All applicants will be eligible for continuation in Phase II if performance in Phase I, the strategic plan, and the implementation plan/application merit support for implementation funding.

Applicants will also be required to provide memorandums of understanding (MOU's), cosigned by all participating agencies, that describe in detail agency commitments and activities each agency will perform to improve service coordination and delivery.

These deliverables will be due to OJJDP by month 9 of the program to ensure adequate time for review and approval by OJJDP for continuation of and funding for Phase II. The remaining 3 months of the first year should be used in preparation for Phase II in such activities as training, policy development, and other developmental activities.

Selected sites also will be required to provide interim planning reports and draft products throughout Phase I to allow for a formative feedback process intended to facilitate successful completion of Phase I.

Phase II—Initial Implementation (Months 13–30)

Once each selected site has successfully completed Phase I, OJJDP will provide additional funds for Phase II. During this phase, OJJDP expects communities to build upon existing services to begin developing a coordinated prevention and response system including the core components listed above under ''Collaboration/Coordination'' and ''Activities/Services.'' If an applicant demonstrates that a particular component is not needed or has been adequately developed in its community, funding is flexible enough to allow for greater emphasis in another service or systems change area. Although the Safe Start initiative does not require selected sites to implement prescribed models for particular program components, sites must use programs and services that have been demonstrated through research to prevent and minimize the impact of exposure to violence. Applicants will be expected to justify and demonstrate the effectiveness of programs or practices proposed for implementation or expansion. (Numerous information resources on research-based practices and programs are available from OJJDP through the Juvenile Justice Clearinghouse. The National Clearinghouse for Child Abuse and Neglect also can provide information. Contact information is listed on page 52.)

Deliverables for Phase II will be developed during Phase I in consultation with OJJDP, and written guidance from OJJDP will be provided annually throughout Phase II.

Activities will include the following:

- Implementation of professional training, cross-training, and development at the individual and staff/organizational level regarding prevention, identification, and intervention techniques to address the needs of children at risk of/exposed to violence.
- Implementation of strategies for improving identification, referral, and intervention.
- Development and implementation of cross-system coordination and protocols.
- Implementation of any new research-based service models to fill identified gaps.
- Increasing the quality of, and access to, services.
- Developing management information systems and improving case management.

Training and Technical Assistance

A comprehensive national training and technical assistance (national TTA) component will be identified by OJJDP and will support the communities selected to participate in Safe Start. These communities will receive a range of OJJDP-funded support including assessment, coordination, brokering, and provision of TTA in both content and systems improvement areas.

In addition, of the up to $250,000 in funding that can be awarded for planning, sites are expected to set aside $50,000 for local TTA to support community-specific needs and build on existing local TTA resources. Sites are encouraged in Phase I to use the TTA set-aside to access support for ongoing facilitation of and consultation on the strategic planning process.

In Phase II, local intensive training across disciplines for community teams on children's exposure to violence, treatment options, and interventions in various settings should be provided by a team of experts identified by the agencies, including professionals experienced in working with parents, childcare workers, child protective service providers, battered women's advocates/workers, community policing officers, probation officers, parole officers, prosecutors, judges, pediatricians, emergency room doctors, nurses, school personnel, educators, clergy, public housing officials, and university professors. Again, this training should build on what is available under existing contracts. This training plan should be developed with the assistance of the National TTA Coordinator during planning under Phase I.

Evaluation

Safe Start evaluations will track each selected site's process and the impact of developing a coordinated service delivery system through (1) a cross-site process evaluation; (2) a cross-site impact evaluation; and (3) rigorous local impact evaluations. These evaluations will be conducted at both the national and the local level. The objectives of both the national and local evaluation will adjust to the shifting demands of each Safe Start phase and are intended to document Safe Start activities across the life of the initiative.

During Phase I, the evaluation will focus on process by documenting the process and results of planning meetings, progress of the risk and resource analysis, identification of gaps, problems encountered, *etc.* As the initiative moves into Phase II and III implementation, the evaluation also will be concerned with outcomes related to the impact of new and/or enhanced services and changes in policy and procedures on the lives of children and families exposed to violence. This process will be guided by the development of a Safe Start logic model for each community (described in more detail below).

The National Evaluator

The Safe Start national evaluator will be selected by OJJDP through a separate, competitive process. Program applicants must agree to comply with the national evaluation requirements. Because it is important that the experiences of all Safe Start communities be measured in a common fashion, allowing for generation of knowledge across all communities, the national evaluator is responsible for designing two cross-site evaluation efforts. The first, the cross-site process evaluation, is intended to document and analyze the process of effective implementation of the Safe Start initiative to provide information to strengthen and refine the initiative within and across sites. It is important to identify factors that contribute to or impede the successful implementation

of the initiative in each community. The second, the cross-site impact evaluation, is intended to assess the extent to which the initiative is meeting its goals and measure the amount of change that is taking place. Finally, the national evaluator is responsible for providing technical assistance to local evaluators in designing local evaluation plans. These plans must focus on conducting more rigorous evaluations that use experimental or quasi-experimental designs. These plans will be reviewed by the national evaluator and OJJDP. OJJDP will approve local evaluation plans.

Local Evaluation Requirements

Each Safe Start grantee must select and set aside ample funds (no less than 10 percent) of the project budget to fund a local evaluator to provide evaluation support throughout the life of the initiative. In subsequent years of the initiative, the percentage of the project budget allocated to the local evaluator may increase. Safe Start applicants must make a strong and demonstrated commitment to incorporating evaluation activities into their planning and implementation activities. The overall evaluation effort is intended to document and assess the initiative as it develops in each community and becomes an integral component of the initiative by measuring progress, suggesting adjustments, and keeping the initiative outcome focused.

The process of selecting a local evaluator will vary across jurisdictions according to each jurisdiction's policies. That is, some jurisdictions may be required to competitively select a local evaluator while others may have different mechanisms. Applicants should describe the requisite process in their jurisdictions and incorporate this selection process into their Phase I (planning and initial development) timeline. Applicants are encouraged to reach out to universities and other local organizations to fill this responsibility. The national evaluator will develop a common set of criteria to use in selecting a local evaluator. This guidance is intended to convey the same set of expectations to all potential local evaluators.

Local evaluators have six areas of responsibility: (1) Developing a Safe Start logic model for their community; (2) participating in cross-site process evaluation activities; (3) participating in cross-site impact evaluation activities; (4) designing and conducting local Safe Start impact evaluations; (5) providing technical assistance to the local Safe Start initiative; and (6) contributing to report writing. These are described in more detail below.

Develop a Logic Model for the Local Safe Start Initiative. During the planning phase, Safe Start projects and their respective local evaluators will be required to work collaboratively with the national evaluator to develop a local Safe Start logic model. A logic model is a description of how project inputs, activities, and outputs are expected to accomplish the goals and objectives of a project. In other words, a logic model maps out the activities that will occur over the life of the initiative and ties these to the outcomes desired by the project staff.

Participate in Cross-Site Process Evaluation Activities. Local evaluators will work closely with the national evaluator to complete cross-site process evaluation activities. As discussed above, the national evaluator is responsible for designing this cross-site effort. Local evaluators will have input into this design but will ultimately be required to participate in accordance with the agreed-upon structure and methods. For example, the local evaluator must participate by using any instruments designed by the national evaluator for use by all Safe Start sites, following agreed-upon information-sharing procedures, and maintaining contact with the national evaluator and OJJDP.

Participate in Cross-Site Impact Evaluation Activities. The national evaluator is responsible for guiding the design of the cross-site impact evaluation, which is designed to assess the extent to which the initiative is meeting its goals and the amount of change that is taking place. The national and local evaluator are expected to develop a strong working relationship and a mutual commitment to measure Safe Start outcomes. The local evaluator will work with the national evaluator to identify impacts that can be measured as the initiative develops. For example, if the Safe Start community adopts new policies in police referrals to family counseling services, the national evaluator may require that the local evaluator and other local Safe Start project staff monitor the number of referrals made after the policy takes effect. In this same vein, the national evaluator may require that archival data be collected to provide a baseline. It should be noted that all of these requirements will be central to implementing a rigorous evaluation of Safe Start and will embed the process and impact evaluations in the program's development, implementation, and refinement. Local evaluators must participate in the design and implementation of the cross-site impact evaluation in accordance with procedures developed by the national evaluator.

Design and Conduct Local Impact Evaluations. As Safe Start communities begin to implement specific programs (*e.g.*, Nurse Home Visitation) and the need arises to assess the impact of Safe Start services on individuals (*i.e.*, children and their families), the national evaluator will be able to provide technical assistance to local evaluators in designing evaluation plans that can accomplish this task.

The local evaluator and local Safe Start project staff will be expected to make a strong and demonstrated commitment to designing evaluations that can accomplish this level of assessment. Furthermore, these local plans must focus on conducting more rigorous evaluations that use experimental or quasi-experimental designs. The national evaluator will provide guidance in developing these plans and report on the progress of each community to OJJDP. The local evaluator will submit an evaluation plan to the national evaluator, who will then submit the plan to OJJDP. OJJDP will give final approval for all local impact evaluation plans.

To assist in accomplishing this task, the national evaluator will be required to develop a Safe Start Self-Evaluation Tool Kit, modeled after OJJDP's *Title V: Delinquency Prevention Program: Community Self-Evaluation Workbook*, for use by each site.

Provide Technical Assistance to Local Safe Start Initiative. The local evaluator must be able to assist the local Safe Start project staff to develop an implementation plan that is outcome based and data driven. The goal of this relationship is to develop a strong partnership in which program designers and evaluators work together to clarify goals and objectives and make a strong commitment to measuring progress in systematic, scientific ways. To foster this relationship, the local evaluator is expected to actively participate in all stages of the local Safe Start initiative.

Contribute to Report Writing. Local evaluators will be called upon by the national evaluator to help report on activities in their communities. The reports may be used, for example, to produce cross-site Safe Start newsletters that focus on the larger effort or specific areas of interest such as developing strategies to include schools in the effort, sharing information across agencies, and recruiting interest from private organizations in the community.

Eligibility Requirements

OJJDP invites applications from all communities.[3] Public agencies, including State agencies, local units of government, and tribal governments, are invited to apply as lead applicants for a collaborative, community-based initiative. Private agencies and organizations may apply as coapplicants and collaborative partners but not as lead applicants and must agree to waive any profit or fee. Joint applications from two or more eligible applicants are welcomed; however, one applicant must be clearly indicated as lead and the others indicated as coapplicants. Applicants must be applying on behalf of a collaborative group of agencies working to prevent and address the impact of exposure to violence or interested in expanding the collaboration to the issue of exposure. Communities that are attempting to integrate more than one collaborative initiative are strongly encouraged to apply.

Up to 12 applicants will be selected from urban, rural, and tribal categories. Applicants will compete for award in each of these three distinct categories (*e.g.*, all tribal applicants will compete only against applications eligible under the tribal category). Applicants must comply with one of the following definitions based on the most recent Census data,[4] and must identify the application as urban, rural, or tribal:

- *Urban*: Any area that lies inside a metropolitan area (MA), as designated by the Office of Management and Budget using the Census of Population and Housing data, and that has a population of not less than 100,000.
- *Rural*: Any area that lies outside the boundaries of an MA, as designated by the Office of Management and Budget using the Census of Population and Housing data, and that has a population of not less than 10,000 and not more than 100,000.
- *Tribal government*: Federally recognized tribes or Confederated Tribes on a reservation. Confederated Tribes are two or more tribes grouped under a single government by treaty or Executive Order. Eligible tribes must have a tribal government serving a reservation population of not less than 5,000, and a tribal court.

Applicants must demonstrate an established collaborative group—or the ability and commitment to expand coordination between two or more entities to other parties—and an infrastructure for overseeing the initiative. The selected communities should build upon any existing projects relevant to this initiative, such as the following:

- Office of National Drug Control Policy and OJJDP's Community Anti-Drug Coalitions.
- Department of Justice's Title V Community Prevention Grants, Safe Kids/Safe Streets, Comprehensive Communities, Weed and Seed, Child Development/Community Policing, or Violence Against Women Grants Office sites.
- Empowerment Zones/Enterprise Communities.
- Department of Health and Human Services' Comprehensive Community Mental Health Services for Children and their Families; Starting Early/Starting Smart, Head Start, and Early Head Start; and Maternal Child Health Bureau's Leadership Education Projects.
- Department of Education's Safe and Drug-Free Schools.
- Department of Agriculture's Children, Youth and Families At Risk training.
- Department of Housing and Urban Development's Hope VI.

Selection Criteria

Applicants must submit a project narrative describing the overall approach to the Safe Start program, including a description of the conceptual and organizational framework for the collaborative approach and a detailed strategy for planning in Phase I.

All applicants will be evaluated and rated by a peer review panel according to the selection criteria outlined below. Applicants must use the selection criteria headings that appear below as the headings for their program narrative and present information in that order. The selection criteria will be used to determine the extent of each applicant's responsiveness to program application requirements, compliance with eligibility requirements, indicators of need (including high rates of children exposed to violence), organizational capability, and thoroughness and innovation in responding to strategic issues related to project implementation. Staff and peer reviewer recommendations are advisory only, and the final award decision will be made by the OJJDP Administrator, taking into consideration geographic diversity and other considerations. As part of this final selection, a select group of finalists may be visited by a team of Federal officials to make final determinations about the awards.

Problem(s) To Be Addressed (10 points)

Applicants must provide a discussion of children's exposure to violence in the target community. This discussion must address the nature and extent of exposure to violence, including the factors in the community that put children at high risk of exposure to violence. Applicants should provide indicators or measures of the extent of the problem based on current local data such as crime, justice, health, and economic statistics. This information, in addition to data obtained during the assessment of Phase I, will be used as a baseline against which the progress and effectiveness of the applicant's efforts to prevent and reduce the effects of children's exposure to violence will be measured. As part of this section, applicants also should identify current community efforts and resources to reduce the effects of exposure to violence on children, including gaps in community response/service delivery. Applicants should indicate their knowledge of how and why coordination among their specific community entities can be effective in addressing children at high risk of exposure to violence and the effects on children of exposure to violence.

Applicants should organize and provide this information in the following manner:

Section One—Description of the Community and Target Population

a. Describe the geographic area, size of population, age range to be served, general population characteristics, and ethnic composition of the community participating in the Safe Start program. Explain how and why the targeted community was identified and defined.

b. Describe the governmental structure and major agencies servicing young children, including but not limited to law enforcement, the courts (*e.g.*, domestic relations and dependency courts), social services, and health and mental health services. Provide a brief overview of responsibilities and relationships that currently exist, including availability of services and case management processes.

[3] A community is any set of contiguous neighborhoods within an urban area or one or more adjacent counties, towns, townships, parishes, or villages; tribal lands or reservations; or other general purpose subdivisions of a State that shares a preponderance of interests, needs, services, and governance structures as related to the prevention and reduction of the negative impacts of children's exposure to violence. See also definitions for urban, rural, and tribal categories.

[4] To determine if a jurisdiction is within a metropolitan area, visit the Census Bureau's Web site at www.census.gov/population/www/estimates/aboutmetro.html.

Section Two—Assessment of Community Strengths and Weaknesses

a. Provide data on specific risk factors for children's exposure to violence, such as high rates of crime, drug abuse, poverty, child abuse and neglect, prevalence of intimate partner violence/domestic violence, and other factors identified in the community. Describe all local baseline data being collected and analyzed. Indicate any information gaps regarding risk factors or difficulties in assessing them.

b. Describe the areas of greatest need. What are the gaps in existing services?

c. Describe what resources are available to the community to address the identified risk factors.

d. Discuss/describe current operations and response to children at high risk of, or exposed to, violence.

e. Discuss community strengths and weaknesses.

Goals and Objectives (10 points)

Outline the collaborative's vision for preventing and ameliorating the impact of exposure to violence, describing how the involved systems and agencies will operate upon conclusion of the planning and implementation phases. Applicants will be judged on a clear, far-reaching, yet realistic, vision statement.

Applicants must provide a clear discussion of the proposed project goals and objectives as they logically relate to the needs, resources, and capabilities of their communities (which applicants should list in response to the section above, ''Problems To Be Addressed'') in relation to the long-range 5-year vision. In addition, applicants should outline specific goals and objectives for Phase I planning that result in the attainment of the Phase I deliverables set forth in the ''Project Strategy'' section of the solicitation. Objectives must be quantified, measurable, and attainable within the timeframes of the initiative phases. Applicants are reminded that Phase I is 12 months, but deliverables are due to OJJDP at month 9.

Project Design (20 points)

Applicants must describe their strategy for planning. The planning process and the major activities to be undertaken in the development of the implementation plan should be described stating the specific steps to be used during the first 12 months of the project. The steps should illustrate how the process will incorporate activities underway; coordinate and leverage services; identify and review services, existing gaps, policies and procedures, and barriers to services; identify human, fiscal, and technological resources; assess system function through case-level analysis; identify existing data sources and conduct a thorough data-driven assessment; and use this information to develop a strategy that minimizes duplication and inefficiencies and maximizes cooperation, coordination, and collaboration. The plan also should address local evaluation activities such as data collection, assessment, and planning for Phase I; development of a logic model; and local evaluation design. The plan must include a timeline or milestone chart that details not only the major activities and events but also the action steps and tasks associated with implementing the strategy to plan. The timeline should identify specific staff responsible or job functions required for completing each task.

Specifically, for Phase I, applicants should:

- List the collaborative partners including service providers who will participate in the planning and implementation process. Applicants will be judged on clear evidence of broad, high-level community involvement in the planning and implementation process.
- Identify the lead agency.
- Describe the process by which agencies plan to work together to design a coordinated service delivery system. Applicants will be judged on (1) the extent to which they have initiated planning and implementation of a comprehensive service system for children exposed to violence and/or are in a position to build on current efforts including expansion of collaborative partnerships in other related areas, and (2) the ability and willingness on the part of key leaders to leverage existing resources, create new sources of support, make policy and procedural changes, and sustain activities. Please describe in detail the vision for ensuring linkages and integration at the direct service level by all involved agencies to provide a coordinated system of care for children exposed to violence. Include a description of the coordination mechanisms, both human and technological, such as interagency staffing groups, integrated case management systems, management information systems, joint intake and assessment procedures, referrals, *etc.*
- Describe how information is to be collected, used, coordinated, maintained, and managed. Also, please explain how children first will be identified as in need of services and through which contacts children will first receive services.
- Describe existing services and programs currently operating in the target community.
- Describe the plan for training and technical assistance in Phase I.
- Describe the local evaluation plan and incorporate it into the Phase I timeline/workplan (this should include a description of the process for selecting and contracting a local evaluator; data collection, assessment, and planning for Phase I; development of a logic model; and local evaluation design).
- Describe the developmental activities to be conducted in months 9–12.

Management and Organizational Capability (40 points)

Applicants should use this section to describe a sound governance and operating structure capable of carrying out the proposed initiative and to demonstrate the following: community readiness, an effective team management structure for the initiative involving the lead agency and the collaborative partners, and a strong organizational capability by the lead agency commensurate with the scope of work outlined in this solicitation. These elements and their share of the 40 points available under this criterion are discussed below.

Section One—Community Readiness (10 points)

Describe how the proposed vision and project design will build on and/or fit within current and past communitywide planning processes to achieve the initiative's objectives. Discuss the community's history of collaboration and planning as it addressed or addresses children's exposure to violence (or related issues, such as child abuse and neglect and domestic violence). Include a description of the participants, major milestones, and the nature and process of the collaboration. Clarify what has been done, what is in process, and what remains to be done. Describe the infrastructure upon which Safe Start will be developed. Applicants should demonstrate the existence, viability, and accomplishments to date of multidisciplinary arrangements whereby various agencies in a jurisdiction are working cooperatively or collaboratively to improve the community's response to children and families, especially if in the area of exposure to violence. Applicants must also document that the collaborative or cooperative groups represent all the relevant stakeholders needed to reduce the impact of exposure in the target community. This involvement should include atypical resources and

stakeholders such as grassroots organizations, parents, and community leaders. Applicants will be judged on the presence of structures and agreements (such as a range of local human resources and financial commitments) to ensure collaboration and coordination in planning, implementing, and evaluating an integrated system of care and the participation of all sectors of the community in the initiative.

Applicants also should demonstrate evidence of favorable policies and/or legislation that characterizes the political and administrative environments and gives evidence of political or administrative support for the proposed collaborative effort. Give examples of actual favorable policies or legislation in appendix D (discussed below).

Applicants must include documentation and letters of agreement, such as copies of MOU's and/or letters of collaboration/coordination, from key agencies that specifically describe the commitments made by each participating agency in appendix F (discussed below).

Section Two—Management (15 points)

Outline the proposed project staffing structure and management plan for the collaborative effort including at least one full-time, high-level, experienced lead coordinator for the initiative and support staff for the Phase I planning and initial development process. Applicants are to identify roles and responsibilities of each involved agency, committee, board, or other entity and explain its relationship to the overall effort. In addition, applicants must name and describe the core management team and the capabilities and experience of all staff and consultants who will participate in the management team or play lead roles in the planning effort. Include résumés of key personnel in appendix E (discussed below). Indicate the percentage of time for each named staff or consultant and the supervision or management plan. Describe the management practices that will be used to evaluate staff and program progress and to ensure corrective action.

Section Three—Organizational Capability (15 points)

Applicants should provide a brief overview of the lead agency's knowledge and experience in children, youth, and family issues, particularly as they relate to the prevention and reduction of the impact of exposure to violence. In addition, the applicant should demonstrate specific and detailed experience in leading collaborative, communitywide planning efforts involving systems change. The applicant must demonstrate a history that is consistent with the size and scope of this initiative. The applicant should also provide evidence of experience in strategic planning and management of staff in a collaborative environment. Experience leveraging State, local, tribal, or other resources is required. Applicants should demonstrate the ability and willingness to participate and cooperate in a comprehensive evaluation of this demonstration initiative at both the national and local level for purposes of formative learning and advancement of strategies to assist children and families.

Budget (10 points)

Applicants must provide a proposed budget that is complete, detailed, reasonable, allowable, and cost effective in relation to the activities to be performed and that indicates the extent to which resources have been committed for the first 12 months of the initiative. Although Safe Start is intended to improve service delivery through enhanced coordination of available services, the program allows applicants to determine the ratio of funds for coordination and for services, based on local needs. However, applicants must provide at least one full-time experienced, high-level project coordinator to oversee the planning effort and additional staff resources and support as needed. In addition, of the up to $250,000 to be awarded for planning, applicants must set aside $50,000 for local training and technical assistance to support community-specific needs and build on existing local TTA resources (to be defined in the budget). Sites are encouraged in Phase I to use the TTA set-aside to provide support for ongoing outside facilitation and consultation of the strategic planning process. Applicants should also use these funds to budget for travel to two cross-site grantee meetings. Additionally, ample funds should be budgeted for the local evaluation according to the specifications of this solicitation.

Appendixes (10 points)

To help reviewers gauge the likelihood of grantee success, applicants must submit the following appendixes as evidence of their readiness and potential:

- Appendix A: Resources list. This is a listing of the existing local services to children and families in the areas of prevention and reduction of the impact of exposure to violence. At a minimum, the list should include provider names, addresses, phone numbers, and a brief description of the services offered.
- Appendix B: Cross-system protocols. These are interagency agreements and protocols outlining a multidisciplinary approach to responding to children exposed to violence and preventing exposure, case management and tracking, and provision of services and treatment to these children and their families. Such agreements should, at a minimum, be among the police department, the child welfare system, the courts, the appropriate health and mental health agencies, and domestic violence service providers or advocates. Where agreements are not developed, please provide policies and protocols that exist between these agencies for services to children and families in general that may be expanded in Phase I. Agreements and protocols that include the school system and victims' services and advocates will further enhance the application. (To meet page limitations, applicants may provide a bibliography of protocols and interagency agreements that includes date(s) of agreement/effective date(s) and selected, relevant pages as evidence of applicability of the documents to this effort.)
- Appendix C: Statement of collaborative application. It is imperative that the plan be a mutual submission by all stakeholders. As evidence, applicants must submit a statement asserting that each party signing was substantially involved in the development of the plan. The statement must contain each person's original signature, typed/printed name, address, telephone number, and affiliation (title and agency or role-*e.g.*, parent, block leader).
- Appendix D: Evidence of favorable policies and/or legislation. Applicants are to document the existence of a favorable climate by listing current agency policies or local, State, or tribal legislation that aids interagency, communitywide collaboration in regard to children exposed to violence or other family support issues. As with appendix B, applicants may choose to do this by providing a bibliography of policies and legislation that includes effective date(s) along with selected, relevant pages.
- Appendix E: Key staff and consultant résumés. Include résumés or brief descriptions of the relevant experience of key staff named in the ''Management and Organizational Capability'' section.
- Appendix F: Letters of agreement and MOU's. Include documentation of letters of agreement and MOU's that specifically describe commitments made by each partner agency.

Format

The narrative portion of this application must not exceed 25 pages (excluding forms, assurances, and appendixes) and must be submitted on 8½- by 11-inch paper, double spaced on one side of the paper in a standard 12-point font. The appendixes cannot exceed 20 pages. This is necessary to maintain fair and uniform standards among all applicants. If the narrative and appendixes do not conform to these standards, OJJDP will deem the application ineligible for consideration.

Award Period

The Safe Start demonstration project will be funded in the form of a cooperative agreement for a 5½ year project period.

Applicants are requested to apply for up to $670,000; however, only $250,000 will be available for Phase I (the first 12 months of the project). Applicants should provide a detailed budget and supporting narrative *only* for Phase I (12 months).

The remainder of the award funds ($420,000) should be designated for development and implementation activities. Applicants should provide only a summary budget for the $420,000 for Phase II initial implementation. A summary budget to be used by all applicants has been provided as attachment A, since in the first 9 months of the planning phase selected jurisdictions will be expected to develop a detailed 18-month implementation budget (based on the 5-year strategic plan). The $420,000 will be special conditioned under the grant and will not be available for use by the grantee until the detailed 5-year strategic plan and 18-month implementation plan are reviewed and approved by OJJDP.

In the 18-month implementation plan, grantees will be required to provide a detailed budget and supporting narrative for the remaining $420,000 of funds plus up to $670,000 made available through a supplemental award in Phase II.

Award Amount

Selected applicants will receive up to $250,000 for Phase I planning and development. Once the planning phase has been completed and the 5-year strategic plan and 18-month implementation plan are approved, up to $1,090,000 will be made available, including the balance of the $420,000 from the initial budget period. In that way, the funding level for the project will increase in Phase II for startup and initial implementation activities.

Funding will then decrease in Phase III, as sites seek and obtain alternative forms of funding to continue this project. Funding in Phase II and the subsequent years of Phase III will depend on grantee performance, availability of funds, and other criteria established at the time of the award.

Catalog of Federal Domestic Assistance (CFDA) Number

For this program, the CFDA number, which is required on Standard Form 424, Application for Federal Assistance, is 16.730. This form is included in the *FY 1999 Application Package*, which can be obtained by calling the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to puborder@ncjrs.org. The *Application Package* is also available online at www.ojjdp.ncjrs.org.

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, DOJ is requesting applicants to provide information on the following: (1) Active Federal grant award(s) supporting this or related efforts, including awards from DOJ; (2) any pending application(s) for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) or (2) with the funding sought by this application. For each Federal award, applicants must include the program or project title, the Federal grantor agency, the amount of the award, and a brief description of its purpose.

''Related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (*i.e.*, the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or project (*e.g.*, to implement a planning effort funded by other Federal funds or to provide a substance abuse treatment or education component within a criminal justice project).
- Services of some kind (*e.g.*, technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All applications should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535.

Note: In the lower left-hand corner of the envelope, you must clearly write ''Safe Start Demonstration Project'' and indicate the type of jurisdiction for which you are applying (urban, rural, or tribal).

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. EDT on June 14, 1999.

Contacts

For further information, call Michelle Avery, Program Manager, Special Emphasis Division, at 202–307–5914, or send an e-mail inquiry to averym@ojp.usdoj.gov.

Juvenile Justice Clearinghouse: 800–638–8736 (phone) or www.ojjdp.ncjrs.org (Web site)

National Clearinghouse on Child Abuse and Neglect: 800–394-3366 (phone) or www.calib.com/nccanch (Web site)

References

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ATTACHMENT A—SUMMARY BUDGET FOR $420,000

Personnel and fringe benefits	$150,000
Program services	200,000
Training and technical assistance	25,000
Local evaluation	25,000
Equipment	10,000
Travel	5,000
Supplies	5,000
Total	420,000

Evaluation of the Safe Start Initiative

Purpose

The purpose of this evaluation is to document and evaluate communities' efforts to prevent and reduce the impact of family and community violence on young children (primarily from birth to 6 years of age). Toward that end, the Safe Start initiative seeks to create a comprehensive service delivery system by helping communities to expand existing partnerships among service providers in the fields of early childhood education/development, health, mental health, family support and strengthening, domestic violence, substance abuse prevention and treatment, crisis intervention, child welfare, law enforcement, courts, and legal services.

Background

The goal of the Safe Start initiative is to create a holistic approach to reduce and prevent the harmful effects of exposure to violence on young children by improving access to, delivery of, and quality of services to children and responding to the needs of children and their families at any point of entry into relevant systems (*e.g.*, legal, social services, medical). Safe Start communities will undertake the following activities to achieve this goal:

- Expand a comprehensive planning effort that includes representatives from a variety of public and private agencies and programs with expertise in child development, violence, and the impact of violence on children.
- Assess the extent and nature of children's exposure or risk of exposure to violence and the circumstances within the community under which this exposure occurs.
- Assess and address the current levels and seriousness of critical health, mental health, and educational consequences and needs of children exposed to violence.
- Increase awareness within communities and among professionals of the impact of exposure to violence on children.
- Identify and reduce gaps, deficiencies, and barriers in community policies, procedures, and services designed to prevent exposure to violence or lessen its impact on children who have been exposed.
- Improve identification, referral, and interventions for children who are at risk of being exposed to violence or have been exposed to violence.
- Identify and access training and technical assistance that supports coordinated services, policies, and procedures designed to prevent exposure to violence or lessen its impact on children who have been exposed.
- Facilitate collaboration and coordination of services to improve cross-agency response, increase professional cross-training, and reduce barriers to accessing services.
- Foster and facilitate organizational and systems change that promotes improvements in the availability, delivery, and quality of prevention, protection/intervention, and treatment services provided by law enforcement, mental health, health, domestic violence advocacy, courts and legal services, and educational services.
- Develop and implement specific protocols, procedures, and research-based programs for responding to the needs of children exposed to violence and strengthening violence prevention programs designed to reduce such exposure.
- Provide specific training and support to service providers in dealing with the psychological and developmental effects of children's experience with violence.
- Address the multiethnic, racial, and gender needs of young children who are at high risk of or who have been exposed to violence.
- This community-based initiative will progress in a series of stages across 5½ years of Federal funding. Applicants should become familiar with the program announcement for OJJDP's Safe Start demonstration project and research literature on the prevention and effects of exposure to violence. Applicants should pay special attention to the core elements of the Safe Start initiative as identified in the program solicitation. These highlight the programmatic areas, such as courts, police, child protective services, and mental health services, that must be addressed by each community. Also, in the program solicitation, the ''Program Strategy'' section delineates the activities and goals of the initiative's phases.

Evaluation Strategy

OJJDP will competitively award one cooperative agreement under this solicitation. Given the purpose of the evaluation, the overall evaluation design is intended to carefully document the formative aspects of the initiative and measure its effects in terms of level of implementation of the strategic planning process, extent of systems reform and service integration and improvement, and impact of the initiative on the lives of children and families.

Indicators of the level of implementation of the strategic planning process include, but are not limited to, determining:

- The comprehensiveness and rigor in assessing the incidence and prevalence of children's exposure to violence and the nature and severity of harm caused to children in the community who have been exposed to violence; The closeness of the connection between the implementation plan and the risks, needs, and resources of the community.
- The extent to which proposed solutions reflect both theoretical and strategic relevance to the problems identified in the assessment.

Systems reform and service integration and improvement might include measures of the following:

- Greater use of existing data sources or the creation of new data systems to

identify trends in the incidence of child victimization and exposure to violence.

- Number of referrals made to mental health services by law enforcement, social services, early childhood workers, domestic violence shelters, and other relevant agencies.
- Number of court cases that result in referrals of children for screening, assessment, or intervention and treatment because of a recognition of exposure to violence issues.
- Changes in resource allocation (*e.g.*, funding streams).
- Improved or new methods for sharing information across agencies.

Impacts on the lives of children and families can include a variety of outcomes that will vary according to the strategies implemented by each community. Some examples include:

- As a result of providing more timely and appropriate mental health services to children exposed to violence via police referral mechanisms and partnerships, these children may exhibit lower levels of Post Traumatic Stress Disorder (PTSD) and/or depression.
- A Prenatal Nurse Home Visitation Program may result in healthier mothers and babies, increased attachment and bonding, and reduced incidence of child abuse and neglect.

The evaluation of Safe Start will be conducted using a national evaluator and local evaluators funded by and located in each Safe Start community. The relationship between the national evaluator and the local evaluators should be collaborative and supportive with guidance and leadership coming from the national evaluator. In key areas of the evaluation effort, the national evaluator and OJJDP have authority over local evaluators. Specifically, local evaluators must participate in the cross-site process and impact evaluations in accordance with the procedures established by the national evaluator (*e.g.*, the collection and transmittal of data) and design a local evaluation plan that is approved by the national evaluator and OJJDP. Applicants should pay special attention to the portion of the program solicitation that outlines the community's responsibility for selecting and funding a local evaluator and the role of local evaluators in the overall evaluation effort.

The national evaluator will be expected to (1) carefully document all stages of the planning and implementation processes and collect relevant process data; (2) design a cross-site impact evaluation and collect and analyze relevant data; (3) assist local evaluators to develop local logic models and impact evaluation plans; (4) compile and provide timely comparative cross-site results, as appropriate, back to the local sites and their evaluators from the impact evaluation; (5) assist local evaluators in determining which programmatic components are amenable to producing reliable measures of program impact on children; and (6) prepare reports suitable for publication by OJJDP. The evaluation effort will be guided by a logic model of the Safe Start initiative that can be tailored to the activities of each individual site and follow the theory of change proposed by each community. The evaluation must be planned to include up to 12 Safe Start communities.

Cross-Site Process Evaluation

The national evaluator is responsible for designing a cross-site process evaluation, which will be adopted by all Safe Start local evaluators. Local evaluators will have input into this design but ultimately will be required to participate in the cross-site process evaluation in accordance with the agreed-upon structure and methods. Local evaluators will be required to submit process data to the national evaluator on an agreed-upon schedule to be developed by the national evaluator.

The process evaluation should be designed to document and analyze the process of effective implementation of the Safe Start initiative to provide information to strengthen and refine the initiative within and across sites throughout the 5½ years of planning and implementation. It is important to identify factors that contribute to or impede the successful implementation of the initiative in each community. It is essential to know not only whether the initiative is successful or unsuccessful and the degree to which it succeeds or fails, but also why or how it was successful or unsuccessful. The process evaluation also should document the breadth of the community assessment process, analyze the connectedness between the results of the community assessment and implementation plan, and analyze the extent to which each community's implementation plan draws from programs and practices that are theory driven and research based.

Cross-Site Impact Evaluation

The national evaluator is responsible for designing the cross-site impact evaluation. Local evaluators must participate in the design and implementation of the cross-site impact evaluation in accordance with procedures developed by the national evaluator. This component of the evaluation will assess the extent to which the initiative is meeting its quantitative goals and the amount of change that is taking place on the community and individual level. For example, if the Safe Start community adopts new policies for police referrals to family counseling services, the national evaluator may require that the local evaluator and other local Safe Start project staff monitor the number of referrals made after the policy takes effect. In this same vein, the national evaluator may require that archival data be collected to provide a baseline. Also, the national evaluator will report on the effects specific programs and strategies are having on children and families. This level of data collection and analysis will be possible primarily through the design and implementation of the local impact evaluation, described in more detail below.

The national and local evaluator must develop a strong working relationship and a mutual commitment to measure Safe Start outcomes. The local evaluator will work with the national evaluator to identify outcomes that can be measured as the initiative develops. It should be noted that all of these requirements will be central to implementing a rigorous evaluation of Safe Start and embed the process and impact evaluation process in the program development, implementation, and refinement process.

Local Impact Evaluations

As Safe Start communities begin to implement specific programs (*e.g.*, Nurse Home Visitation) and the need arises to assess the impact of Safe Start services on individuals (*i.e.*, children and their families/caregivers), the national evaluator will provide technical assistance to local evaluators in designing evaluation plans that can accomplish this task. The local evaluator and local Safe Start project staff will be expected to make a strong and demonstrated commitment to designing evaluations that can accomplish this level of assessment. Furthermore, these local plans must focus on conducting rigorous evaluations that use experimental or quasi-experimental designs. The national evaluator will provide guidance in developing these plans and report on the progress of each community to OJJDP. The local evaluator will submit an evaluation plan to the national evaluator, who will then submit the plan to OJJDP, which will give final approval for all local impact evaluation plans.

Local impact evaluation plans will be developed in a cooperative effort between the Safe Start project staff, its

local evaluator, and the national evaluator. This collaboration is important to the evaluation effort for a number of reasons. For example, when local impact evaluations are designed, the Safe Start project staff must have input into how to identify or create comparison groups, how to design referral procedures for a specific program, and how to develop agreements regarding random assignment to experimental and control groups. In sum, the local Safe Start project staff are crucial to the implementation of any rigorous evaluation design. The national evaluator is responsible for guiding the development of these plans through training and technical assistance on evaluation methods. (The level of expertise and technical assistance needed at the local level is expected to vary across communities.) Finally, the national evaluator will be required to develop a Safe Start Self-Evaluation Tool Kit for use by each site. The Tool Kit should be modeled after OJJDP's *Title V: Community Prevention Grants Program: Community Self-Evaluation Workbook* (available from the Juvenile Justice Clearinghouse, 800–638–8736).

The national evaluation of Safe Start will be conducted in two phases over 6 years. Phase I (12 months) will entail designing and implementing a cross-site process evaluation; building capacity at the local level to conduct more intensive impact evaluations of specific programs and strategies (*e.g.*, developing tools for communities to use in selecting a local evaluator and providing technical assistance around evaluation issues); assisting in the development of Safe Start logic models and local evaluation plans; developing the Safe Start Evaluation Tool Kit; developing a preliminary workplan for measuring the impact of Safe Start across sites; and producing reports and publications.

During Phase II (60 months), the national evaluator will continue and complete the cross-site process evaluation, conduct the cross-site impact evaluation, produce and provide ongoing assistance to local evaluators in designing and conducting more rigorous impact evaluations of specific programs and strategies, and produce reports and publications.

Goals and Objectives

Phase I

Goal: Document and analyze the process of effective implementation of the Safe Start initiative to provide information to strengthen and refine the initiative within and across sites. The analysis will identify factors that contribute to or impede the successful implementation of the initiative in each community.

Objectives:

- Develop a conceptual framework for conducting the cross-site process evaluation to include all Safe Start sites. This framework should be formed around a general logic model of the Safe Start initiative that can be tailored to the activities of each site. The national evaluator must develop materials communicating the evaluation strategy, including instruments, mechanisms, and procedures to collect process data, to the local evaluators and Safe Start project staff.
- Compile and analyze results and provide routine feedback to the sites on the planning, program development, and implementation process.
- Produce reports and publications that document the progress of the initiative in each community and across sites.

Goal: Develop the capacity of local evaluators to evaluate the impact of specific programs and strategies implemented in their communities.

Objectives:

- Formulate a set of critical elements related to the tasks and requirements of the local evaluator to be used by Safe Start communities in selecting/recruiting a local evaluator 3 months after the grant award. This product should explain the role and responsibilities of the national evaluator as they relate to (1) the goals of the national evaluation effort (*e.g.*, data collection requirements) and (2) the goals of the local evaluation effort (*e.g.*, experimental or quasi-experimental evaluations of specific programs). Also at this time, the grantee will submit a preliminary plan for assisting Safe Start communities in the selection process.
- Provide training and technical assistance (the degree of which should be flexible to address the needs of different communities) to local evaluators in refining logic models; identifying long-, intermediate-, and short-range outcomes; identifying necessary data sources and variables; and designing local impact evaluation plans for evaluating the impact of specific programs and strategies implemented by the community. The national evaluator will produce a Safe Start Self-Evaluation Tool Kit modeled after OJJDP's *Title V: Community Prevention Grants Program: Community Self-Evaluation Workbook*.

Goal: Design an impact evaluation that can measure the effect of the initiative within and across sites. It is expected that communities will differ significantly in their approaches to the initiative as they will be guided by their specific risk and resource assessments. However, the national evaluator should draw from its experience with evaluating similar efforts and associated literature on evaluating community initiatives to propose an approach to designing a cross-site impact evaluation.

Phase II

Goal: Continue the cross-site process evaluation and finalize and implement the cross-site impact evaluation design. During Phase II, particular attention will be paid to identifying, collecting, and reporting on community-, system-, and individual-level outcomes.

Objectives:

- Compile and analyze results and provide routine feedback to the sites on the planning, program development, and implementation process.
- Produce annual, interim reports that document the progress of the initiative in each community and across sites.

Goal: Further assist local evaluators in designing and implementing local evaluation plans and monitor the progress and results of these evaluations.

Objectives:

- Provide technical assistance to local evaluators as necessary.
- Collect and analyze Safe Start local impact evaluation plans and results and produce a report for OJJDP.

Products

For Delivery During Phase I

The grantee will submit a draft cross-site process evaluation design including a common set of data collection instruments, mechanisms, and procedures to be pilot tested at Safe Start sites. This product will be submitted 3 months after the grant award.

The grantee will submit the set of critical elements related to the tasks and requirements of the local evaluator to be used by Safe Start communities in selecting/recruiting a local evaluator 3 months after the grant award. Also at this time, the grantee will submit a preliminary plan for assisting Safe Start communities in the selection process.

Six months after the grant award, the grantee will deliver a draft Safe Start Self-Evaluation Tool Kit modeled after OJJDP's *Title V: Community Prevention Grants Program: Community Self-Evaluation Workbook*. Also at this time, the grantee will deliver a technical assistance workplan for assisting Safe

Start communities in the development of local evaluation plans.

An interim report describing the results of the process evaluation through the end of Phase I will be submitted 30 days prior to the end of Phase I. This report should include analysis and results of the planning process, a summary of logic model development in each Safe Start community, and a summary of each local evaluator's progress toward designing a local evaluation plan. This report should lend itself to publication as one or more OJJDP Bulletins.

A preliminary workplan for developing and conducting the cross-site impact evaluation will be submitted 30 days prior to the end of Phase I (a separate document from the cross-site interim report). This should include potential data sources and data collection strategies and an estimated timetable.

For Delivery During Phase II

A finalized cross-site impact evaluation design and strategy will be submitted 3 months after Phase II begins. The grantee must address issues relating to pilot testing instruments and Office of Management and Budget approval.

During Phase II, interim reports that describe the ongoing efforts of the Safe Start communities (*e.g.*, local development and evaluation of the initiative) and present findings from the cross-site process and impact evaluations will be submitted every 6 months (the first being due 6 months after Phase II begins). These reports should lend themselves to being published as one or more OJJDP publications.

A draft final report will be due 30 days prior to the end of Year 6. This report should incorporate results of both the process and cross-site impact evaluations and update and summarize local evaluators' progress toward completing local impact evaluations. The final report will be due at the end of Year 6 and should lend itself to being published as one or more OJJDP publications.

Eligibility Requirements

OJJDP invites applications from public and private agencies, organizations, institutions, or individuals. Applicants must demonstrate that they have experience in evaluating broad-based community initiatives. Private, for-profit organizations must agree to waive any profit or fee. Joint applications from two or more eligible applicants are welcome, as long as one is designated the primary applicant and any others coapplicants.

Selection Criteria

Applicants will be evaluated and rated by a peer review panel according to the selection criteria outlined below.

Problem(s) To Be Addressed (20 points)

The applicant must include a clear and concise discussion of its understanding of the effects, treatment, and prevention of young children's exposure to violence. Applicants should discuss how to apply state-of-the-art evaluation methods, including qualitative methods, to achieve evaluation objectives. Also, applicants should discuss any anticipated methodological issues and problems associated with this type of evaluation and describe proposed solutions for these potential problems. A thorough understanding of theory-driven evaluation, interagency collaboration to effectuate systems change and service delivery improvement, community-based prevention and intervention programs, and multisite research on a national level is vital.

Goals and Objectives (10 points)

Applicants must define specific and measurable goals and objectives for coordinating and implementing this project. These should be guided the requirements in this solicitation, but the applicant should expand and augment them to fit with its approach to the project while describing how the approach will accomplish the larger goals and objectives.

Project Design (35 points)

In response to this solicitation, applicants must present a detailed and clear design for accomplishing the goals and objectives of Phase I. Applicants must discuss how their proposed approach to Phase I would lay the foundation for meeting the goals and objectives of Phase II. The applicant must include a timetable for accomplishing Phase I goals and objectives and delivering the required products. It is important to discuss how the cross-site process evaluation will be carried out and how the applicant will lay the foundation for the cross-site impact evaluation to include, but not be limited to, instrument development, methods, information dissemination, and cross-site communication and monitoring. Applicants must ensure the confidentiality of all subjects. It is important to discuss how the applicant will effectively deliver technical assistance at the local level aimed at evaluation capacity building. Furthermore, the applicant must propose a design that will foster a collaborative and supportive relationship between local evaluators and the national evaluator.

Management and Organizational Capability (25 points)

The application must include a discussion of how the applicant will coordinate and manage this evaluation to achieve evaluation goals and objectives. The applicant's management structure and staffing must be adequate and appropriate for the successful implementation of the project. The applicant must identify responsible individuals and key consultants, their time commitment, and major tasks. Key staff and consultants should have significant experience with evaluation research on multisite, community initiatives. They must demonstrate the ability to work effectively with a range of agencies and service providers including, but not limited to, courts, police departments, child protective services, and mental health service providers to collect data and manage other requirements of the project. Staff and key consultant résumés must be attached as part of the appendixes.

Budget (10 points)

The applicant must provide a proposed budget that is complete, detailed, reasonable, allowable, and cost effective in relation to the activities to be undertaken during Phase I. (Annual Phase II budgets will vary depending on certain factors; see below.) Applicants must budget for travel to two cross-site grantee meetings in Phase I in addition to any other travel.

Format

The narrative portion of this application must be submitted on 8½-by 11-inch paper, double spaced on one side of the paper in a standard 12-point font. This is necessary to maintain fair and uniform standards among all applicants. If the narrative does not conform to these standards, OJJDP will deem the application ineligible for consideration. The narrative must not exceed 35 pages exclusive of appendixes, forms, assurances, and budget.

Award Period

This evaluation will be funded in the form of a cooperative agreement for an initial 12-month budget period for Phase I of a 6½-year project period. Funding in the second and subsequent budget periods will depend upon grantee performance, availability of funds, and

other criteria established at the time of award.

Award Amount

Up to $1 million is available for the initial 12-month budget period. Funding in subsequent years will be available at levels that are at least comparable.

Catalog of Federal Domestic Assistance (CFDA) Number

For this program, the CFDA number, which is required on Standard Form 424, Application for Federal Assistance, is 16.730. This form is included in the *FY 1999 Application Package*, which can be obtained by calling the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to puborder@ncjrs.org. The *Application Package* is also available online at www.ojjdp.ncjrs.org.

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, the U.S. Department of Justice (DOJ) is requesting applicants to provide information on the following: (1) Active Federal grant award(s) supporting this or related efforts, including awards from DOJ; (2) any pending application(s) for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) or (2) with the funding sought by this application. For each Federal award, applicants must include the program or project title, the Federal grantor agency, the amount of the award, and a brief description of its purpose.

''Related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (*i.e.*, the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or project (*e.g.*, to implement a planning effort funded by other Federal funds or to provide a substance abuse treatment or education component within a criminal justice project).
- Services of some kind (*e.g.*, technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535.

Note: In the lower left-hand corner of the envelope, you must clearly write ''Evaluation of the Safe Start Initiative.''

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. EDT on June 14, 1999.

Contact

For further information, call Dean Hoffman, Program Manager, Research and Program Development Division, 202–353–9256, or send an e-mail inquiry to hoffmand@ojp.usdoj.gov.

Suggested References

The Annie E. Casey Foundation. 1997. *Evaluating Comprehensive Community Change*. Report of The Annie E. Casey Foundation's March 1997 Research and Evaluation Conference.

Connell, J.P., Kubisch, A.C., Schorr, L.B., and Weiss, C.H., eds. 1995. *New Approaches to Evaluating Community Initiatives: Concepts, Methods, and Contexts.* Washington, DC: The Aspen Institute.

Fulbright-Anderson, K., Kubisch, A.C., and Connell, J.P., eds. 1998. *New Approaches to Evaluating Community Initiatives (Volume 2): Theory, Measurement, and Analysis.* Washington, DC: The Aspen Institute.

Harrell, Adele. 1996. *Evaluation Strategies for Human Services Programs: A Guide for Policymakers and Providers.* Washington, DC: The Urban Institute Press.

Office of Juvenile Justice and Delinquency Prevention. 1995. *Title V Delinquency Prevention Program: Community Self-Evaluation Workbook.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Dated: March 26, 1999.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99–8158 Filed 4–2–99; 8:45 am]

BILLING CODE 4410–18–P

federal register

Monday
April 5, 1999

Part IV

Department of Education

Notice Inviting Applications and Establishing Requirements for New Awards for Fiscal Year (FY) 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.338]

Notice Inviting Applications and Establishing Requirements for New Awards for Fiscal Year (FY) 1999

AGENCY: Department of Education.

ACTION: Notice Inviting Applications and Establishing Requirements for New Awards for Fiscal Year (FY) 1999.

Reading Excellence Program

Purpose of Program: The Reading Excellence Program provides competitive reading and literacy grants to eligible State educational agencies (SEAs). SEAs, in turn, will award competitive subgrants to local educational agencies (LEAs) to fund local reading improvement programs and tutorial assistance programs.

Background: The Reading Excellence Act (REA), Part C, Title II of the Elementary and Secondary Education Act of 1965 (ESEA), was enacted as Title VIII of the Labor-HHS-ED Appropriations Act of 1999 by Section 101(f) of Pub. L. 105–277, the Omnibus Appropriations Act of FY 1999. Section 2253 of the REA authorizes a Reading and Literacy Grant Program to SEAs. Grants are to be awarded on a competitive basis to eligible SEAs, which in turn will make competitive subgrants to LEAs for two types of programs: Local Reading Improvement subgrants and Tutorial Assistance subgrants.

The purposes of the program are: (1) To provide children with the readiness skills they need to learn to read once they enter school; (2) to teach every child to read in the child's early childhood years—(a) as soon as the child is ready to read; or (b) as soon as possible once the child enters school, but not later than the third grade; (3) to improve the reading skills of students, and the instructional practices for current teachers (and, as appropriate, other instructional staff) who teach reading, through the use of findings from scientifically based reading research, including findings relating to phonemic awareness, systematic phonics, fluency, and reading comprehension; (4) to expand the number of high-quality family literacy programs; and (5) to provide early literacy intervention to children who are experiencing reading difficulties in order to reduce the number of children who are incorrectly identified as a child with a disability and inappropriately referred to special education.

Each SEA that receives funds must award subgrants on a competitive basis to eligible LEAs under two programs: Local Reading Improvement and Tutorial Assistance.

To be eligible for a Local Reading Improvement subgrant, an LEA must: (a) have at least one school that is identified for school improvement under section 1116(c) of ESEA in the geographic area served by the agency; (b) have the largest or second largest number of children who are counted under section 1124(c) of ESEA, in comparison to all other LEAs in the State; or (c) have the highest or second highest school-age child poverty rate, in comparison to all other LEAs in the State.

To be eligible for a Tutorial Assistance subgrant, an LEA must meet one of the three conditions listed for Local Reading Improvement subgrants or have at least one school in the geographic area served by the agency that (i) is located in an area designated as an empowerment zone under part I of sub-chapter U of chapter 1 of the Internal Revenue Code of 1986; or (ii) is located in an area designated as an enterprise community under the same part.

Eligible Applicants: SEAs of each of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands are eligible to apply for a grant.

Applications Available: April 5, 1999.

Deadline for Transmittal of Applications: May 7, 1999.

Deadline for Intergovernmental Review: July 6, 1999.

Note: Applications must be submitted on or before May 7, 1999, to be considered for funding. An application for an award may be submitted by electronic mail (email), regular mail, or hand delivery. Applications may not be faxed. The following are accepted for proof of submittal: (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) an electronic return receipt (for emailed applications); or (5) any other proof of mailing acceptable to the Secretary.

Special instructions for applications submitted by email: Applications submitted by email should include an electronic return receipt and should be mailed to grantspolicy@ed.gov. Applications submitted by email may be submitted in one of the following formats: (1) Microsoft Word (Version Word 95 or Word 97) or (2) portable document format (PDF). The preferred version is Word 97; however, all versions must have text search capability. The electronic version will be the official file copy. To ensure the integrity of the program, the Department will return a printed version to the applicant. The returned receipt and copy will be considered proof of receipt. All forms requiring original signatures (ED–424, Application for Federal Education Assistance; SF 424B, Assurances: Non-Construction Programs; ED 80–0013, Certifications Regarding Lobbying, Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements; ED 80–0014, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions; and Form LLL, Disclosure of Lobbying Activities) must be mailed to the Department by the deadline date, as set out above under Deadline for Transmittal.

Available Funds: $241,100,000.

Estimated Range of Awards: $200,000—$30,000,000 per award.

Minimum Grant Award for SEAs Receiving a Grant: $500,000 for SEAs; $100,000 minimum for territories.

Estimated Average Size of Awards: $11,500,000.

Estimated Number of Awards: 22.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 75, 77, 79, 80, 81, 82, 85, and 86; and (b) 34 CFR Part 299, General Provisions governing Titles I through XIII of ESEA.

Waiver of Proposed Rulemaking: In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program. The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forgo public comment on an absolute priority and a requirement in order to ensure the timely award of funds. The Secretary issues an absolute priority elsewhere in this notice and establishes the following requirement: the SEA must submit with its application the proposed LEA subgrant application(s) and a description of the procedures, including review criteria, the SEA will use to award subgrants; the LEA application(s) and description will be reviewed as part of the State application by the peer review panel.

This requirement will apply only to the competition for FY 1999 funds.

Absolute Priority: Under 34 CFR 75.105(c)(3) of EDGAR, the Secretary has the authority to establish an absolute priority for applications under programs administered by the Department. For all funds to be awarded under this competition, the Secretary establishes an absolute priority to applicants that propose projects that exclusively fund, at the subgrant level, activities to improve elementary school reading instruction and related early childhood, professional development, family literacy, and tutorial assistance activities. To qualify for this priority, States could not fund, at the subgrant level, any activities for middle schools or high schools. Under this competition, the Secretary will consider for funding only those applications that meet this absolute priority.

Competitive Priority: Section 2253(c)(2)(C) of the Reading Excellence Act requires that priority shall be given to applications from SEAs whose States have modified, are modifying, or provide an assurance that they will modify within 18 months after receiving an REA grant the SEA's elementary school teacher certification requirements. The modification must increase the training and the methods of teaching reading required for certification as an elementary school teacher to reflect scientifically based reading research. However, nothing in the REA shall be construed to establish a national system of teacher certification.

Under 34 CFR 75.105(b)(2)(iv) and (c)(2), respectively, the Secretary is not required to seek public comment on a specific priority set out in the statute and can implement that priority as a competitive preference. The Secretary will award 10 additional points to applicants that meet the REA competitive priority.

Selection Criteria: Under 34 CFR 75.210, the Secretary has chosen the following selection criteria. The maximum possible score for each criterion is indicated in parentheses with the criterion. The Secretary awards up to 100 points for all criteria. In addition, an applicant may be awarded 10 additional points under the Competitive Priority announced in this notice.

(a) *Significance (10 points).* (1) The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factor:

(i) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(b) *Quality of project design (30 points).* (1) The Secretary considers the quality of the design of the proposed project. (2) In determining the quality of the proposed project design, the Secretary considers the following factors:

(i) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources.

(ii) The extent to which the proposed project design reflects up-to-date knowledge from research and effective practice.

(iii) The extent to which the proposed project is based upon a specific research design, and the quality and appropriateness of that design, including the scientific rigor of the studies involved.

(iv) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(v) The extent to which the proposed project encourages parental involvement.

(c) *Quality of project services (35 points).* (1) The Secretary considers the quality of the services to be provided by the proposed project. (2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (3) In addition, the Secretary considers the following:

(i) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(ii) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iv) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(v) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(d) *Adequacy of resources (10 points).* (1) The Secretary considers the adequacy of resources for the proposed project. (2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factor:

(i) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(e) *Quality of the management plan (5 points).* (1) The Secretary considers the quality of the management plan for the proposed project. (2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factor:

(i) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(f) *Quality of the project evaluation (10 points).* (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project. (2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Intergovernmental Review

The Reading and Excellence Act in this notice 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.

For Applications or Information Contact: To request an application or to

obtain further information about the competition, contact Dr. Joseph Conaty, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5C141, Washington, DC 20202–6200; call (202) 260–8228; or email reading__excellence@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 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) by contacting Katie Mincey, Director, Alternate Format Center, 330 C St. SW, Room 1000, Washington, DC 20202–4560; by calling (202) 260–9895 or 205–8113; or by emailing katie__mincey@ed.gov. Individuals with disabilities also may obtain a copy of the application package in an alternate format by contacting Ms. Mincey. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

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 the following site:

http://ocfo.ed.gov/fedreg.htm

To use the PDF version you must have the Adobe Acrobat Reader program, which is available free by going through the previous site. If you have questions about using PDF, call the U.S. Government Printing office at (202) 512–1530 or toll free at 1–888–293–6498.

Anyone may 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**.

Electronic Submission of Applications: Applications for this grant may be submitted by email, regular mail, or hand delivery. Electronic submission is the preferred method of submission. To ensure application integrity, a printed version of all electronic submissions will be returned to applicants.

Program Authority: Reading Excellence Act, Part C, Title II of ESEA, was enacted as Title VIII of the Labor–HHS–ED Appropriations Act of 1999 by Section 101(f) of Pub. L. 105–277, the Omnibus Appropriations Act of FY 1999.

Dated: March 30, 1999.

Judith Johnson,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 99–8278 Filed 3–31–99; 3:27 pm]

BILLING CODE 4000–01–P

federal register

Monday
April 5, 1999

Part V

Department of the Treasury

Office of the Comptroller of the Currency

Federal Reserve System

Federal Deposit Insurance Corporation

Department of the Treasury

Office of Thrift Supervision

Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act; Notice

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 99–03]

FEDERAL RESERVE SYSTEM

[Regulation BB; Docket No. R–0822]

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket No. 99–14]

Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act

AGENCIES: Office of the Comptroller of the Currency (OCC), Department of the Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision (OTS), Department of the Treasury (collectively, the agencies).

ACTION: Withdrawal of statement of policy.

SUMMARY: The agencies are withdrawing their joint statement of policy entitled ''Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act'' (the Statement) because the Statement has become obsolete and provides guidance that is currently inconsistent with the Community Reinvestment Act (CRA) regulations as revised in 1995, which became fully effective on July 1, 1997.

EFFECTIVE DATE: The removal of the Statement of Policy is effective April 5, 1999.

FOR FURTHER INFORMATION CONTACT:

OCC: Malloy Harris, National Bank Examiner, Community and Consumer Policy Division, (202) 874–4446; or Margaret Hesse, Senior Attorney, Community and Consumer Law Division, (202) 874–5750, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Catherine M.J. Gates, Senior Review Examiner, Division of Consumer and Community Affairs, (202) 452–3946; or James H. Mann, Attorney, Division of Consumer and Community Affairs, (202) 452–2412, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

FDIC: Louise N. Kotoshirodo, Review Examiner, Division of Compliance and Consumer Affairs, (202) 942–3599; or Robert W. Mooney, Senior Fair Lending Specialist, Division of Compliance and Consumer Affairs, (202) 942–3090, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: Richard R. Riese, Project Manager, Compliance Policy, (202) 906–6134; or Theresa A. Stark, Project Manager, Compliance Policy, (202) 906–7054, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 1989, the OCC, Board, FDIC, and the Federal Home Loan Bank Board (the predecessor to the OTS) issued a Joint Policy Statement designed to provide the public and the federally insured financial institutions with guidance on the requirements of the CRA and the policies and procedures the agencies were to apply to the application process. 54 FR 13742. On May 4, 1995, the agencies revised their CRA regulations by issuing a joint final rule. 60 FR 22156. *See* 12 CFR parts 25, 228, 345 and 563e, implementing 12 U.S.C. 2901 *et seq.* Subsequently, the agencies published related clarifying amendments on December 20, 1995 (60 FR 66048) and May 10, 1996. 61 FR 21362.

The Statement provided guidance regarding the types of policies and procedures that financial institutions should have in place to fulfill their responsibilities under the CRA. The Statement reflects the preceding CRA regulation and is, therefore, obsolete.

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (the CDRI Act) requires each federal banking agency to streamline and modify its regulations and written policies to improve efficiency, reduce unnecessary costs, eliminate unwarranted restraints on credit availability, remove outmoded and duplicative requirements, and to work jointly with the other federal banking agencies to make uniform all regulations implementing common statutory policies. 12 U.S.C. 4803.

As part of its effort to fulfill the duties imposed by section 303 of the CDRI Act, the agencies have reviewed the statement of policy concerning the CRA and have concluded that it has been made superfluous by the revisions to the regulations that implement the CRA. The agencies have therefore decided to withdraw this statement of policy, thereby furthering the section 303 goal of removing outmoded and duplicative requirements.

The Agencies' Action

The agencies hereby withdraw the Statement.

Dated: February 22, 1999.

John D. Hawke, Jr.,

Comptroller of the Currency.

By order of the Secretary of the Board, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, March 30, 1999.

Jennifer J. Johnson,

Secretary of the Board.

By order of the Board of Directors, dated at Washington, D.C. this 10th day of February, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Editorial Note: This document was received at the Office of the Federal Register on March 31, 1999.

Dated: March 11, 1999.

By the Office of Thrift Supervision.

Ellen S. Seidman,

Director.

[FR Doc. 99–8213 Filed 4–2–99; 8:45 am]

BILLING CODE OCC 4810–33–P (25%);
BILLING CODE BOARD 6210–01–P (25%);
BILLING CODE FDIC 6714–01–P (25%);
BILLING CODE OTS 6720–01–P (25%)

federal register

Monday
April 5, 1999

Part VI

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Special Research Grants Program, Food Safety Research, Fiscal Year 1999: Request for Proposals and Request for Input; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Special Research Grants Program, Food Safety Research, Fiscal Year 1999: Request for Proposals and Request for Input

AGENCY: Cooperative State Research, Education, and Extension Service.

ACTION: Notice of Request for Proposals and Request for Input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) announces the availability of grant funds and requests proposals for the Special Research Grants Program, Food Safety Research for fiscal year (FY) 1999. The amount available for support of this program in FY 1999 is approximately $4,677,998.

This Request for Proposals (RFP) sets out the objectives for these projects, the eligibility criteria for projects and applicants, the application procedures, and the set of instructions needed to apply for a Food Safety Research Project grant.

By this notice, CSREES additionally solicits stakeholder input from any interested party regarding the FY 1999 Special Research Grants Program, Food Safety Research for use in the development of the next request for proposals for this program.

DATES: Proposals must be received on or before June 4, 1999. Proposals received after June 4, 1999, will not be considered for funding. Comments regarding this request for proposals are requested within six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable.

ADDRESSES: To obtain a copy of this RFP and application materials, please contact the Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, S.W.; Washington, D. C. 20250–2245; Telephone: (202) 401–5048. When contacting the Proposal Services Unit, please indicate that you are requesting application materials for the Special Research Grants Program, Food Safety Research. Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the application materials for the Special Research Grants Program, Food Safety Research. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Written stakeholder comments should be submitted by first-class mail to: Office of Extramural Programs; Competitive Research Grants and Awards Management; USDA–CSREES; STOP 2299; 1400 Independence Avenue, S.W., Washington, D.C. 20250–2299, or via e-mail to: RFP-OEP@reeusda.gov. In your comments, please indicate that you are responding to the FY 1999 Food Safety Research Program.

FOR FURTHER INFORMATION CONTACT: Dr. Anne Bertinuson; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2220; telephone: (202) 401–6825; Internet: abertinuson@reeusda.gov.

SUPPLEMENTARY INFORMATION:

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Stakeholder Input

CSREES is soliciting comments regarding this solicitation of applications from any interested party. These comments will be considered in the development of the next request for proposals for the Program. Such comments will be forwarded to the Secretary or his designee for use in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998, 7 U.S.C. 7613(c)(2). This section requires the Secretary to solicit and consider input on a current request for proposals from persons who conduct or use agricultural research, education, or extension for use in formulating the next request for proposals for an agricultural research program funded on a competitive basis.

In your comments, please include the name of the program and the fiscal year solicitation of applications to which you are responding. Comments are requested within six months from the issuance of the solicitation of applications. Comments received after that date will be considered to the extent practicable.

Part I—General Information

A. Legislative Authority

The authority for this program is contained in section (c)(1)(A) of the Competitive, Special, and Facilities Research Grant Act, Section 2 of Pub. L. No. 89–106, as amended (7 U.S.C. 450i(c)(1)(A)). This Program is subject to the administrative provisions found in 7 CFR Part 3400 for the Special Research Grants Program which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals, the awarding of grants, and post-award administration of such grants. However, where there are differences between this RFP and the administrative provisions, the RFP shall take precedence to the extent that the administrative provisions authorize such deviations. In accordance with the statutory authority, grants awarded under the Special Research Grants Program are for the purpose of conducting research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States.

B. Definitions

For the purpose of awarding grants under this program, the following definitions are applicable in addition to the definitions identified in 7 CFR Part 3400.

(1) Authorized departmental officer means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(2) Authorized organizational representative means the president, director, or the chief executive officer of the applicant organization or the official, designated by the president, director, or chief executive officer of the applicant organization, who has the authority to commit the resources of the organization.

(3) Grant means the award by the Secretary of funds to a grantee to assist in meeting the costs of conducting, for

the benefit of the public, an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research program area identified in this program solicitation.

(4) Principal Investigator/Project Director means the single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the scientific and technical direction of the project.

(5) Prior approval means written approval evidencing prior consent by an authorized departmental officer as defined in (1) above.

(6) Secretary means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved may be delegated.

C. Eligibility

Proposals may be submitted by State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals. Proposals must be directly related to conducting quantitative and/or qualitative science-based risk assessments of microbial hazards in ready-to-eat foods; the scientific basis for critical control points, critical limits, and process capability; or ensuring the safety of imported and domestic fruits and vegetables. Although an applicant may be eligible based on its status as one of these entities, there are factors which may exclude an applicant from receiving Federal financial and nonfinancial assistance and benefits under this program (e.g., debarment or suspension of an individual involved or a determination that an applicant is not responsible based on submitted organizational management information).

D. Complementary Programs

Research focusing exclusively on epidemiological approaches for food safety will not be funded under this program. Research on epidemiological approaches for food safety should be directed to the National Research Initiative Competitive Grants Program (NRICGP). To obtain a copy of the RFP for the NRICGP and application materials, please contact the Proposal Services Unit, Office of Extramural Programs, USDA/CSREES at (202) 401–5048. These materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the RFP and application materials for the Epidemiological Approaches to Food Safety FY 1999 Program. The materials will then be mailed to you (not e-mailed) as quickly as possible. The NRICGP deadline for these types of research proposals is April 5, 1999.

Part II—Program Description

A. Purpose and Scope of the Program

Proposals are invited for competitive grant awards under the Special Research Grants Program, Food Safety Research for FY 1999. The purpose of this grant program is to support problem-solving food safety research that addresses current and emerging National issues in food safety. The program for FY 1999 will focus on conducting qualitative and quantitative risk assessments of ready-to-eat foods; the scientific basis for critical control points, critical limits, and process capability in assuring food safety; and ensuring the safety of imported and domestic fruits and vegetables. Proposals that address the following issues are requested:

(1) proposals that conduct comprehensive, qualitative and/or quantitative science-based risk assessments related to microbial foodborne pathogens (e.g., *Listeria monocytogenes, Campylobacter jejuni, Cyclospora, Salmonella,* etc.) and/or their toxins associated with ready-to-eat foods, including those foods that are fresh, minimally processed or processed;

(2) proposals that address the scientific basis and models for establishing and validating critical control points, critical limits, and process capability related to control measures for significant foodborne microbial pathogens and/or their toxins in production, processing and distribution of foods; or

(3) proposals that address the safety of fresh and minimally processed imported and domestic fruits and vegetables that include: the development of safe and efficacious techniques to enhance or ensure microbiological safety; approaches that relate production, harvesting, handling, transportation, and distribution control measures to the prevention of microbial pathogen infection or cross-contamination; or development of procedures for sampling to accurately detect the presence of microbial pathogens and/or their toxins.

Research issue No. (1) relates to ready-to-eat foods, No. (2) relates to any food, and No. (3) is limited to fresh fruits and vegetables. Projects submitted for research issue No. (1) should be primarily focused on conducting risk assessments; however, researchers may propose to generate supporting data for use in the proposed risk assessments, as appropriate. Risk assessment proposals should be multi-institutional and multi-disciplinary. Proposals that focus primarily on generating data in support of risk assessment should be submitted to the NRICGP on epidemiological approaches for food safety that is referenced above or submitted under one of the other two areas of this RFP.

All proposals are to describe how the research will be transferred for implementation. Thus, preference will be given to proposals that have partnerships with potential users of the information derived from the research.

B. Available Funds and Award Limitations

Funds will be awarded on a competitive basis to support research projects that address food safety research that focuses on conducting risk assessments on ready-to-eat foods; the scientific basis for critical control points, critical limits, and process capability; or ensuring the safety of imported and domestic fruits and vegetables. Matching funds are encouraged but not required. Under this program the Secretary may make grant awards for the support of research projects for up to three years. The total amount of funds available in FY 1999 for support of this program is approximately $4,677,998. It is estimated that up to $2 million will be available for grants relating to risk assessments of ready-to-eat foods and it is anticipated that up to $600,000 will be granted for each award. Each proposal submitted in FY 1999 shall request funding for a period not to exceed two years. Funding for additional years will depend upon the availability of funds, progress toward objectives, and program priorities. FY 1999 awardees would need to recompete in future years for additional funding.

Part III—Preparation of a Proposal

A. Program Application Materials

Program application materials will be made available to interested entities upon request. These materials include information about the purpose of the program, how the program will be conducted, and the required contents of a proposal, as well as the forms needed to prepare and submit grant applications under the program. To obtain program application materials, please contact the Proposal Services Unit; Office of Extramural Programs; Cooperative State

Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, S.W.; Washington, D. C. 20250–2245; Telephone: (202) 401–5048. When contacting the Proposal Services Unit, please indicate that you are requesting application materials for the Special Research Grants Program, Food Safety Research. Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the application materials for the Special Research Grants Program, Food Safety Research. The materials will then be mailed to you (not e-mailed) as quickly as possible.

B. Content of a Proposal

(1) General

The proposal should follow these guidelines, enabling reviewers to more easily evaluate the merits of each proposal in a systematic, consistent fashion:

(a) The proposal should be prepared on only one side of the page using standard size (8½″ × 11″) white paper, one inch margins, typed or word processed using no type smaller than 12 point font, and single spaced. Use an easily readable font face (e.g., Geneva, Helvetica, CG Times).

(b) Each page of the proposal, including the Project Summary, budget pages, required forms, and any appendices, should be numbered sequentially in the upper right-hand corner.

(c) The proposal should be stapled in the upper left-hand corner. Do not bind. An original and 9 copies (10 total) must be submitted in one package, along with 20 copies of the ''Project Summary'' as a separate attachment.

(2) Cover Page

Each copy of each grant proposal must contain an ''Application for Funding'', Form CSREES–661. One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing principal investigator(s)/project director(s)(PI/PD) and the authorized organizational representative who possesses the necessary authority to commit the organization's time and other relevant resources to the project. Any proposed PI/PD or co-PI/PD whose signature does not appear on Form CSREES–661 will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the ''Application for Funding'' form.

Form CSREES–661 serves as a source document for the CSREES grant database; it is therefore important that it be completed accurately. The following items are highlighted as having a high potential for errors or misinterpretations:

(a) Title of Project (Block 6). The title of the project must be brief (80-character maximum), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as ''investigation of'' or ''research on'' should not be used.

(b) Program to Which You Are Applying (Block 7). ''Special Research Grants Program, Food Safety Research'' should be inserted in this block. You may ignore the reference to a **Federal Register** announcement.

(c) Program Area and Number (Block 8). The name of the program area, ''Food Safety Research,'' should be inserted in this block. You should ignore references to the program number and the **Federal Register** announcement.

(d) Types of Award Request (Block 13). There are three types of proposals that may be submitted to this program: new proposals, renewal proposals, and resubmitted proposals. If the submitted proposal describes a project that has not been previously submitted to the Special Food Safety Research Grant Program, please check ''New.'' If the proposal being submitted requests additional funding for a project beyond the period that was approved in an original or amended award, check ''Renewal.'' Please indicate the prior USDA award number in the appropriate location in this block. Proposals for renewed funding will compete on the same basis with all other proposals submitted to the Program at the same time. These proposals must contain the same information as required for new applications, and additionally must contain a Progress Report. As discussed below the Progress Report must be included within the 15 pages of the Project Description. If the proposal was previously submitted to the Special Food Safety Research Grant Program but not funded, check ''Resubmission.'' The resubmitted proposal should clearly indicate the changes that have been made in the proposed project. Proposals which appear to be resubmissions (regardless of the designation) are regarded as such by the Program and the panel, and compete on the same basis with all other proposals submitted to the Program at the same time. However, a clear statement acknowledging comment of the previous review, indicating revisions, rebuttals, etc., can positively influence the review of the proposal. Therefore, for resubmitted proposals, as discussed below the investigator(s) must respond to the previous submission's panel summary on no more than one page, titled ''RESPONSE TO PREVIOUS REVIEW'' which is to be placed directly after the Project Summary. Failure to include a ''RESPONSE TO PREVIOUS REVIEW'' may negatively influence the review of a proposal.

(e) Principal Investigator(s)/Project Director(s) (Block 15). The designation of excessive numbers of co-PI/PD's creates problems during final review and award processes. Listing multiple co-PI/PD's, beyond those required for genuine collaboration, is therefore discouraged. Note that providing a Social Security Number is voluntary, but is an integral part of the CSREES information system and will assist in the processing of the proposal.

(f) Type of Performing Organization (Block 18). A check should be placed in the box beside the type of organization which actually will carry out the effort. For example, if the proposal is being submitted by an 1862 Land-Grant institution but the work will be performed in a department, laboratory, or other organizational unit of an agricultural experiment station, box ''03'' should be checked. If portions of the effort are to be performed in several departments, check the box that applies to the individual listed as PI/PD # 1 in Block 15.a.

(g) Other Possible Sponsors (Block 22). List the names or acronyms of all other public or private sponsors including other agencies within USDA and other programs funded by CSREES to whom your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must inform the identified CSREES program manager as soon as practicable. Submitting your proposal to other potential sponsors will not prejudice its review by CSREES; however, duplicate support for the same project will not be provided.

(3) Table of Contents

For consistency and ease in locating information, each proposal must contain a detailed Table of Contents just after the Cover Page. The Table of Contents should include page numbers for each component of the proposal. Page numbers, shown in the upper right-hand corner, should begin with the first page of the Project Summary.

(4) Project Summary

The proposal must contain a Project Summary of 250 words or less on a separate page. The summary must be self-contained and describe the overall goals and relevance of the project. The summary should also contain a listing of the major organizations participating in the project. The Project Summary should immediately follow the Table of Contents. In addition to the summary, this page must include the title of the project, the name of the applicant organization, the authorized organizational representative, and the principal investigator(s)/project director(s), followed by the summary.

(5) Response to Previous Review (if resubmission)

For the content of this section, see the information on resubmitted proposals in Part III, B.(2)(d), Types of Proposals, of this RFP.

(6) Project Description

PLEASE NOTE: The Project Description shall not exceed 15 pages of written text and may not exceed a total of 20 pages including figures and tables. This maximum has been established to ensure fair and equitable competition.

(a) Objectives—Clear, concise, complete, and logically arranged statement(s) of specific aims of the proposed effort must be included in all proposals.

(b) Justification—This section should include in-depth information on the following, when applicable:

(i) estimates of the magnitude of the food safety problem and its relevance to ongoing National food and agricultural research programs;

(ii) importance of starting the work during the current fiscal year, and

(iii) reasons for having the work performed by the proposing institution.

(c) Literature Review—A summary of pertinent publications with emphasis of their relationship to the effort being proposed should be provided and should include all important and recent publications from other institutions, as well as those from the applicant institution. The citations themselves should be accurate, complete, and written in an acceptable journal format.

(d) Progress Report—If the proposal is for a renewal grant for an existing project supported under this program, include a clearly marked progress report describing results to date from the previous award. In addition, the progress report must be limited to three pages (within the project description 15 page limit) and should include: a comparison of actual accomplishments with the goals established for the previous award; the reasons established goals were not met, if applicable; and a listing of publications resulting from the award. Copies of no more than two preprints or reprints may be appended to the proposal.

(e) Current Work—Current unpublished institutional activities ''to date'' in the program area under which the proposal is being submitted should be described.

(f) Research Methods—The procedures or methodology to be applied to the proposed effort should be explicitly stated. This section should include but not necessarily be limited to:

(i) a description of the proposed investigations and/or experiments in the sequence in which it is planned to carry them out;

(ii) techniques to be employed, including their feasibility;

(iii) kinds of results expected;

(iv) means by which data will be analyzed or interpreted;

(v) pitfalls which might be encountered; and

(vi) limitations to proposed procedures.

(g) Cooperation and Institutional Units Involved—Cooperative, multi-institutional and multi-disciplinary applications are encouraged. Identify each institutional unit contributing to the project and designate the lead institution or institutional unit. When appropriate, the project should be coordinated with the efforts of other State and/or national programs. Clearly define the roles and responsibilities of each institutional unit of the project team, if applicable.

(h) Equipment and Facilities—All facilities which are available for use or assignment to the project during the requested period of support should be reported and described briefly. Any potentially hazardous materials, procedures, situations, or activities, whether or not directly related to a particular phase of the effort, must be explained fully, along with an outline of the precautions to be exercised. Examples include work with toxic chemicals and experiments that may put human subjects or animals at risk.

All items of major instrumentation available for use or assignment to the proposed project should be itemized. In addition, items of nonexpendable equipment needed to conduct and bring the project to a successful conclusion should be listed, including dollar amounts and, if funds are requested for their acquisition, justified.

(i) Project Timetable—The proposal should outline all important phases as a function of time, year by year, for the entire project, including periods beyond the grant funding period.

(7) Key Personnel

All senior personnel who are expected to be involved in the effort must be clearly identified. For each person, the following should be included:

(a) an estimate of the time commitment involved; and

(b) vitae of the principal investigator(s)/project director(s), senior associate(s), and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings. A chronological list of all publications in refereed journals during the past five (5) years, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Also list only those non-refereed technical publications that have relevance to the proposed project. All authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

(8) Conflict-of-Interest List (Form CSREES–1233)

A separate Conflict-of-Interest List form (Form CSREES–1233) must be submitted for each investigator for whom a curriculum vitae is required (see above). This form is necessary to assist program staff in excluding from proposal review those individuals who have conflicts-of-interest with the project personnel in the grant proposal. The Program Manager must be informed of additional conflicts-of-interest that arise after the proposal has been submitted.

(9) Collaborative and/or Subcontractual Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with other individuals or organizations, such arrangements should be fully explained and justified. In addition, evidence should be provided that the collaborators involved have agreed to render these services. A letter of intent from the individual or organization will satisfy this requirement.

All anticipated subcontractual arrangements should be explained and justified in this section. A proposed statement of work and a budget for each

arrangement involving the transfer of substantive programmatic work or the providing of financial assistance to a third party must be provided. Agreements between departments or other units of your own institution and minor arrangements with entities outside of your institution (e.g., requests for outside laboratory analyses) are excluded from this requirement.

If you expect to enter into subcontractual arrangements, please note that the provisions contained in 7 CFR Part 3019, USDA Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and the general provisions contained in 7 CFR 3015.205, USDA Uniform Federal Assistance Regulations, flow down to subrecipients. In addition, required clauses from 7 CFR 3019.40 through 3019.48 (''Procurement Standards'') and Appendix A (''Contract Provisions'') should be included in final contractual documents, and it is necessary for the subawardee to make a certification relating to debarment/suspension.

(10) Certifications

Note that by signing the Form CSREES–661 the applicant is providing the required certifications set forth in 7 CFR Part 3017, as amended, regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR Part 3018, regarding Lobbying. The certification forms are included in the application package for informational purposes only. These forms should not be submitted with your proposal since by signing the Form CSREES–661 your organization is providing the required certifications. If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048 to the grantee organization for retention in their records. This form should not be submitted to USDA.

(11) Appendices to the Project Description

Appendices to the Project Description are allowed if they are directly germane to the proposed research and are limited to a total of two of the following: reprints (papers that have been published in peer-reviewed journals) and preprints (manuscripts in press for a peer-reviewed journal). Preprints must be accompanied by the letter of acceptance from the publishing journal.

(12) Budget

Prepare the budget form (Form CSREES–55) in accordance with instructions provided. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. (For example, for a two-year project, the proposal would include three budget forms; one for each of the two years of the project and one cumulative budget for the full two years.) The budget form may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable Federal cost principles and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project. Applicants must also include a budget narrative to explain and justify their budgets. The following guidelines should be used in developing your proposal budget(s):

(a) Salaries and Wages. Salaries and wages are allowable charges and may be requested for personnel who will be working on the project in proportion to the time such personnel will devote to the project. If salary funds are requested, the number of Senior and Other Personnel and the number of CSREES Funded Work Months must be shown in the spaces provided. Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for time in addition to a regular full-time salary covering the same general period of employment.

Salary funds requested must be consistent with the normal policies of the institution.

(b) Fringe Benefits. Funds may be requested for fringe benefit costs if the usual accounting practices of your institution provide that institutional contributions to employee benefits (social security, retirement, etc.) be treated as direct costs. Fringe benefit costs may be included only for those personnel whose salaries are charged as a direct cost to the project.

(c) Nonexpendable Equipment. Nonexpendable equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. (However, institutions may establish lower limits.) As such, items of necessary instrumentation or other nonexpendable equipment should be listed individually by description and estimated cost in the budget narrative. This applies to revised budgets as well, as the equipment item(s) and amount(s) may change.

Note: For projects awarded under the authority of subsection (c)(1)(A) of the Competitive, Special, and Facilities Research Grant Act, no funds will be awarded for the renovation or refurbishment of research spaces; the purchase or installation of fixed equipment in such spaces; or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(d) Materials and Supplies. The types of expendable materials and supplies which are required to carry out the project should be indicated in general terms with estimated costs in the budget narrative.

(e) Travel. The type and extent of travel and its relationship to project objectives should be described briefly and justified. For both domestic and foreign travel, provide the purpose, the destination, method of travel, number of persons traveling, number of days, and estimated cost for each trip in the budget narrative. Airfare allowances normally will not exceed round-trip jet economy air accommodations. U.S. flag carriers must be used when available. See 7 CFR Part 3015.205(b)(4) for further guidance.

(f) Publication Costs/Page Charges. Anticipated costs of preparing and publishing results of the research being proposed (including page charges, necessary illustrations, and the cost of a reasonable number of coverless reprints) may be estimated and charged against the grant.

(g) Computer (ADPE) Costs. Reimbursement for the costs of using specialized facilities (such as a university- or department-controlled computer mainframe or data processing center) may be requested if such services are required for completion of the work.

(h) All Other Direct Costs. Anticipated direct project charges not included in other budget categories must be itemized with estimated costs and justified in the budget narrative. This applies to revised budgets as well, as the item(s) and dollar amount(s) may change. Examples may include space rental at remote locations, subcontractual costs, charges for consulting services, telephone, facsimile, shipping costs, and fees for necessary laboratory analyses. You are encouraged to consult the ''Instructions for Completing Form CSREES–55, Budget,'' of the Application Kit for detailed guidance relating to this budget category. Form AD–1048 must be completed by any subcontractors or consultants and retained by the grantee.

(i) Indirect Costs. Section 711 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for FY

1999, Sec. 101(a) of Pub. L. No. 105–277, limits indirect costs for this program to 14 percent of total Federal funds provided under each award. Therefore, the recovery of indirect costs under this program may not exceed the lesser of the grantee institution's official negotiated indirect cost rate or the equivalent of 14 percent of total Federal funds awarded (TFFA). If no rate has been negotiated, a reasonable dollar amount (equivalent to or less than 14 percent of total Federal funds requested) in lieu of indirect costs may be requested, subject to approval by USDA.

(j) Cost-sharing. Cost-sharing is encouraged; however, cost-sharing is not required nor will it be a direct factor in the awarding of any grant.

(13) Current and Pending Support

All proposals must list any other current public or private support (including in-house support) to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA programs or agencies.

Concurrent submission of identical or similar proposals to the possible sponsors will not prejudice proposal review or evaluation by the Administrator for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program. The application material includes Form CSREES–663, ''Current and Pending Support,'' which should be used for listing current and pending support. Note that the project being proposed should be included in the pending section of the form.

(14) Compliance With the National Environmental Policy Act (NEPA).

As outlined in 7 CFR Part 3407 (the Cooperative State Research, Education, and Extension Service regulations implementing NEPA), the environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. In some cases the preparation of environmental data may not be required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSREES–1234, ''NEPA Exclusions Form,'' must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefore. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion must be identified. Form CSREES–1234 and supporting documentation should be placed after Form CSREES–661, ''Application for Funding,'' in the proposal.

Even though a project may fall within the categorical exclusions, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity. This will be the case if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

(15) Assurance Statement(s) (Form CSREES–662)

A number of situations encountered in the conduct of projects require special assurance, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, it is expected that some applications submitted in response to these guidelines will include the following:

(a) Recombinant DNA or RNA Research. As stated in 7 CFR 3015.205(b)(3), all key personnel identified in the proposal and all endorsing officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, ''Guidelines for Research Involving Recombinant DNA Molecules,'' as revised. If your project proposes to use recombinant DNA or RNA techniques, the application must so indicate by checking the ''yes'' box in Block 19 of Form CSREES–661 and by completing Section A of Form CSREES–662. For applicable proposals recommended for funding, Institutional Biosafety Committee approval is required before CSREES funds will be released.

(b) Animal Care. Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key project personnel and all endorsing officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1996, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary in 9 CFR Parts 1, 2, 3, and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals or activities, you must check the ''yes'' box in Block 20 of Form CSREES–661 and complete Section B of Form CSREES–662. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project.

(c) Protection of Human Subjects. Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES rests with the performing organization. Guidance on this issue is contained in the National Research Act, Pub. L. 93–348, as amended, and implementing regulations established by the Department under 7 CFR Part 1c. If you propose to use human subjects for experimental purposes in your project, you should check the ''yes'' box in Block 21 of Form CSREES–661 and complete Section C of Form CSREES–662. In the event a project involving human subjects results in a grant award, funds will be released only after the appropriate Institutional Review Board has approved the project.

(16) Applicant Peer Review Requirements

Subsection (c)(5) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. § 450i(c)), as amended by section 212 of the Agricultural Research, Extension, and Education Reform Act of 1998 (''1998 Act''), Pub. L. 105–185, requires applicants to conduct a scientific peer review of a proposed research project in accordance with regulations promulgated by the Secretary prior to the Secretary making a grant award under this authority. Regulations implementing this requirement currently are the subject of a proposed rule making (64 FR 14347, March 24, 1999). The statute requires promulgation of a final rule prior to award of a grant under this program. The proposed rule would impose the following requirements for scientific peer review by applicants of proposed research projects:

1. Credible and independent. Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible

review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA employees, but should not be conducted solely by USDA employees.

2. Notice of completion and retention of records. A notice of completion of the review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES. The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

3. Renewal and supplemental grants. Review by the grantee is not automatically required for renewal or supplemental grants as defined in 7 CFR 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

4. Scientific Peer Review. Scientific peer review is an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work. Peer reviewers may be selected from an applicant organization or from outside the organization, but shall not include principal or co-principal investigators, collaborators or others involved in the preparation of the application under review.

Because of the nature of the rule making process, these requirements are subject to change based upon the comments received. Applicants whose proposals are recommended for funding must comply with the review requirements as promulgated in the final rule as a condition precedent to receiving an award under this RFP.

Part IV—Submission of a Proposal

A. What To Submit

An original and nine copies of the complete proposal must be submitted. Each copy of the proposal must be stapled in the upper left-hand corner. DO NOT BIND. In addition, submit 20 copies of the proposal's Project Summary. All copies of the proposal and Project Summary must be submitted in one package.

B. Where and When To Submit

Proposals must be received on or before June 4, 1999. Proposals may be sent by First Class mail, but applicants are strongly encouraged to send their proposal by certified mail and obtain a receipt to document the mailing. Proposals sent via the U.S. Postal Service must be sent to the following address: Special Grants Program—Food Safety Research; c/o Proposal Services Unit; Office of Extramural Programs; USDA/CSREES; STOP 2245; 1400 Independence Avenue, SW; Washington, DC 20250–2245; Telephone: (202) 401–5048.

Note: Applicants are strongly encouraged to submit their completed proposals via overnight mail or delivery services to ensure timely receipt by the USDA and to obtain a receipt to document dispatch of the proposal. Facsimile (FAX) copies will not be accepted.

Hand-delivered proposals or those delivered by an overnight express or courier service should be brought to the following address: Special Grants Program—Food Safety Research; c/o Proposal Services Unit; Office of Extramural Programs; USDA/CSREES; Room 303; Aerospace Center; 901 D Street, SW; Washington, DC 20024; Telephone: (202) 401–5048.

C. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged in writing and via the Internet (e-mail). Therefore, it is important to include your e-mail address on Form CSREES–712 when applicable. This acknowledgment will contain a proposal identification number. Once your proposal has been assigned a proposal number, please cite that number in future correspondence.

Part V—Selection Process and Evaluation Criteria

A. Selection Process

Applicants should submit fully developed proposals that meet all the requirements set forth in this request for proposals.

Each proposal will be evaluated in a two-part process. First, each proposal will be screened to ensure that it meets the requirements as set forth in this request for proposals. Second, proposals that meet these requirements will be technically evaluated by a peer review panel.

The individual peer panel members will be selected from those persons recognized as specialists who are uniquely qualified by training and experience in their respective fields to render expert advice on the merit of the proposals being reviewed. The individual views of the panel members will be used by CSREES staff to determine which proposals should be recommended to the Administrator (or his designee) for final funding decisions.

There is no commitment by USDA to fund any particular proposal or to make a specific number of awards. Care will be taken to avoid actual and potential conflicts of interest among reviewers. Evaluations will be confidential to USDA staff members, peer panel reviewers, and the proposed principal investigator(s)/project director(s), to the extent permitted by law.

B. Evaluation Criteria

In accordance with the provisions of 7 CFR 3400.5, the evaluation factors below will be used in lieu of those contained in 7 CFR 3400.15 in reviewing applications submitted in response to this request for proposals:

(1) Scientific merit of the proposal (represents 50% of the evaluation).

- Conceptual adequacy of the hypothesis or approach as related to the program objectives;
- Clarity and delineation of proposed project objectives as related to National issues and objectives;
- Adequacy of the description of the proposed work;
- Suitability and feasibility of the methodology for conducting the work;
- Probability of success of the project; and
- Novelty, uniqueness, and originality.

(2) Qualifications of the proposed project personnel, partnerships and adequacy of the facilities (represents 25% of the evaluation).

- Training and demonstrated awareness of previous alternative approaches to relevant objective(s) listed in the Request for Proposals and performance record and/or potential for future accomplishments;
- Partnerships with other disciplines and institutions;
- Time allocated for systematic attainment of objectives;
- Institutional experience and competence in the identified area of work; and
- Adequacy of available or obtainable support personnel, facilities, and instrumentation.

(3) Adoption or transfer of technology strategies (represents 25% of the evaluation).

- Established or documented linkage with industry partner(s); and

• Clear and effective plan for educational outreach and technology transfer to end users.

Part VI—Additional Information:

A. Access to Peer Review Information

Copies of summary reviews, not including the identity of the reviewers, will be sent to all applicant PI/PD's automatically, after the review process has been completed.

B. Grant Awards

(1) General

Within the limit of funds available for such purpose, the Administrator shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious under the procedures set forth in this request for proposals. The date specified by the Administrator as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds granted by CSREES under this request for proposals shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (Parts 3015, 3016, and 3019 of 7 CFR).

(2) Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant identified under this part if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. Copies of forms recommended for use in fulfilling the requirements contained in this section will be provided by the sponsoring agency as part of the preaward process.

(3) Grant Award Document and Notice of Grant Award

The grant award document shall include at a minimum the following:

(a) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this request for proposals;

(b) Title of project;

(c) Name(s) and address(es) of PI/PD's chosen to direct and control approved activities;

(d) Identifying grant number assigned by the Department;

(e) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(f) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(g) Legal authority(ies) under which the grant is awarded;

(h) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(i) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

CSREES will award standard grants to carry out this program. A standard grant is a funding mechanism whereby CSREES agrees to support a specified level of effort for a predetermined time period without additional support at a future date.

C. Use of Funds; Changes

(1) Delegation of Fiscal Responsibility

The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(2) Reporting Requirements

The grantee must prepare an annual report that details all significant activities towards achieving the goals and objectives of the project. The narrative should be succinct and be no longer than five pages, using 12-point font, single-spaced type. A budget summary should be attached to this report, which will provide an overview of all monies spent during the reporting period.

(3) Changes in Project Plans

(a) The permissible changes by the grantee, PI/PD, or other key project personnel in the approved project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the PI/PD's are uncertain as to whether a change complies with this provision, the question must be referred to the Authorized Departmental Officer (ADO) for a final determination.

(b) Changes in approved goals or objectives shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(c) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSREES prior to effecting such changes.

(d) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the ADO prior to effecting such transfers, unless prescribed otherwise in the terms and conditions of the grant.

(e) Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s), within the statutory limitation, as the ADO determines may be necessary to complete or fulfill the purposes of an approved project. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the ADO, unless prescribed otherwise in the terms and conditions of a grant.

(f) Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or in the grant award.

D. Other Federal Statutes and Regulations That Apply

Several other Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include but are not limited to:

7 CFR Part 1—USDA implementation of the Freedom of Information Act.

7 CFR Part 3, as amended—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR Part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e.,

Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3016, as amended—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR Part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Non-profit Institutions.

7 CFR Part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR Part 15B (USDA implementation of statute)— prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 et seq.—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

E. Confidential Aspects of Proposals and Awards

When a proposal results in a grant, it becomes a part of the record of the Agency's transactions, available to the public upon specific request. Information that the Secretary determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal.

The original copy of a proposal that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

F. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR Part 3015, subpart V, this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Done at Washington, D.C., on this 30th day of March, 1999.

K. Jane Coulter,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 99–8288 Filed 4–2–99; 8:45 am]

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federal register

Monday
April 5, 1999

Part VII

The President

Executive Order 13117—Further Amendment to Executive Order 12981, as Amended

Federal Register
Vol. 64, No. 64
Monday, April 5, 1999

Presidential Documents

Title 3—

The President

Executive Order 13117 of March 31, 1999

Further Amendment to Executive Order 12981, as Amended

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to further the implementation of the reorganization of the Arms Control and Disarmament Agency (ACDA) into the Department of State, in this instance by eliminating ACDA's vote on dual-use export license decisions in the administration of export controls, it is hereby ordered that Executive Order 12981, as amended (''Executive Order 12981''), is further amended as follows:

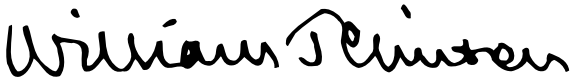
Section 1. The second sentence of section 1 of Executive Order 12981 is amended by deleting '', and the Arms Control and Disarmament Agency''.

Sec. 2. The second sentence of section 5(a)(1)(A) of Executive Order 12981 is amended by adding ''and'' after ''the Secretary of Defense'' and before ''the Secretary of Energy,'' and deleting '', and the Director of the Arms Control and Disarmament Agency.''

Sec. 3. The first sentence of section 5(a)(2) of Executive Order 12981 is amended by deleting '', and the Arms Control and Disarmament Agency.''

Sec. 4. The second sentence of section 5(a)(3)(A) of Executive Order 12981 is amended by deleting '', and the Arms Control and Disarmament Agency.''

Sec. 5. The first sentence of section 6 of Executive Order 12981 is amended by deleting ''and the Arms Control and Disarmament Agency''.



THE WHITE HOUSE,
March 31, 1999.

[FR Doc. 99–8509
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federal register

Monday
April 5, 1999

Part VIII

The President

Executive Order 13118—Implementation of the Foreign Affairs Reform and Restructuring Act of 1998

Federal Register
Vol. 64, No. 64
Monday, April 5, 1999

Presidential Documents

Title 3—

The President

Executive Order 13118 of March 31, 1999

Implementation of the Foreign Affairs Reform and Restructuring Act of 1998

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2381), and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. Part 1–1 of Executive Order 12163, as amended, is amended to read as follows:

''1–1. DEPARTMENT OF STATE

''1–100. Delegation of Functions. (a) Exclusive of the functions otherwise delegated, or reserved to the President, by this order, Executive Order 12884, Executive Order 11579, and Executive Order 12757, and subject to the provisions of such orders, there are hereby delegated to the Secretary of State (referred to in this Part as the ''Secretary'') all functions conferred upon the President by:

''(1) the Foreign Assistance Act of 1961 (22 U.S.C. 2151 *et seq*.) (''Act'');

(i) except that with respect to section 505(a) of the Act, such functions only insofar as those functions relate to other provisions which may be required by the President or only insofar as they relate to consent;

(ii) except that with respect to section 505(b) of the Act, such functions only insofar as those functions pertain to countries that agree to the conditions set forth therein;

''(2) section 1205(b) of the International Security and Development Cooperation Act of 1985 (''ISDCA of 1985'');

''(3) section 8(d) of the Act of January 12, 1971 (22 U.S.C. 2321b(d));

''(4) section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a);

''(5) section 402(b)(2) of title 10, United States Code, which shall be exercised in consultation with the Secretary of Defense;

''(6) the third proviso under the heading ''Development Assistance'' contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277);

''(7) section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461);

''(8) sections 508, 517, 518, 528(a), 535, 539, 544, 561, 563, 572, 574, 575, 585, 594 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277);

''(9) section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277), which shall be exercised in consultation with the Secretary of the Treasury;

''(10) section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277);

''(11) section 591 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118), and the provisions of law referenced therein;

''(12) section 821(b) of the Western Hemisphere Drug Elimination Act (as contained in Public Law 105–277).

''(b) The functions under section 653 of the Act delegated to the Secretary shall be exercised in consultation with the Secretary of Defense, insofar as they relate to functions under the Act administered by the Department of Defense, and the Director of the Office of Management and Budget.

''(c) The functions under sections 239(f), 620(e), 620(g), 620(j), 620(q), and 620(s) of the Act delegated to the Secretary shall be exercised in consultation with the Administrator of the United States Agency for International Development.

''(d) The Secretary shall perform all public information functions abroad with respect to the foreign assistance, aid, and development programs of the United States Government, to the extent such functions are not specifically assigned by statute to be performed by a different officer.

''(e) The Secretary may redelegate to any other officer or agency of the Executive branch functions delegated to the Secretary by this order to the extent such delegation is not otherwise prohibited by law.''.

Sec. 2. Part 1–2 of Executive Order 12163, as amended, is amended to read as follows:

''1–2. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

''1–200. United States Agency for International Development.

''(a) The United States Agency for International Development is an independent establishment within the Executive branch. Any reference in the Act to the agency primarily responsible for administering part I of the Act, or to the Administrator of such agency, shall be deemed to be a reference to the United States Agency for International Development or to the Administrator of that agency, as appropriate.

''(b) The United States Agency for International Development shall be headed by an Administrator appointed pursuant to section 624(a) of the Act.

''(c) The officers provided for in section 624(a) of the Act shall serve in the United States Agency for International Development.

''(d) The Office of Small Business provided for in section 602(b) of the Act shall be in the United States Agency for International Development.

''(e) To the extent practicable, the Administrator of the United States Agency for International Development will exercise functions relating to Foreign Service personnel in a manner that will assure maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system. To this end, the Administrator shall consult regularly with the Secretary of State.''.

Sec. 3. Part 1–3 of Executive Order 12163, as amended, is amended in section 301(c) by striking ''part II of the Act (except chapters 4, 6, and 8 thereof)'' and inserting in lieu thereof ''chapters 2 and 5 of part II of the Act''.

Sec. 4. Part 1–4 of Executive Order 12163, as amended, is revoked.

Sec. 5. Part 1–5 of Executive Order 12163, as amended, is amended as follows:

(1) in section 1–501(c), by striking ''Director, as provided in Executive Order 11269 of February 14, 1966, as amended'' and inserting in lieu thereof ''Secretary of State'';

(2) section 1–504 is revoked;

(3) section 1–505 is amended to read as follows:

''1–505. Trade and Development Agency. There is delegated to the Director of the Trade and Development Agency the functions conferred upon the President by section 661(d) of the Act.'';

(4) section 1–506 is revoked.

Sec. 6. Part 1–6 of Executive Order 12163, as amended, is amended as follows:

(1) in section 1–602, by striking ''Director of IDCA, the Director'' and inserting in lieu thereof ''Secretary of State, the Secretary''; and

(2) in section 1–604, by striking '', title IV of the IDC Act of 1979 or section 402 of the Mutual Security Act of 1954''.

Sec. 7. Part 1–7 of Executive Order 12163, as amended, is amended as follows:

(1) in section 1–701(a)—

(A) by striking ''662(a),''; and

(B) by inserting ''493,'' after ''298(a),'';

(2) by striking section 1–701(b), and redesignating subsections ''(c)'' and ''(d)'' as subsections ''(b)'' and ''(c)'', respectively;

(3) in section 1–701(c) (as redesignated by this section)—

(A) by inserting ''209(d),'' before ''303'';

(B) by striking ''481'' and inserting in lieu thereof ''490''; and

(C) by striking '', 669(b)(1), 670(a), 670(b)(2), and 670(b)(3)'';

(4) in section 1–701(g), by striking ''131,'';

(5) in section 1–702—

(A) by striking ''Director'' and inserting in lieu thereof ''Secretary''; and

(B) by striking ''IDCA'' and inserting in lieu thereof ''the Department of State'';

(6) by adding a new section 1–703 to read as follows:

''1–703. Office of Management and Budget. In this order the Director of the Office of Management and Budget shall retain all authorities related to the implementation of his budgetary and policy coordination functions, including the authority to:

(a) request and receive information from any agency that is subject to this delegation;
(b) carry out all responsibilities associated with implementing the Government Performance and Results Act, the Government Management Reform Act, and other comparable government-wide statutes dealing with management; and
(c) carry out all statutory budget and policy coordination responsibilities assigned to the Director of the Office of Management and Budget by statute or Executive order.

Sec. 8. Part 1–8 of Executive Order 12163, as amended, is amended to read as follows:

''1–8 FUNDS

''1–800. Allocation of Funds. Funds described below that are appropriated or otherwise made available to the President shall be deemed to be allocated without any further action of the President, as follows:

''(a) Except as provided in subsections (b) and (c), there are allocated to the Secretary all funds made available for carrying out the Act, including any funds appropriated under the heading ''Nonproliferation, Anti-Terrorism, Demining and Related Programs''.

''(b) There are allocated to the Secretary of Defense all funds made available for carrying out chapters 2 and 5 of Part II of the Act.

''(c) There are allocated to the Secretary of the Treasury all funds made available for carrying out section 129 of the Act.

''(d) The Secretary of State, the Secretary of Defense, and the Secretary of the Treasury may allocate or transfer as appropriate any funds received under subsections (a), (b), and (c) of this section, respectively, to any agency or part thereof for obligation or expenditure thereby consistent with applicable law.

Sec. 9. Part 1–9 of Executive Order 12163, as amended, is amended as follows: (1) in section 1–902(c), by striking ''hereafter-enacted''; and (2) by revoking sections 1–903(c) and 1–903(d).

Sec. 10. The following Executive orders are revoked or amended:

(1) Executive Order 12884 of December 1, 1993, is amended—

(a) in section 3, by striking the section heading and all that follows through ''by:'', and inserting in lieu thereof ''Secretary of State-Additional Functions. There are delegated to the Secretary of State the functions conferred upon the President by:''; and

(b) in section 6(a), by striking ''3, 4, and 5'' and inserting in lieu thereof ''4 and 5''.

(2) Executive Order 12703 of February 20, 1990, is amended by amending section 2 to read as follows:

''Sec. 2. Department of State. The functions conferred upon the President by section 201 of the Act relating to Enterprise Funds for Poland and Hungary are hereby delegated to the Secretary of State.''.

(3) Executive Order 12599 of June 23, 1987, is revoked.

(4) Executive Order 12293 of February 23, 1981, is amended—

(A) in section 2, by striking ''Director of the United States International Development Cooperation Agency'' and inserting in lieu thereof ''Administrator of the United States Agency for International Development''; and

(B) in section 9, by striking ''United States International Development Cooperation Agency'' and inserting in lieu thereof ''United States Agency for International Development'' in both places this phrase appears.

(5) Executive Order 12301 of March 26, 1981, is amended in subsection (b)(23) by striking ''Director of the United States 8International Development Cooperation Agency'' and inserting in lieu thereof ''Administrator of the United States Agency for International Development''.

(6) Executive Order 12188 of January 2, 1980, is amended by striking ''Director of the United States International Development Cooperation Agency'' and inserting in lieu thereof ''Administrator of the United States Agency for International Development''.

(7) Executive Order 12260 of December 31, 1980, is amended in the annex thereto, by striking ''United States International Development Cooperation Agency'' and inserting in lieu thereof ''United States Agency for International Development''.

(8) Executive Order 11958 of January 18, 1977, is amended in section 2 by striking ''the Director of the United States International Development Cooperation Agency, the Director of the Arms Control and Disarmament Agency,''.

(9) Executive Order 11269 of February 14, 1966, is amended—

(A) in section 1(b), by striking ''Director of the International Development Cooperation Agency'' and inserting in lieu thereof ''Administrator of the United States Agency for International Development'';

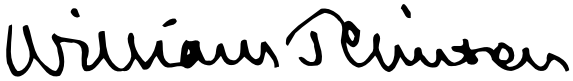
(B) in section 4(a), by striking ''Director of the International Development Cooperation Agency'' and inserting in lieu thereof ''Secretary of State'', in both places that it appears; and

(C) in section 7, by striking ''Functions of the Director of the International Development Cooperation Agency. As the principal international development advisor to the President, the Director of the International Development Cooperation Agency'' and inserting in lieu thereof ''Functions of the Secretary of State. The Secretary of State''.

(10) Executive Order 11223 of May 12, 1965, is amended by striking ''Director of the United States International Development Cooperation Agency (with respect to functions vested in or delegated to the Director)'' and inserting in lieu thereof ''Administrator of the United States Agency for International Development (with respect to functions vested in or delegated to the Administrator)''.

(11) The Memorandum for the Secretary of State of March 23, 1999, entitled ''Delegation of Authority Under Section 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277)'', is amended by deleting the second sentence therein.

Sec. 11. The provisions of this order shall become effective as of April 1, 1999, except that the authority contained in section 1–100(d), and the amendment made by section 5(2) of this order, shall become effective as of October 1, 1999.



THE WHITE HOUSE,
March 31, 1999.

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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/nara/index.html. Some laws may not yet be available.

H.R. 1212/P.L. 106–7

To protect producers of agricultural commodities who applied for a Crop Revenue Coverage PLUS supplemental endorsement for the 1999 crop year. (Apr. 1, 1999; 113 Stat. 12)

Last List April 2, 1999.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

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