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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM161, Special Conditions No. 25–146–SC]

Special Conditions: GEC-Marconi; Boeing Model 737–800 Airplane; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 737–800 airplane, as modified by GEC-Marconi. The Model 737–800 is equipped with a high-technology digital avionics system that performs critical functions. The applicable type certification regulations do not contain adequate or appropriate safety standards for the protection of this system from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards that the Administrator considers necessary to ensure that the critical functions this system performs are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is July 29, 1999. Comments must be received on or before October 4, 1999.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–114), Docket No. NM161, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM161. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Gerry Lakin, FAA, Transport Airplane Directorate, Aircraft Certification Service, Standardization Branch, ANM–113, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–1187; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM161.'' The postcard will be date stamped and returned to the commenter.

Background

On September 28, 1998, the Los Angeles Aircraft Certification Office received an application from GEC-Marconi Avionics (GMA) Ltd., Airport Works, Rochester, Kent, England, for a supplemental type certificate to modify Type Certificate No. A16WE for the Boeing Model 737–800.

The Boeing Model 737–800 is a low-wing, pressurized airplane with twin, wing-mounted, jet engines that is configured for approximately 162 passengers. The airplane has a maximum standard takeoff weight of 155,500 pounds, a maximum landing weight of 146,300 pounds, a maximum operating altitude of 41,000 feet, and a range of 3370 nautical miles. The overall length of the Boeing Model 737–800 is 129 feet, 6 inches, the height is 41 feet, 2 inches, and the wing span is 112 feet, 7 inches. The modification incorporates a head up display (HUD) system for display of critical flight parameters (altitude, airspeed, and attitude) to the crew. The display can be susceptible to disruption to both command/response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

Type Certification Basis

Under the provisions of 14 CFR 21.101, GEC-Marconi must show that the Model 737–800 airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A16WE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certifications basis.'' The certification basis for the modified Boeing Model 737–800 airplanes is as follows:

For airworthiness and environmental standards for components and areas not affected by the change, the original certification basis for the Model 737–800 is shown on Type Certificate Data Sheet (TCDS) No. A15WE, revision 25, dated September 9, 1998. The Model 737–800 was certified to part 25, as amended by Amendments 25–1 though 25–77, with reversions to earlier Amendments, voluntary compliance to later Amendments, special conditions, equivalent safety findings and exemptions listed in the TCDS.

For airworthiness and environmental standards for components and areas affected by the change, the certification basis for the Model 737–800 is 14 CFR

part 25, effective February 1, 1965, including Amendments 25–1 through 25–97, which is the amendment level in effect on the date of application.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for the Boeing Model 737–800 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model 737–800 must comply with the part 25 fuel and exhaust emission requirements of 14 CFR part 34 and the part 25 noise certification requirements of 14 CFR part 36.

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

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

Novel or Unusual Design Features

Boeing Model 737–800 will incorporate a head up display (HUD) system that performs critical functions. This system may be vulnerable to HIRF external to the airplane.

Discussion

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

To ensure that a level of safety is achieved equivalent to that intended by the applicable regulations incorporated by reference, special conditions are needed for the Boeing Model 737–800, which require that new electrical and electronic systems, such as the HUD, that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

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

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

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

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

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

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

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

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

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

Applicability

As discussed above, these special conditions are applicable to Boeing Model 737–800 airplanes modified by GEC-Marconi. Should GEC-Marconi apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on Boeing Model 737–800 airplanes modified by GEC-Marconi. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 737–800 airplanes modified by GEC-Marconi.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields*

(HIRF). Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

For the purpose of these special conditions, the following definition applies:

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

Issued in Renton, Washington, on July 29, 1999.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 99–20858 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–233–AD; Amendment 39–11253; AD 99–17–04]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, that requires replacement of the fairlead support assemblies of the aileron control cable located in the nacelle outboard fittings with new, improved assemblies; and replacement of certain attachment screws with new screws. This amendment also provides an option for performing repetitive inspections until accomplishment of the replacement. This amendment is prompted by reports of aileron cable wear due to chafing found between the aileron control cables and nylon grommets. The actions specified by this AD are intended to prevent such chafing, which could result in failure of the aileron cables, and consequent reduced controllability of the airplane.

DATES: Effective September 22, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 22, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rob Capezutto, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6071; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–120 series airplanes was published in the **Federal Register** on September 3, 1998 (63 FR 46932). That action proposed to require replacement of the fairlead support assemblies of the aileron control cable located in the nacelle outboard fittings with new, improved assemblies; and replacement of certain attachment screws with new screws.

Comments

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

Support for the Proposal

One commenter supports the proposed rule.

Request To Withdraw Proposed Rule

Two commenters state that the proposed rule is not warranted and cannot be justified. One commenter, an operator, does not agree that this is a safety of flight issue and states that the proposed AD does not specify the amount of wear found on the cables, or that the cables were in danger of, or close to, failure. In support of withdrawal of the proposed rule, the commenter references two instances, one in 1991 and one in 1997, in which the Brazilian Centro Tócnico Aeroespacial (CTA) documented that if a single cable failed during flight, the airplane would be able to land safely. The commenter also states that the EMB–120 Maintenance Review Board (MRB) inspection interval for the aileron cables is sufficient to ensure continued airworthiness in lieu of issuance of the final rule.

Another commenter, the manufacturer, states that inspections of certain airplanes conducted at its facility revealed cables with polished areas, but no indication of wear or rupture was detected. The commenter states also that operators that have not incorporated Revision 2 of the service bulletin have a rigorous inspection interval of every 400 flight hours, per the MRB. For operators that have incorporated Revision 2 of the service bulletin, the cable inspections are to be accomplished at each ''5A'' check (2,000 flight hours). The commenter states that during the past 10 years it has performed 25 ''C'' checks with no record of aileron cable replacement due to broken wires.

The FAA does not concur with the commenters' requests. The FAA does consider this a safety issue based on the determination that if the aileron cable were to break during a critical portion of the flight, such as during a steep turn or on approach for landing, it would result in reduced controllability of the airplane.

In addition, an investigation of service difficulties conducted by the FAA revealed over 200 reports of aileron cable wear. Although most of these occurred in the early 1990's, several cases were reported in 1997 and two through mid-1998. This suggests that not all operators are incorporating the service bulletin.

Based on this information, the FAA finds that issuance of the final rule is necessary to ensure an adequate level of safety for the affected fleet.

Request To Revise Inspection Intervals

One commenter states that Parts I, II, and III of EMBRAER Service Bulletin 120–27–0068, Change 02, dated March 20, 1998, include a statement referring to MRB Tasks 27–07 and 27–65 [the correct reference as stated in the service bulletin is Maintenance Planning Guide (MPG) Tasks 27–07 and 27–64] for inspection intervals of the specified areas, both pre- and post-mod. The commenter requests that the inspection interval of the post-mod installation be based on an analysis of inspection

findings and an agreement between the operator and its Principal Maintenance Inspector (PMI).

The FAA does not concur with the commenter's request. The FAA finds that, at this time, insufficient data exist to support allowing PMI's to make an assessment of aileron cable wear in order to increase the regular post-mod inspection intervals called out in the MPG. The FAA may, however, approve a request for an adjustment of the post-mod inspection intervals if data are submitted to substantiate that such an adjustment would provide an equivalent level of safety.

Request To Extend Compliance Time and Add Repetitive Inspections

One commenter requests that the FAA extend the proposed compliance time for the modification from within 400 hours time-in-service after the effective date of this AD, to within 500 hours time-in-service after the effective date of this AD. The commenter also requests that if the FAA proceeds with issuing this AD, inspections of the aileron cables be added; the inspections should be accomplished at intervals not to exceed 500 flight hours until installation of the modification. The commenter indicates that accomplishment of the modification cannot be completed within 400 hours time-in-service due to lack of availability of the kits used for the modification. The commenter states that one-third of the compliance time will be used waiting for delivery of the kits.

The FAA partially concurs with the commenter's request. The FAA has determined that allowing repetitive inspections of the aileron cables at intervals not to exceed 500 flight hours ''until installation of the modification'' is not appropriate in this case because it allows the inspections to continue indefinitely, which does not address the unsafe condition in a timely manner. However, the manufacturer has stated that parts kits are available 90 days after submission of the purchase request. In light of the time required to obtain the parts, the FAA agrees to revise the compliance time for accomplishment of the modification, and to add an option for repetitive inspections in accordance with procedures specified in the airplane maintenance manual. The FAA finds that repetitive inspections of the aileron cable at intervals not to exceed 400 hours time-in-service until accomplishment of the modification, for a time period not to exceed 6 months after the effective date of this AD, will not adversely affect safety, and will allow the modification to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. The Summary section, as well as paragraphs (a) and (b) of this final rule, have been revised accordingly.

Explanation of Change to Proposal

The FAA has added ''Note 2'' to the final rule to clarify the definition of a general visual inspection.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 227 airplanes of U.S. registry will be affected by this AD.

For airplanes identified in Part I of EMBRAER Service Bulletin 120–27–0068, Change 02, it will take approximately 4 work hours per airplane to accomplish the required replacement of the fairlead support assemblies of the aileron control cable, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,464 per airplane. Based on these figures, the cost impact of this replacement required by this AD on U.S. operators is estimated to be $386,808, or $1,704 per airplane.

For airplanes identified in Part II of EMBRAER Service Bulletin 120–27–0068, Change 02, it will take approximately 1 work hour per airplane to accomplish the required replacement of the fairlead support assemblies of the aileron control cable, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,292 per airplane. Based on these figures, the cost impact of this replacement required by this AD on U.S. operators is estimated to be $306,904, or $1,352 per airplane.

For airplanes identified in Part III of EMBRAER Service Bulletin 120–27–0068, Change 02, it will take approximately 1 work hour per airplane to accomplish the required replacement of the fairlead support assemblies of the aileron control cable, at an average labor rate of $60 per work hour. Required parts will cost approximately $501 per airplane. Based on these figures, the cost impact of this replacement required by this AD on U.S. operators is estimated to be $127,347, or $561 per airplane.

For airplanes identified in Part IV of EMBRAER Service Bulletin 120–27–0068, Change 02, it will take approximately 1 work hour per airplane to accomplish the required replacement of the attachment screws, at an average labor rate of $60 per work hour. Required parts cost will be minimal. Based on these figures, the cost impact of this replacement required by this AD on U.S. operators is estimated to be $13,620, or $60 per airplane.

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

Should an operator elect to accomplish the optional repetitive inspections provided by this AD action, it would take approximately 2 work hours per airplane, per inspection cycle, to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspections would be $60 per airplane, per inspection cycle.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–17–04 Empresa Brasileira de Aeronautica S.A. (Embraer): Amendment 39–11253. Docket 98–NM–233–AD.

Applicability: Model EMB–120 series airplanes, as listed in EMBRAER Service Bulletin 120–27–0068, Change 02, dated March 20, 1998, 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 otherwise 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 chafing between the aileron control cables and nylon grommets, which could result in failure of the aileron cables, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 400 hours time-in-service after the effective date of this AD, accomplish the requirements of either paragraph (a)(1) or (a)(2) of this AD.

Repetitive Inspections

(1) Perform a general visual inspection to detect chafing between the aileron control cables and nylon grommets, in accordance with the procedures specified in EMBRAER EMB–120 Airplane Maintenance Manual, Chapters 20–20–01, 27–00–01, and 27–11–00.

(i) If any chafing is detected, prior to further flight, accomplish the requirements of paragraph (b) of this AD.

(ii) If no chafing is detected: Repeat the inspection thereafter at intervals not to exceed 400 hours time-in-service until the requirements of paragraph (b) of this AD have been accomplished.

General Visual Inspection

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(2) Accomplish the requirements of paragraph (b) of this AD.

Replacement

(b) Except as provided by paragraph (a)(2) of this AD: Within 6 months after the effective date of this AD, accomplish the requirements of paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD, as applicable, in accordance with EMBRAER Service Bulletin 120–27–0068, Change 02, dated March 20, 1998. Accomplishment of the requirements of this paragraph constitutes terminating action for the repetitive inspections specified in paragraph (a)(1) of this AD.

(1) For airplanes having serial numbers 120003, 120004, and 120006 through 120217 inclusive, on which the modification specified in EMBRAER Service Bulletin 120–27–0068, dated February 28, 1991, has not been accomplished: Replace the fairlead support assemblies of the aileron control cable (provided with fairleads in both Teflon and nylon) located in the nacelle outboard fittings with new, improved assemblies (Part I), in accordance with the service bulletin.

(2) For airplanes having serial numbers 120003, 120004, and 120006 through 120217 inclusive, on which the modification specified in EMBRAER Service Bulletin 120–27–0068, dated February 28, 1991, has been accomplished; and airplanes having serial numbers 120218 through 120331 inclusive: Replace the fairlead support assemblies of the aileron control cable (provided with fairleads in Teflon) located in the nacelle outboard fittings with new, improved assemblies (Part II), in accordance with the service bulletin.

(3) For airplanes having serial numbers 120003, 120004, and 120006 through 120331 inclusive, on which the modification specified in EMBRAER Service Bulletin 120–27–0068, dated February 28, 1991, or Change 01, dated August 1, 1997, has been accomplished; and airplanes having serial numbers 120332 and 120333: Replace the attachment screws and the fairlead support assemblies of the aileron control cable with new, improved assemblies (Part III), in accordance with the service bulletin.

(4) For airplanes having serial numbers 120334, 120335, and 120336: Replace the attachment screws of the fairlead support assemblies of the aileron control cable (Part IV), in accordance with the service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The replacement shall be done in accordance with EMBRAER Service Bulletin 120–27–0068, Change 02, dated March 20, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW, Renton, Washington; or FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(f) This amendment becomes effective on September 22, 1999.

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

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20880 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–125–AD; Amendment 39–11255; AD 99–17–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A310 series airplanes, that requires repetitive inspections and tests to detect missing or damaged vespel bushes on the slat system universal joint assemblies of the left- and right-hand wings; and replacement of the universal joints with new joints, if necessary. This

amendment also provides for an optional terminating modification for the repetitive inspection and test requirements. This amendment is prompted by a report of loose and migrated vespel bushes and partial cracking within unsupported bush areas found on the slat system universal joint assemblies. The actions specified by this AD are intended to prevent rupture of the universal joints, which could result in inadvertent movement of the slats, and consequent reduced controllability of the airplane.

DATES: Effective September 22, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of September 22, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A310 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on October 14, 1998 (63 FR 55061). That action proposed to require repetitive inspections and tests to detect missing or damaged vespel bushes on the slat system universal joint assemblies of the left- and right-hand wings; and replacement of the universal joints with new joints, if necessary. That action also provided for an optional terminating modification for the repetitive inspection and test requirements.

Comments Received

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

Support for the Proposal

One commenter supports the proposed rule.

Removal of Visual Inspection (Manual Backlash Check) Requirement

In response to the original NPRM, two commenters request that paragraph (a) of the proposed AD be revised to remove the visual inspection, or ''manual backlash check'', to detect missing or damaged vespel bushes on the slat system universal joint assemblies of the left- and right-hand wings. One commenter states that the visual inspection is very unreliable and results are difficult to quantify. Further, the commenter states that the electrical continuity test that is also required by paragraph (a) of the proposed AD is sufficient in itself for ensuring the integrity of the universal joint and confirming the possibility of a missing vespel bushing.

Another commenter, the manufacturer, states that the manual backlash check is impractical and difficult to evaluate, thus the proposed AD requires inspecting in a way that is not feasible. This commenter states that the referenced Airbus and Lucas service bulletins are undergoing revision to remove the procedures for the manual backlash check contained therein, and requests that the proposed AD refer to the later revisions, thus removing the requirement for the manual backlash check.

The FAA does not concur with the request to remove the requirement for visual inspection. The FAA acknowledges that results of the visual inspection may be difficult to assess reliably, as described in Lucas Service Bulletin 525A–27–618, dated October 5, 1992 (which is referenced in Airbus Service Bulletin A310–27–2061 as an additional source of service information). However, the visual inspection is intended to provide only an initial assessment for presence of vespel bushes and is to be followed by the electrical continuity test to finalize such a determination.

Since issuance of the original NPRM, Airbus Service Bulletin A310–27–2061, Revision 1, dated October 3, 1997, has been issued, and this revision was cited as an appropriate source of service information in the supplemental NPRM. This later revision still contains procedures for accomplishment of the visual inspection. Since no additional information has been provided by the manufacturer or vendor regarding the acceptability of eliminating the visual inspection, the FAA has determined that the visual inspection should be accomplished in addition to the electrical continuity test, as described in the Airbus service bulletin. No change is made to the final rule in this regard.

Correction of Typographical Error

One commenter notes that the preamble to the supplemental NPRM contains an incorrect reference to an Airbus Model A320 series airplane, rather than Model A310 series airplanes to which this proposed AD is applicable. The FAA acknowledges the error, however, because this section of the preamble to the supplemental NPRM is not restated in the final rule, no change to the AD is necessary.

Conclusion

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

Cost Impact

The FAA estimates that 41 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per airplane to accomplish the required inspection and test, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection and test required by this AD on U.S. operators is estimated to be $49,200, or $1,200 per airplane, per inspection and test cycle.

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

Should an operator elect to accomplish the optional terminating modification provided by this AD action, it would take approximately 11 work hours to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the optional terminating modification would be $660 per airplane.

Regulatory Impact

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

implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–17–06 Airbus Industrie: Amendment 39–11255. Docket 93–NM–125–AD.

Applicability: Model A310 series airplanes, except those on which Airbus Modification 10092 (Airbus Service Bulletin A310–27–2060, Revision 01, dated October 3, 1997) has been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent rupture of the universal joints, which could result in inadvertent movement of the slats, and consequent reduced controllability of the airplane, accomplish the following:

Inspections and Corrective Actions

(a) Prior to the accumulation of 15,000 total landings, or within 400 flight hours after the effective date of this AD, whichever occurs later, perform a visual inspection and an electrical continuity test to detect missing or damaged vespel bushes on the slat system universal joint assemblies of the left- and right-hand wings, in accordance with Airbus Service Bulletin A310–27–2061, dated November 4, 1992, or Revision 01, dated October 3, 1997. Repeat this inspection and test thereafter at intervals not to exceed 15,000 landings.

(b) If any vespel bushes are missing or damaged, prior to further flight, replace the universal joint with a new joint in accordance with Airbus Industrie Service Bulletin A310–27–2061, dated November 4, 1992, or Revision 01, dated October 3, 1997. After replacement, continue to repeat the inspection and test required by paragraph (a) of this AD at intervals not to exceed 15,000 landings.

Optional Terminating Modification

(c) Modification of the slat system universal joint and shaft assemblies in accordance with Airbus Service Bulletin A310–27–2060, Revision 01, dated October 3, 1997, constitutes terminating action for the repetitive inspection and test requirements of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

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

Special Flight Permits

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

Incorporation by Reference

(f) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A310–27–2061, dated November 4, 1992, or Airbus Service Bulletin A310–27–2061, Revision 01, dated October 3, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 92–275–139(B)R1, dated December 17, 1997.

(g) This amendment becomes effective on September 22, 1999.

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

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20879 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–31–AD; Amendment 39–11258; AD 99–17–10]

RIN 2120–AA64

Airworthiness Directives; Schweizer Aircraft Corporation Model 269A, 269A–1, 269B, 269C, 269C–1, and 269D Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Schweizer Aircraft Corporation (SAC) Model 269A, 269A–1, 269B, 269C, 269C–1, and 269D helicopters. This action requires inspecting the tail rotor swashplate shaft (shaft) nut for looseness and, if loose, inspecting the shaft for proper size; subsequently inspecting the shafts not previously inspected; and replacing any undersized shaft prior to further flight. This amendment is prompted by the discovery of an undersized replacement shaft during routine maintenance. The actions specified in this AD are intended to prevent failure of the shaft and subsequent loss of control of the helicopter.

DATES: Effective September 2, 1999. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 2, 1999. Comments for inclusion in the Rules Docket must be received on or before October 18, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–31–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

The service information referenced in this AD may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: George J. Duckett, Aerospace Engineer, New York Aircraft Certification Office, FAA, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581, telephone (516) 256–7525, fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD applicable to SAC Model 269A, 269A–1, 269B, 269C, 269C–1, and 269D helicopters with shaft, part number (P/N) 269A6049–3, installed. The undersized shafts were shipped from the factory as spares between September 1 and December 1, 1998. This action requires the following inspections and replacement:

- Within the next 10 hours time-in-service (TIS) and thereafter at intervals not exceeding 10 hours TIS until the next 100-hour or annual inspection, whichever occurs first, inspect the shaft nut, P/N 269A6258, for looseness by using a firm hand pressure. If the shaft nut is loose, inspect the shaft for the proper size.
- At the next 100-hour or annual inspection, whichever occurs first, inspect the shaft, P/N 269A6049–3, for the proper size.
- Prior to further flight, replace any undersized shaft with an airworthy shaft of the proper size.

This amendment is prompted by the discovery of an undersized replacement shaft during routine maintenance. The actions specified in this AD are intended to prevent failure of the shaft and subsequent loss of control of the helicopter.

The FAA has reviewed SAC Service Bulletins B–271, DB–007, and C1B–009, all dated March 12, 1999, which describe procedures for inspecting the shaft nut, P/N 269A6258, for looseness by using a firm hand pressure and the shaft, P/N 269A6049–3, for proper size.

Since an unsafe condition has been identified that is likely to exist or develop on other Model 269A, 269A–1, 269B, 269C, 269C–1, and 269D helicopters of the same type design, this AD is being issued to prevent failure of the shaft and subsequent loss of control of the helicopter. This AD requires inspecting the shaft nut, P/N 269A6258, for looseness; inspecting the shaft, P/N 269A6049–3, for the proper size; and replacing any undersized shaft with an airworthy shaft of the proper size. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, inspecting the shaft nut, P/N 269A6528, for looseness is required within the next 10 hours TIS and this AD must be issued immediately.

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

The FAA estimates that 28 helicopters will be affected by this AD. For each helicopter, it will take 0.25 work hour to accomplish the 10-hour inspection, 3.6 work hours to accomplish the inspection and replacement, if necessary, at the 100-hour or annual inspection interval. The average labor rate is $60 per work hour. Required parts will cost approximately $1400 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $45,668.

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 rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–31–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 that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 99–17–10 Schweizer Aircraft Corporation: Amendment 39–11258. Docket No. 99–SW–31–AD.

Applicability: Model 269A, 269A–1, 269B, 269C, 269C–1, and 269D helicopters, with a tail rotor swashplate shaft (shaft), part number (P/N) 269A6049–3, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the shaft and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 10 hours time-in-service (TIS) and thereafter at intervals not to exceed 10 hours TIS until the next 100-hour or annual inspection, whichever occurs first, cut the lockwire; retract the boot on the pitch control assembly; and inspect the shaft nut, P/N 269A6258, for looseness by using a firm hand pressure. If the shaft nut is loose and can be turned by hand, determine if the shaft, P/N 269A6049–3, is undersized in accordance with Part II of Schweizer Aircraft Corp. Service Bulletins B–271, DB–007, or C1B–009, all dated March 12, 1999 (SB), as applicable.

(b) At the next 100-hour or annual inspection, whichever occurs first, inspect the shaft, P/N 269A6049–3, for the proper size, in accordance with Part II of the applicable SB.

(c) Prior to further flight, replace any undersized shaft in accordance with Part II of the applicable SB.

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

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

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

(f) The inspection shall be done in accordance with Schweizer Aircraft Corp. Service Bulletins B–271, DB–007, or C1B–009, all dated March 12, 1999, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on September 2, 1999.

Issued in Fort Worth, Texas, on August 4, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–21177 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR 71

[Airspace Docket No. 99–AEA–04FR]

Amendment to Class E Airspace; Frederick Municipal Airport, MD

AGENCY: Federal Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace area extending upward from 700 feet Above Ground Level (AGL) at Frederick Municipal Airport, Frederick, MD. The development of revised Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS), and the Localizer (LOC) at Frederick Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace from instrument flight rules (IFR) operations by aircraft executing the revised Global Positioning System (GPS) Runway (RWY) 05 Standard Instrument Approach Procedure (SIAP), Instrument Landing System (ILS) RWY 23 SIAP and VHF Omni-directional Radio range (VOR) or GPS–A SIAP at Frederick Municipal Airport and for Instrument Flight Rules (IFR) operations.

EFFECTIVE DATE: 0901 UTC, August 18, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, airspace Specialist, Airspace Branch, AEA–520, Air traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On March 10, 1999, a proposal notice proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace extending upward from 700 feet above the surface at Frederick Municipal Airport, MD, was published in the **Federal Register** (64 FR 11820).

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. No comments to the proposal were receive. The rule is adopted as proposed.

The coordinate for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward form 700 feet AGL 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 amended in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides sufficient controlled Class E airspace extending upward from 700 feet AGL for aircraft executing amended SIAPs at Frederick, MD.

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); (30 does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation(air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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:

1. The authority citation for 14 CFR Part 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.

* * * * *

AEA MD E5, Frederick, MD [Revised]

Frederick Municipal Airport, MD
(Lat 39°25″03″ N long 77°22′28″ W.)

That airspace extending upward from 700 feet above the surface within a 10 mile radius of Frederick Municipal Airport.

* * * * *

Issued in Jamaica, New York, on August 7, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99–21021 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–99–140]

Drawbridge Operation Regulations: Connecticut River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations governing the operation of the CONRAIL Middletown-Portland Bridge, mile 32.0, across the Connecticut River between Middletown and Portland, Connecticut. This deviation from the regulations allows the bridge owner to keep the bridge in the closed position from August 5, 1999, through September 13, 1999, Thursday through Monday, 6 a.m. to 4:30 p.m. This action is necessary to facilitate repairs to replace structural steel on the bridge.

DATES: This deviation is effective from August 5, 1999, through September 13, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION:

The CONRAIL Middletown-Portland Bridge, mile 32.0, across the Connecticut River has vertical clearances of 25 feet at mean high water, and 27 feet at mean low water in the closed position. The operation regulations are in 33 CFR 117.205(b).

The bridge owner, Connecticut Department of Transportation (CONNDOT), requested a temporary deviation from the operating regulations for the CONRAIL Middletown-Portland Bridge in order to conduct necessary repairs to the structural steel on the bridge. During the process of this work the bridge cannot be opened. Vessels that can pass under the bridge without an opening may do so at all times during the closed period. This work is essential for public safety and the continued operation of the bridge. In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

This deviation to the operating regulations authorizes CONNDOT to keep the CONRAIL Middletown-Portland Bridge, mile 32.0, across the Connecticut River between Middletown and Portland, Connecticut, in the closed position for repairs from August 5, 1999, through September 13, 1999, Thursday through Monday, 6 a.m. to 4:30 p.m.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 9, 1999.

R.M. Larrabee,

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

[FR Doc. 99–21376 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300909; FRL–6098–1]

RIN 2070–AB78

Pyriproxyfen; Re-establishment of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation re-establishes time-limited tolerances for residues of the insecticide pyriproxyfen and its metabolites in or on citrus fruit at 0.3 part per million (ppm), citrus juice at 1.0 ppm; citrus oil at 300 ppm, dried citrus pulp at 1.0 ppm; and pears at 0.2 ppm, for an additional 1½–year period. These tolerances will expire and are revoked on January 31, 2001. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on citrus and pears. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective August 18, 1999. Objections and requests for hearings, identified by docket control number OPP–300909, must be received by EPA on or before October 18, 1999.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300909 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703)308–9356; and e-mail address: beard.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
.....	112	Animal production
.....	311	Food manufacturing
.....	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300909. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of May 13, 1998 (63 FR 26466) (FRL–5788–2), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the residues of pyriproxyfen and its metabolites in or on citrus fruit at 0.3 ppm; citrus juice at 1.0 ppm; citrus oil at 300 ppm; dried citrus pulp at 1.0 ppm; and pears at 0.2 ppm, with an expiration date of July 31, 1999. EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of pyriproxyfen on citrus and pears for the current growing season due to both situations remaining an emergency. For citrus, the California Department of Pesticide Regulation requested the use for control of red scale, which has developed resistance to available pesticides and caused significant economic losses. For pears, the Oregon Department of Agriculture requested use for control of pear psylla, which had developed resistance to currently available pesticides, and was expected to cause significant economic loss if not controlled. After having reviewed the submissions, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of pyriproxyfen on citrus and pears for control of red scale and pear psylla, respectively.

EPA assessed the potential risks presented by residues of pyriproxyfen in or on citrus and pears. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of May 13, 1998 (63 FR 26466) (FRL–5788–2). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are re-established for an additional 1½–year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on January 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on citrus and pears after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300909 in the subject line on the first page of your submission. All

requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 18, 1999.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Room M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission be labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A. of this preamble, you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. of this preamble. Mail your copies, identified by docket number OPP–300909, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. of this preamble. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule establishes tolerances under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

V. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 4, 1999.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a), and 371.

§ 180.510 [Amended]

2. In § 180.510, by amending the table in paragraph (b) by changing the date ''7/31/99'' to read ''1/31/01'' for the entries for citrus fruit; citrus juice; citrus oil; citrus pulp, dried; and pears.

[FR Doc. 99–21427 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300900; FRL–6092–8]

RIN 2070–AB78

Glufosinate Ammonium; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-monoammonium salt and its metabolite, 3-methylphosphinico-propionic acid in or on sweet corn (kernels and cob with husk removed), sweet corn forage, sweet corn stover, canola meal and canola seed. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on sweet corn and canola. This regulation establishes a maximum permissible level for residues of glufosinate ammonium in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. These tolerances will expire and are revoked on December 1, 1999.

DATES: This regulation is effective August 18, 1999. Objections and requests for hearings must be received by EPA on or before October 18, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300900], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300900], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP-300900]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 284, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6463; e-mail: madden.barbara@epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for combined residues of the herbicide glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-monoammonium salt and its metabolite, 3-methylphosphinico-propionic acid, in or on sweet corn (kernels and cob with husk removed) at 4.0 part per million (ppm), sweet corn forage at 4.0 ppm, sweet corn stover at 6.0 ppm, canola meal at 1.1 ppm and canola seed at 0.4 ppm. These tolerances will expire and are revoked on December 1, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Findings

The Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described in this preeamble and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations

governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Glufosinate Ammonium on Sweet Corn and Canola and FFDCA Tolerances

The Wisconsin Department of Agriculture, Trade, and Consumer Protection requested an emergency exemption for use of glufosinate ammonium on sweet corn to control weeds. The applicant states that only a limited number of broadleaf herbicides are registered for use in sweet corn. Traditionally, triazine herbicides have been widely used. However, Wisconsin's ground water law restricts the use of atrazine, and in sensitive areas, cyanazine and simazine may also contribute to problems and are best not used. Approximately 36,900 acres of Wisconsin's sweet corn production is located in ground water-sensitive areas. Additionally, approximately 24,700 acres of Wisconsin's cropland used to grow sweet corn are infested with triazine-resistant weeds. 2,4-D, registered for use on sweet corn to control weeds, often injures sweet corn hybrids resulting in reduction of crop yields. Bentazon is also registered but fails to control the two most serious annual broadleaf weeds (common lambsquarters and pigweed species). Other alternatives such as ametryne, linuron or paraquat require specialized application equipment not available to most Wisconsin sweet corn growers. In addition, sweet corn is frequently infested by two difficult-to-control annual grasses, wild-proso millet and woolly cupgrass. Registered soil applied grass herbicides are largely ineffective against these species.

Weather in North Dakota and Minnesota was responsible for serious losses in wheat due to disease and to serious losses due to water damage and to inability to harvest wet fields. Even good revenue years for wheat have netted less than those for canola. This use of Liberty on canola is needed to maintain grower solvency. The ''above-average'' returns from alternative crops such as canola are urgently needed to maintain economic viability for producers in North Dakota and Minnesota.

EPA has authorized under FIFRA section 18 the use of glufosinate ammonium on sweet corn in Wisconsin and on canola in North Dakota and Minnesota for control of weeds. After having reviewed these submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of glufosinate ammonium in or on sweet corn and canola. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 1, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on sweet corn and canola after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether glufosinate ammonium meets EPA's registration requirements for use on sweet corn and canola or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of glufosinate ammonium by a State for special local needs under FIFRA section 24(c). Nor does these tolerances serve as the basis for any State other than Wisconsin, North Dakota, and Minnesota to use this pesticide on these crops under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for glufosinate ammonium, contact the Agency's Registration Division at the address provided under the ''ADDRESSES'' section.

III. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of these actions. EPA has sufficient data to assess the hazards of glufosinate ammonium and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-monoammonium salt and its metabolite, 3-methylphosphinico-propionic acid on sweet corn (kernels and cob with husk removed) at 4.0 ppm, sweet corn forage at 4.0 ppm, sweet corn stover at 6.0 ppm, canola meal at 1.1 ppm and canola seed at 0.4 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by glufosinate ammonium are discussed in this unit.

B. Toxicological Endpoint

1. *Acute toxicity.* An acute reference dose (aRfD) of 0.50 milligrams/kilograms/day (mg/kg/day) has been identified for females 13+ years old. The aRfD is derived from a no observable adverse effect level (NOAEL) of 50 mg/

kg/day, based on developmental toxicity characterized as dilated renal pelvis and/or hydroureter, from a rat developmental toxicity study, and an uncertainty factor (UF) of 100 (10x for interspecies extrapolation and 10x for intraspecies variability). The 10x FQPA Safety factor to account for enhanced sensitivity of infants and children (as required by FFDCA section 408 (b)(2)(C)) was reduced to 3x for acute exposures. The acute Population Adjusted Dose (aPAD) is a modification of the aRfD to accommodate the FQPA Safety Factor. The aPAD is equal to the aRfD divided by the FQPA Safety Factor. Therefore, the dietary aPAD is 0.167 mg/kg/day. The dietary aPAD applies only to the female 13+ years old subgroups since the endpoint of concern is based on developmental toxicity. No acute dietary endpoint was identified for the general population including infants and children.

2. *Short- and intermediate-term toxicity.* For short- and intermediate-term exposure scenarios for dermal exposure, the dermal NOAEL of 100 mg/kg/day from the 21–day dermal toxicity study in rats, based on neurological clinical signs (hyperactivity, aggressive behavior, piloerection) at the lowest observed adverse effect level (LOAEL) of 300 mg/kg/day, has been identified as the endpoint for risk assessment. A margin of exposure (MOE) of 100 is required (10x for interspecies extrapolation and 10x for intraspecies variability). Short-term inhalation exposure should be converted to an oral equivalent dose (using 100% inhalation absorption) and compared to the NOAEL of 50 mg/kg/day from the oral rat developmental toxicity study. Intermediate-term inhalation exposure should be converted to an oral equivalent dose (using 100% inhalation absorption) and compared to the NOAEL of 2.1 mg/kg/day from the 2–year chronic feeding study in rats. MOEs of 100 are required to account for interspecies extrapolation (10x) and intraspecies variability (10x).

3. *Chronic toxicity.* EPA has established the chronic RfD (cRfD) for glufosinate ammonium at 0.021 mg/kg/day. This RfD is derived from a NOAEL of 2.1 mg/kg/day, based on increases in absolute and relative kidney weights in males at the LOAEL of 7.6 mg/kg/day in a 2–year chronic feeding study in rats and an UF of 100 (10x for interspecies extrapolation and 10x for intraspecies variability). The 10x FQPA Safety factor to account for enhanced sensitivity of infants and children (as required by FFDCA section 408(b)(2)(C)) was reduced to 3x for chronic exposures. The chronic Population Adjusted Dose (cPAD) is a modification of the cRfD to accommodate the FQPA Safety Factor. The cPAD is equal to the cRfD divided by the FQPA Safety Factor. Therefore, the dietary cPAD is 0.007 mg/kg/day.

4. *Carcinogenicity.* There is no cancer concern based on negative results observed in three guideline studies available for the carcinogenicity screen (the chronic feeding study in rats, carcinogenicity study in rats and the carcinogenicity study in mice).

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.473) for the combined residues of glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-monoammonium salt and its metabolite, 3-methylphosphinico-propionic acid, in or on a variety of raw agricultural commodities. Time-limited tolerances have also been established as a result of secondary residues in/on eggs and meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep. Risk assessments were conducted by EPA to assess dietary exposures and risks from glufosinate ammonium as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–91 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. At the 95th percentile exposure level, assuming 100% crop treated and tolerance level residues for all commodities, 6% of the aPAD was utilized for females (13+ nursing), the subgroup with the highest exposure. The results of the acute analyses indicate that the acute dietary risk associated with the existing and proposed uses of glufosinate ammonium is below the Agency's current level of concern.

ii. *Chronic exposure and risk.* The chronic DEEM analysis assumed tolerance level residues for all commodities except for milk. Anticipated residues were used for milk. Maximum percent crop treatment data were incorporated into the chronic dietary estimate. Percent crop treated (PCT) data for sweet corn was incorporated by determining the amount of sweet corn produced in Wisconsin versus that produced in the United States. Assuming tolerance level residues for all commodities except milk where anticipated residues were used and PCT values, 4% of the cPAD was utilized for the U.S. Population and 9% of the cPAD was utilized for non-nursing infants, the subgroup with the highest exposure. The results of this analysis indicate that the acute dietary risk associated with existing uses and the proposed use of glufosinate ammonium is below the Agency's level of concern.

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual PCT for assessing chronic dietary risk only if the Agency can make the following findings: That the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; that the exposure estimate does not underestimate exposure for any significant subpopulation group; and if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by the section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

A routine chronic dietary exposure analysis for glufosinate ammonium was based 1% of apples, 4% of field corn, and less than 1% of soybeans were treated. PCT data for sweet corn was incorporated by determining the amount of sweet corn produced in Wisconsin versus that produced in the United States. Based on this information the time-limited tolerance for sweet corn only supports a section 18 for use in Wisconsin.

The Agency believes that the three conditions, discussed in section 408 (b)(2)(F) unit concerning the Agency's responsibilities in assessing chronic dietary risk findings, have been met. EPA finds that the PCT information is reliable and has a valid basis. Before the petitioner can increase production of product for treatment of greater than 30,000 acres of sweet corn, permission from the Agency must be obtained. The regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the consumption of food bearing glufosinate ammonium in a particular area.

2. *From drinking water.* The Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water exposure analysis and risk assessment for glufosinate ammonium. Because the Agency does not have comprehensive and reliable monitoring data, drinking water concentration estimates must be made by reliance on some sort of simulation or modeling. To date, there are no validated modeling approaches for reliably predicting pesticide levels in drinking water. The Agency is currently relying on GENEEC and PRZM/EXAMS for surface water, which are used to produce estimates of pesticide concentrations in a farm pond and SCI-GROW, which predicts pesticide concentrations in ground water. None of these models include consideration of the impact processing of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern. Based on the GENEEC and SCI-GROW models, the acute drinking water concentration values are estimated to be 237 parts per billion (ppb) for surface water and 1.16 ppb for ground water. The chronic drinking water concentration values are estimated to be 59.43 ppb for surface water and 1.16 pbb for ground water.

In the absence of monitoring data for pesticides, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, drinking water, and residential uses. A DWLOC will vary depending on the toxic endpoint, with drinking water consumption and body weights. Different populations will have different DWLOCs. DWLOCs are used in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. DWLOC values are not regulatory standards for drinking water. Since DWLOCs address total aggregate exposure to glufosinate ammonium, they are further discussed in the aggregate risk sections below.

3. *From non-dietary exposure.* Glufosinate ammonium is currently registered for use on the following residential non-food sites: spot spraying around trees, shrubs, fences, walks, patios, driveways, sidewalks, in flower beds, around houses, buildings, wooded lots, storage and recreational areas, and for spot-kill weeds in lawns. The risk estimates indicate that the potential risks from the registered residential uses of glufosinate ammonium do not exceed the Agency's level of concern. These risk estimates are based on the Agency's Draft HED Standard Operating Procedures (SOPs) for Residential Exposure Assessments, December 18, 1998.

i. *Acute exposure and risk.* Acute dietary exposure and risks are not expected from use of glufosinate ammonium as a result of non-dietary, non-occupational exposure.

ii. *Chronic exposure and risk.* Chronic-term residential exposures are not expected from the proposed section 18 use of glufosinate ammonium, therefore a risk assessment was not conducted.

iii. *Short- and intermediate-term exposure and risk.* There are potential short-term exposures from the registered residential uses of glufosinate ammonium. Therefore, a risk assessment was conducted to estimate the potential risks from garden uses. The estimated MOEs from residential uses ranged from 190 (dermal exposures to homeowner/handler) to 330,000 (inhalation exposures).

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether glufosinate ammonium has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, glufosinate ammonium does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that glufosinate ammonium has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* An acute dietary endpoint was identified only for the females 13+ years old subpopulations. Using the exposure assumptions of 100% crop treated and tolerance level residues for all commodities, at the 95th percentile, 6% of the aPAD was utilized for females (13+, nursing) the subgroup with the highest exposure. EPA generally has no concern for exposures below 100% of the aPAD. Despite the potential for exposure to glufosinate ammonium in drinking water, after calculating a DWLOC (4730 ppb) for the females (13+ nursing) and comparing it to conservative model estimates of acute concentrations of glufosinate ammonium in surface and ground water (237 ppb and 1.16 pbb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

2. *Chronic risk.* Using the exposure assumptions of tolerance level residues for all commodities except milk where anticipated residues were used and PCT values, 4% of the cPAD was utilized for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at

or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for chronic exposure to glufosinate ammonium in drinking water, after calculating a DWLOC (236 ppb) for the U.S. population and comparing it to conservative model estimates of concentrations of glufosinate ammonium surface and ground water (59.43 ppb and 1.16 pbb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. There are registered residential uses for glufosinate ammonium. The estimated MOEs from residential uses ranged from 190 (dermal exposures to homeowner/handler) to 330,000 (inhalation exposures). These estimates indicate that the potential inhalation exposures will not be a significant contribution to the aggregate risk. The potential dermal exposures were not aggregated because the toxic effects for short- and intermediate-term exposure (neurological clinical signs) and chronic exposure (increases in absolute and relative kidney weights) are different. Therefore, based on the best available data and current policies, potential risks do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population.* There is no cancer concern based on negative results observed in three guideline studies available for the carcinogenicity screen: the chronic feeding study in rats, carcinogenicity study in rats and the carcinogenicity study in mice.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to glufosinate ammonium residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*—i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of glufosinate ammonium, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal-and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined interspecies and intraspecies variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* In the developmental study in rats, the maternal (systemic) NOAEL was 10 mg/kg/day, based on vaginal bleeding and hyperactivity at the LOAEL of 50 mg/kg/day. The developmental (fetal) NOAEL was 50 mg/kg/day, based on dilated renal pelvis and/or hydroureter at the LOAEL of 250 mg/kg/day.

In the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 2 mg/kg/day, based on decreases in body weight, body weight gain and food consumption and increased kidney weight at the LOAEL of 6 mg/kg/day. The developmental (pup) NOAEL was 2 mg/kg/day based on absent/incomplete ossification, with fetal death at 20 mg/kg/day.

iii. *Reproductive toxicity study.* In the 2–generation reproductive toxicity study in rats, the parental (systemic) NOAEL was 2 mg/kg/day based on increased kidney weights in males and females ate 6 mg/kg/day. The reproductive/developmental NOAEL was 6 mg/kg/day based on decreased pup viability in all generations at 18 mg/kg/day.

iv. *Prenatal and postnatal sensitivity.* The toxicological data base for evaluating prenatal and postnatal toxicity for glufosinate ammonium is complete with respect to current data requirements. There are no prenatal or postnatal susceptibility concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 2–generation reproduction study.

v. *Conclusion.* There is a complete toxicity data base for glufosinate ammonium and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Although the data indicate that there is no additional sensitivity to young rats or rabbits following prenatal and/or postnatal exposure to glufosinate ammonium in the developmental and reproductive toxicity studies; the Agency has determined that the FQPA Safety Factor should not be removed but instead reduced to 3x due to the presence of neurotoxicity in several studies in the toxicology data base, and the absence of acute neurotoxicity data, subchronic neurotoxicity data, and developmental neurotoxicity data.

2. *Acute risk.* An acute dietary RfD was not identified for any subpopulation other than female 13+ years old.

3. *Chronic risk.* Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to glufosinate ammonium from food will utilize 9% of the cPAD for non-nursing infants, the major identifiable subgroup with the highest aggregate exposure. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for chronic exposure to glufosinate ammonium in drinking water, after calculating a DWLOC (64 ppb) for non-nursing infants and comparing it to conservative model estimates of concentrations of glufosinate ammonium in surface and ground water (59.43 ppb and 1.16 pbb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

4. *Short- or intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential uses. There are registered residential uses for glufosinate ammonium, however, based on the use patterns (spot treatments), potential post application exposures to infants and children from these uses will not contribute significantly to the overall risks. The estimated MOE from post application exposures was 330 (based on conservative estimates). Therefore, the Agency concludes that there is a reasonable certainty that no harm will result to infants and children from short- and intermediate-term

aggregate exposures to residues of glufosinate ammonium.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to glufosinate ammonium residues.

IV. Other Considerations

A. Metabolism in Plants and Animals

1. *Plants.* The nature of the residues of glufosinate ammonium is considered to be understood. The Agency has concluded that the residues of concern are glufosinate ammonium and its metabolites 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid expressed as glufosinate free acid equivalents.

2. *Animals.* The nature of the residues of glufosinate ammonium in/on animals is considered to be understood. The Agency has concluded that the residues of concern in ruminants and hens are glufosinate ammonium and its metabolite 3-methylphosphinico-propionic acid expressed as glufosinate free acid equivalents.

B. Analytical Enforcement Methodology

Method AE-24 is an adequate tolerance enforcement method for determination of glufosinate ammonium related residues. This method is a modification of the current enforcement Analytical Method HRAV-5A. Method AE-24, includes an additional post-extraction cation exchange procedure to allow for separate detection and measurement of each residue component. Final determination is made by gas chromatography with flame photometric detection (GC/FPD) operating in the phosphorus selective mode (P-mode). Residues are expressed as glufosinate-ammonium free acid equivalents.

C. Magnitude of Residues

Residues of glufosinate ammonium are not expected to exceed 4.0 ppm in/on sweet corn (kernels and cob with husk removed), sweet corn forage at 4.0 ppm, sweet corn stover at 6.0 ppm, canola seed at 0.4 ppm and canola meal at 1.1 ppm as a result of these section 18 uses. Secondary residues in animal commodities are not expected to exceed the previously established tolerances as a result of this section 18 use.

D. International Residue Limits

There are no Canadian or Mexican MRLs established for glufosinate ammonium in/on sweet corn.

E. Rotational Crop Restrictions

A 120–day plant back interval is required for all crops.

V. Conclusion

Therefore, the tolerance is established for combined residues of glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-monoammonium salt and its metabolite, 3-methylphosphinico-propionic acid in sweet corn (kernels and cobs with husk removed) at 4.0 ppm, sweet corn forage at 4.0 ppm, sweet corn stover at 6.0 ppm, canola seed at 0.4 ppm and canola meal at 1.1 ppm.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 18, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VII. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP-300900] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

VIII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

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

IX. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 29, 1999.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. Section 180.473, is amended as follows:

i. By redesignating (b)(1), and (b)(2) as paragraphs (a)(3) and (a)(4).

ii. By adding a new paragraph (b).

§ 180.473 Glufosinate Ammonium; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for combined residues of the herbicide (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-monoammonium salt and its metabolite, 3-methylphosphinico-propionic acid in connection with use of section 18 emergency exemptions granted by EPA.

The tolerances will expire and are revoked on the date specified in the following table.

Commodity	Parts per million	Expiration/ Revocation date
Canola, meal	1.1	12/1/99
Canola, seed	0.4	12/1/99
Corn, sweet, forage	4.0	12/1/99
Corn, sweet, kernels and cobs with husks removed	4.0	12/1/99
Corn, sweet, stover	6.0	12/1/99

* * * * *

[FR Doc. 99–20869 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6424–1]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied for final authorization to revise its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization. The EPA reviewed Texas's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Texas' Hazardous Waste Program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant Texas final authorization for the program modifications contained in the revision.

DATES: This action is effective on October 18, 1999 without further notice, unless EPA receives relevant adverse comments by September 17, 1999. If adverse comments are received, EPA will publish a timely withdrawal of the immediate final rule or identify the issues raised, respond to the comments, and affirm that the immediate final rule will take effect as scheduled.

ADDRESSES: Mail written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Louisiana during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444; or Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana, 70810, (504) 765–0617.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665–8533.

SUPPLEMENTARY INFORMATION:

A. What is Resource Conservation and Recovery Act (RCRA) State Authorization?

The RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), provides for authorization of State hazardous waste programs under subtitle C. Under RCRA Section 3006, EPA may authorize a State to administer and enforce the RCRA hazardous waste program. *See* 40 Code of Federal Regulations (CFR) part 271. In fact, Congress designed RCRA so that the entire subtitle C program would eventually be administered by the States in lieu of the Federal Government. This is because the States are closer to, and more familiar with, the regulated community and therefore are in a better position to administer the programs and respond to local needs effectively.

After receiving authorization, the State administers the program in lieu of the Federal government, although EPA retains enforcement authority under RCRA sections 3008, 3013, and 7003. Authorized States are required to revise their programs when EPA promulgates Federal Standards that are more stringent or broader in scope than existing Federal standards. States are not required to modify their programs to address Federal changes that are less stringent than the existing Federal program or that reduce the scope of the existing Federal program. These changes are optional and are noted as such in the **Federal Register** (FR) documents. However, EPA encourages States to adopt optional rules because they provide benefit to environmental protection.

B. Why are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal Hazardous Waste Program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 CFR parts 124, 260–266, 268, 270, 273, and 279.

C. What is the Effect of This Authorization?

This authorization should have little impact because the State's requirements are already effective. However, upon approval of the revisions, Texas will be authorized to administer federal rules referred by EPA as RCRA Cluster V (these rules are listed in a chart in this FR document). Currently, federal cluster V rules are administered by the EPA.

D. What is the History of Texas' Final Authorization and Its Revisions

Texas received final authorization to implement its hazardous waste management program on December 12, 1984, effective December 26, 1984 (49 FR 48300). This authorization was clarified in a notice published in the FR on March 26, 1985 (50 FR 11858). Texas received final authorization for revisions to its program in notices published in the FR on January 31, 1986, effective October 4, 1985 (51 FR 3952), on December 18, 1986, effective February 17, 1987 (51 FR 45320). We authorized the following revisions: March 1, 1990, effective March 15, 1990 (55 FR 7318), on May 24, 1990, effective July 23, 1990 (55 FR 21383), on August 22, 1991, effective October 21, 1991 (56 FR 41626), on October 5, 1992, effective December 4, 1992 (57 FR 45719) and on April 11, 1994, effective June 27, 1994, (59 FR 16987); on April 12, 1994, effective (59 FR 17273), September 12, 1997, effective November 26, 1997, (62 FR 47947), and on September 19, 1997, effective December 3, 1997, (62 FR 49163). Effective December 3, 1997 (62 FR 49163), EPA incorporated by reference the State of Texas Base Program into CFR. On February 11, 1999, Texas submitted a final complete program revision application, seeking authorization of its program revision in accordance with 40 CFR 271.21.

In 1991, Texas Senate Bill 2 created the TNRCC which combined the functions of the former Texas Water Commission and the former Texas Air Control Board. The transfer of functions to the TNRCC from the two agencies became effective on September 1, 1993.

Under the Texas Solid Waste Disposal Act (codified in Chapter 361 of the Texas Health and Safety Code), the

TNRCC has primary responsibility for administration of laws and regulations concerning hazardous waste. The TNRCC is authorized to administer the RCRA program. However, Under the Texas Natural Resources Code, title 3, and Texas Water Code, Chapter 27, waste (both hazardous and nonhazardous) resulting from activities associated with the exploration, development, or production of oil, gas, or geothermal resources, is regulated by the Railroad Commission of Texas (RRC). A list of activities that generate wastes that are subject to the jurisdiction of the RRC is found at 16 TAC sections 3.8(a)(30) and at 30 TAC 335.1. Such wastes are termed ''oil and gas wastes.'' The TNRCC has responsibility to administer the RCRA program, however, hazardous waste generated at natural gas or natural gas liquids processing plants or reservoir pressure maintenance or repressurizing plants are subject to the jurisdiction of the TNRCC until the RRC is authorized by EPA to administer RCRA. When the RRC is authorized by EPA to administer RCRA program for these wastes, jurisdiction over such hazardous waste will transfer from the TNRCC to the RRC. The EPA has designated the TNRCC to be the lead agency to coordinate RCRA activities between the two agencies. The EPA is responsible for the regulation of hazardous waste for which TNRCC has not been previously authorized.

The TNRCC has rules necessary to implement EPA's RCRA Cluster V revisions to the Federal Hazardous Waste Program from July 1, 1994, to June 30, 1995. The TNRCC authority to incorporate Federal rules by reference can be found at Texas Government Code Annotated section 311.027 and adoption of the hazardous waste rules in general are pursuant to the following statutory provisions: (1) Texas Water Code Annotated section 5.103 (Vernon 1988 & Supplement 1998), effective September 1995, as amended, (2) Texas Health and Safety Code Annotated section 361.024 (Vernon 1992 & supplement 1998), effective September 1, 1995, as amended, (3) Texas Health and Safety Code Annotated section 361.078 (Vernon 1992), effective September 1, 1989.

In this authorization the EPA has also clarified the jurisdiction of the TNRCC and the RRC. Effective May 31, 1998, the TNRCC and the RRC signed a Memorandum of Understanding that clarified the jurisdiction between the agencies for waste associated with exploration, development, production and refining of oil and gas.

E. What Revisions are we Approving With Today's Action?

The State of Texas submitted a final complete program revision application, seeking authorization of their revisions in accordance with 40 CFR 271.21. Texas' revisions consist of regulations which specifically govern Federal Hazardous Waste promulgated from July 1, 1994 to June 30, 1995 (RCRA Cluster V). Texas requirements are listed on the chart included in this document. The EPA is now making an immediate final decision, subject to receipt of written comments that oppose this action, that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Texas final authorization for the following program revisions:

Federal citation	State analog
1. Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste; Recovered Oil Exclusion, [59 FR 38536–38545] July 28, 1994. (Checklist 135).	Texas Water Code Annotated (TWCA) §§ 5.102, 5.103 (Vernon 1988 & Supplement (Supp.) 1998), effective September 1, 1995, as amended; § 5.105 (Vernon 1988) effective September 1, 1985; Texas Health and Safety Code Annotated (THSCA) § 361.003 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, THSCA § 361.017 and 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended, THSCA § 361.078 (Vernon 1992) effective September 1, 1989; 30 Texas Administrative Code (TAC) §§ 335.1(56), 335.1(119), 335.24, and 335.221, effective October 19, 1998, as amended.
2. Removal of the Conditional Exemption for Certain Slag Residues, [59 FR 43496–43500] August 24, 1994. (Checklist 136).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended; TWCA 5.103 (Vernon 1988 & 1998), effective 1, 1995, as amended; TWCA 5.105 (Vernon 1988) effective September 1, 1985, TWCA 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.017 (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended; THSCA 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended; THSCA 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.211, and 335.431, effective October 19, 1998, as amended.
3. Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Waste and Newly Listed Wastes [59 FR 47982–48110] September 19, 1994, as amended at [60 FR 242–302], January 3, 1995. (Checklist 137).	TWCA §§ 5.102, 5.103, (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, TWCA § 5.105 (Vernon 1988), effective September 1, 1985; THSCA §§ 361.003, 361.017, 361.024, (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended, and 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.1(119), 335.18, 335.19, as amended, effective October 19, 1998; 335.20, as amended, effective May 29, 1986, 335.21, 335.41, 335.214, 335.221, and 335.431, as amended, effective October 19, 1998. At 40 CFR 268.7(a) (tolling agreements), the State regulations are more stringent than the Federal regulations because the State regulations do not contain an explicit provision analogous to 40 CFR part 268.79(a)(10).
4. Testing and Monitoring Activities Amendment I, [60 FR 3089–3095] January 13, 1995. (Checklist 139).	TWCA §§ 5.102, 5.103, (Vernon 1988 & Supp. 1998), effective 1, 1985, as amended, 5.105, (Vernon 1988, effective September 1, 1985; THSCA §§ 361.017, 361.024, (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended, 361.078, (Vernon 1992), effective September 1, 1989; 30 TAC § 335.31, effective October 19, 1998, as amended.
5. Carbamate Production Identification and Listing of Hazardous Waste, [60 FR 7824–7859], February 9, 1995, as amended at [60 FR 19165], April 17, 1995, and at [60 FR 25619], May 12, 1995. (Checklist 140).	TWCA §§ 5.102, 5.103, (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.105, (Vernon 1988) effective September 1, 1985; THSCA §§ 361.003, 361.017, 361.024, 361.078 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.29, and 335.1(56), effective September 19, 1998, as amended. The State statutory and regulatory definitions of hazardous waste incorporate by reference the Federal definition, automatically including any changes. The State rule is broader in scope because the waste vacated by the November 1, 1996, decision by United States Court of Appeals For the District of Columbia Circuit in Dithiocarbamate Task Force v. EPA. However, this has no impact on the equivalency of the definition of hazardous waste.

Federal citation	State analog
6. Testing and Monitoring Activities Amendment II, [60 FR 17001–17004], April 4, 1995. (Checklist 141).	TWCA §§ 5.102, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.105 (Vernon 1988), effective September 1, 1985; 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended, THSCA §§ 361.017, 361.024 (Vernon 1992 & Supp. 1998), as amended, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC § 335.31, effective October 19, 1998, as amended.
7. Universal Waste: General Provisions, [60 FR 25492–25551] May 11, 1995. (Checklist 142 A).	TWCA §§ 5.102, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.105 (Vernon 1988), effective September 1, 1985; 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended, 361.078l (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.1, 335.2(l), 335.41(j), 335.61(g), 335.62, 335.78(c), (f), and (g), 335.261, 335.431, effective October 19, 1998, as amended.
8. Universal Waste Rule: Specific Provisions for Batteries, [60 FR 25492–2551] May 11, 1995. (Checklist 142 B).	TWCA §§ 5.102, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.1, 335.2(l), 335.24(c), 335.41(j), 335.251, 335.261, and 335.431, effective October 19, 1998.
9. Universal Waste Rule: Specific Provisions for Pesticides, [60 FR 25492–25551] May 11, 1995. (Checklist 142 C).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1995, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, 361.017, 361.024, (Vernon 1992 & Supp. 1998), effective September 1, 1995 as amended, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.1, 335.2(l), 335.41(j) 335.261, and 335.431, effective October 19, 1998, as amended.
10. Universal Waste rule: Specific Provisions for Thermostats, [60 FR 25492–25551] May 11, 1995. (Checklist 142 D).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1995, as amended, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998) effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC 335.1, 335.2(l), 335.41(j), 335.261, 335.431, effective October 19, 1998.
11. Universal Waste Rule: Petition Provisions to Add a New Universal Waste, [60 FR 25492–25551] May 11, 1995. (Checklist 142 E).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1995, as amended, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998) effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 20.15, effective June 6, 1996, as amended, 335.261, effective October 19, 1998 as amended.
12. Removal of Legally Obsolete Rules, [60 FR 33912–33915 June 29, 1995. (Checklist 114).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1995, as amended, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998) effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 305.42, 335.1, 335.221(a)(11), 335.221(a)(15), effective October 19, 1998, as amended, 305.50(4)(G), effective November 20, 1996, and 335.223(b), effective July 29, 1992.

F. What Decisions Have We Made?

We conclude that Texas' application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised, assuming no adverse comments are received as discussed above. Upon effective final approval Texas will be responsible for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Texas also will have primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

G. How Do the Revised State Rules Differ From the Federal Rules?

EPA considers the following State requirement to be more stringent than the Federal: The State section 335.431(c)(2) does not contain a explicit provision analogous to 40 CFR 268.7(a)(10) (tolling agreement). These requirements are part of Texas' authorized program and are federally enforceable. In this authorization of the State of Texas' program revisions for RCRA Cluster V, the following provisions are broader in scope: Sections 335.29(4) and 335.29(5) which corresponds to 40 CFR part 261, appendix VII and VIII, and section 20.15 which corresponds to 40 CFR 260.20(a). The Texas regulations are broader in scope because the waste listing vacated by the November 1, 1996, decision by the United States Court of Appeals for the District of Columbia Circuit in Dithiocarbamate Task Force v. EPA, 98 F. (D.C. Cir. 1996), remain reflected in the State's adoption by reference of the February 9, 1995, version of 40 CFR part 261, appendix VII and VIII. However, this has no impact on the equivalency of the definition of hazardous waste. Broader in scope requirements are not part of the authorized program and EPA cannot enforce them.

H. Who Handles Permits After This Authorization Takes Effect?

Texas will issue permits for all the provisions for which it is authorized and will also administer program

revisions for Federal rules promulgated from July 1, 1994 to June 30, 1995 (RCRA Cluster V). EPA will continue to administer any RCRA hazardous waste permits or portions of permits which it issued prior to the effective date of this authorization until they expire or are terminated. EPA will not issue any more permits or portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which the State is not yet authorized. HSWA requirements are effective in all States and are administered by EPA until States are authorized to do so.

I. Why Wasn't There a Proposed Rule Before Today's Notice?

The EPA is authorizing the State's changes through this immediate final action and is publishing this rule without a prior proposal to authorize the changes because EPA believes it is not controversial and do not expect comments that oppose this action. EPA is providing an opportunity for public comment now. In the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State changes. If EPA receives comments which oppose this authorization, that document will serve as a proposal to authorize the changes.

J. Where Do I Send My Comments and When Are They Due?

You should send written comments to Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533. Please refer to Docket Number TX–99–1. We must receive your comments by September 17, 1999. You may not have an opportunity to comment again. If you want to comment on this action, you must do so at this time.

K. What Happens if EPA Receives Comments Opposing This Action?

If EPA receives comments which oppose this authorization, a second **Federal Register** notice will be published before the time the immediate final rule takes effect. The second notice may withdraw the immediate final rule or identify the issues raised, respond to the comments and affirm that the immediate final rule will take effect as scheduled.

L. When Will This Approval Take Effect?

Unless EPA receives comments that oppose this action, this final authorization approval will become effective without further notice on October 18, 1999.

M. Where Can I Review the State's Application?

You can view and copy the State of Texas' application from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following addresses: Texas Natural Resource Conservation Commission, 1700 N. Congress Avenue, Austin TX 78711–3087, (512) 239–6757 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444. For further information contact Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

N. Now Does Today's Action Affect Indian Country in Texas?

Texas is not authorized to carry out its hazardous waste program in Indian country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian country.

O. What is Codification?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA reserves the amendment of 40 CFR part 272, subpart SS for this authorization of Texas' program changes until a later date.

Administrative Requirements

Compliance With Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of E.O. 12866.

Compliance Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' applies to any rule that: (1) the OMB determines is ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that the 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.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 and 205 of the UMRA, the EPA must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the State of Texas' program, and today's action does not impose any additional obligations on regulated entities. In fact, the EPA's approval of State programs generally may reduce,

not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary Federal program.

The requirements of section 203 of UMRA also do not apply to today's action. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires the EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate hazardous waste treatments, storage or disposal facilities (TSDFs), they are already subject to the regulatory requirements under the existing State laws that are being authorized by the EPA, and thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1966), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e. small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if any agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the Comptroller General

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

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Executive Order 12875 Enhancing Intergovernmental Partnerships

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

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

Executive Order 13084 Consultation and Coordination With Indian Tribal Governments

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

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affect the communities of Indian governments. The State of Louisiana is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that the EPA implements in the Indian country within the State.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, and Water supply.

Authority

This document is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 30, 1999.

W.B. Hathaway,

Acting Regional Administrator, Region 6.

[FR Doc. 99–21423 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[HCFA–1001–IFC]

RIN 0938–AI27

Medicare Program; Graduate Medical Education (GME): Incentive Payments Under Plans for Voluntary Reduction in the Number of Residents

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period implements section 1886(h)(6) of the Social Security Act, as added by section 4626(a) of the Balanced Budget Act (BBA) of 1997. Section 4626(a) of the BBA allows qualifying hospitals to receive incentive payments over a 5-year period for voluntarily reducing the size of their residency programs. A hospital seeking incentive payments must submit, to HCFA and its Medicare intermediary, an application that specifies reductions in its number of residents by 20 to 25 percent.

DATES: *Effective date:* This interim final rule with comment period is effective September 17, 1999.

Comment Period: Comments will be considered if we receive them at the appropriate address, as provided in the **ADDRESSES** section, no later than 5 p.m. on October 18, 1999.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1001–IFC, P.O. Box 9010, Baltimore, MD 21244–9010.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or

Room C5–16–03, Central Building, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

For comments that relate to information collection and recordkeeping requirements, mail copies of comments directly to the following:

Health Care Financing Administration, Office of Information Services, Security Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850; and the

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Rebecca Hirshorn, (410) 786–3411.

SUPPLEMENTARY INFORMATION:

Comments

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1001–IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

I. Background

Since the inception of Medicare in 1965, the program has shared in the costs of educational activities incurred by participating providers. Our regulations at 42 CFR 413.85(b) define approved educational activities to mean formally organized or planned programs of study usually engaged in by providers in order to enhance the quality of patient care in an institution. These activities include approved training programs for physicians, nurses, and certain allied health professionals. Medicare makes payments for both the direct and indirect costs of graduate medical education (GME). Under section 1886(h) of the Social Security Act (the Act) and 42 CFR 413.86, Medicare pays hospitals for the costs of direct GME. Under 1886(d)(5)(B) of the Act and 42 CFR 412.105, Medicare pays hospitals for the costs of indirect medical education (IME).

A. Direct Graduate Medical Education

Under sections 1886 (a)(4) and (d)(1)(A) of the Act and 42 CFR 412.113, direct GME costs are excluded from the definition of a hospital's operating costs and, accordingly, are not included in the calculation of payment rates under the hospital inpatient prospective payment system or in the calculation of the rate-of-increase limit for hospitals excluded from the prospective payment system. Under section 1886(h) of the Act and 42 CFR 413.86, hospitals are paid for direct GME costs based on Medicare's share of a hospital-specific per resident amount multiplied by the number of full-time equivalent (FTE) residents.

B. Indirect Medical Education (IME)

Medicare has made payments to short-term acute care hospitals under section 1886(d) of the Act on the basis of the prospective payment system since 1983. Under the prospective payment system, hospitals receive a predetermined payment for each Medicare discharge. Section 1886(d)(5)(B) of the Act specifically directs the Secretary to provide an additional payment under the inpatient operating prospective payment system to hospitals for IME costs. This additional payment, which reflects the higher operating costs associated with GME, is based in part on the applicable IME adjustment factor. The adjustment factor is calculated by using a hospital's ratio of residents-to-beds in the formula set forth at section 1886(d)(5)(B)(iii) and specified in regulations at § 412.105.

Psychiatric and rehabilitation hospitals and units as well as long-term care, cancer, and children's hospitals are excluded from the prospective payment system and are paid on a reasonable cost basis under section 1861(v)(1)(A) of the Act, subject to a rate-of-increase limit. Payments to excluded hospitals for their IME costs are included in their payments for operating costs and are therefore subject to the rate-of-increase limit.

Under section 1886(g) of the Act and § 412.322 of the existing regulations, we also make capital GME payments to hospitals on the basis of each respective hospital's ratio of residents to average daily census.

C. The Balanced Budget Act of 1997

Section 4626(a) of the Balanced Budget Act (BBA) of 1997, Public Law 105–33 (enacted on August 5, 1997), added section 1886(h)(6) to the Act to set forth provisions that allow Medicare participating hospitals to receive incentive payments over a 5-year period under approved plans for voluntarily reducing the number of residents that are in their approved medical residency training programs. Section 1886(h)(6)(C) of the Act defines the entities that may qualify for incentive payments under a voluntary reduction plan and section 1886(h)(6)(B) of the Act sets forth

participation and reduction criteria that the plan applications must meet for approval.

Section 1886(h)(6)(B)(i) of the Act specifies that the application for a voluntary resident reduction plan must be submitted in a form and manner specified by the Secretary and must be received no later than November 1, 1999. Section 1886(h)(6)(B)(ii) of the Act specifies that the application must provide for the operation of a plan for reducing the number of FTE residents in approved medical residency training programs consistent with the requirements of section 1886(h)(6)(D) of the Act.

Sections 1886(h)(6)(B)(iii) and (iv) of the Act provide that the applying entity—

- Must elect in the application the period of residency training years (not greater than 5) over which the reduction will occur; and
- Must not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion in effect as of the applicable time described in section 1886(h)(6)(D)(v) of the Act.

The statute directs the Secretary to determine whether the application, the entity, and plan meet such other requirements as the Secretary specifies in regulations.

Sections 1886(h)(6) (D) and (E) of the Act specify the requirements for percentage reductions in the number of residents and the manner in which the reductions are to take place. Section 1886(h)(6)(F) provides for a penalty for noncompliance with approved voluntary residency reduction plans. Section 1886(h)(6)(G) specifies that the Secretary shall establish rules regarding the treatment of rotating residents as it relates to providers participating in the voluntary residency reduction plan.

II. Provisions of the Interim Final Regulations

We are establishing interim final regulations under a new § 413.88 under 42 CFR Part 413, to incorporate requirements for incentive payments under voluntary residency reduction plans to implement section 1886(h)(6) of the Act, as added by section 4626(a) of the BBA. The specific statutory provisions and the corresponding regulatory provisions are described below.

A. Participation Criteria

Participation in the residency reduction program under section 1886(h)(6) of the Act is voluntary. Section 1886(h)(6)(A) of the Act specifies that each hospital that is part of a ''qualifying entity'' may receive incentive payments. Section 1886(h)(6)(C) defines a ''qualifying entity'' as—

- An individual hospital that operates one or more approved residency training programs;
- Two or more hospitals that operate one or more approved residency training programs and apply for treatment as a single qualifying entity; or
- A qualifying consortium as described in section 4628 of BBA.

Section 4628(b) of the BBA defines a consortium as an entity that consists of a teaching hospital with one or more approved medical residency training programs and one or more of the following:

—A school of allopathic or osteopathic medicine.
—Another teaching hospital, which may be a children's hospital.
—A Federally qualified health center.
—A medical group practice.
—A managed care entity.
—An entity furnishing outpatient services.
—Any other entity that the Secretary determines to be appropriate.

The members of the consortium must have agreed to participate in the GME programs that are operated by the entities in the consortium, and have agreed on a method of allocating the payments among the members. The consortium must meet such additional requirements as the Secretary may establish as necessary.

We are incorporating the provision of section 1886(h)(6)(C) of the Act in the regulations at § 413.88(b). Any hospital that is entitled to receive direct or indirect medical education payments, or both, from Medicare may participate in the voluntary reduction plan as an individual hospital. In addition, two or more hospitals that receive direct or indirect medical education payments, or both, from Medicare may participate as a single entity (joint applicant) and apply for a collective annual resident reduction target.

Section 1886(h)(6)(C)(iii) of the Act cross refers the description of a qualifying consortium for purposes of making voluntary residency reduction incentive payments to the description specified in section 4628 of the BBA. Section 4628 requires the Secretary to establish a demonstration project under which, instead of making GME payments to individual teaching hospitals, under section 1886(h) of the Act, the payments would be made to each consortium.

At this time, we are in the initial phase of developing the demonstration project on the use of consortia and have not yet established the criteria that a qualifying consortium will have to meet beyond that described under section 4628(b) of the BBA. Therefore, we have not included in this interim final regulation provisions related to consortia and we will not be accepting applications for voluntary residency reduction plans from entities that may be qualifying consortia until we have established these additional criteria. If qualifying entities express an interest in participating as a consortia, when the criteria for consortia are finalized for the demonstration project, we will publish a regulation outlining how consortia qualify for the voluntary residency reduction plan. However, until we have established these additional criteria, we are allowing a multihospital entity, that may later qualify as a consortium, to apply as a joint applicant. In addition, we are allowing an individual hospital that may later qualify to participate as a member of a consortium to apply as an individual applicant. In both cases, participation of an individual hospital or a multihospital entity in the voluntary reduction plan does not preclude the entity from later applying to participate as a member(s) of a consortium once the consortia demonstration criteria have been finalized. We are considering whether to allow these applicants to modify their applications so that they can be treated as a consortium for the remainder of their individual or joint voluntary residency reduction plans once the consortium definition is finalized. If we were to allow this alternative, a qualifying entity that is interested in downsizing its resident numbers in accordance with the percentages required under section 1886(h)(6) of the Act would be able to participate and establish its base number of residents prior to knowing whether it would qualify as a consortium.

B. Submission of Applications and Effective Date of Plans

Section 1886(h)(6)(B)(i) of the Act, as added by the BBA, specifies that the application must be submitted ''in a form and manner specified by the Secretary and by not later than November 1, 1999.'' We are requiring each qualifying entity to sign a statement indicating voluntary participation in the residency reduction plan (§ 413.88(d)(8)). We will accept applications from qualifying entities at least one day prior to the first day of the period over which voluntary reduction will occur but in no case later than the November 1, 1999 application date specified in the statute (§ 413.88(e)). We

believe that allowing plan applications to be submitted during this period will ensure that qualifying entities can apply for incentive payments for voluntary reduction plans applicable to residency training programs that begin as early as July 1, 1999.

We also are specifying in § 413.88(e) that each qualifying entity must submit its application to its Medicare fiscal intermediary for review. A copy of the application must also be sent to the HCFA Central Office at the following address: Voluntary Residency Reduction Plan, Health Care Financing Administration, Plan and Provider Purchasing Policy Group, Division of Acute Care, Room C4–07–07, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Interested entities may contact the Division of Acute Care at (410) 786–3411 for questions on the application process.

Accordingly, we are specifying under § 413.88(f) that residency reduction plans that are submitted to the fiscal intermediary on or after September 17, 1999 but on or before November 1, 1999, may be effective for portions of cost reporting periods beginning no earlier than the day after the date of the application. In other words, as long as the application is submitted on or before November 1, 1999, the entity can choose the effective date of the plan to be as early as the day after the date of application.

C. Contents and Format of Applications

In accordance with section 1886(h)(6)(B) of the Act, we are specifying in § 413.88(d) that the qualifying entity must submit an application that contains the statutorily specified information and agreements. In addition, under the authority of section 1886(h)(6)(B)(v) of the Act, we are establishing additional requirements for submittal of data to enable verification of compliance with the percentage reduction requirements of the statute by the fiscal intermediary and for annual monitoring and audit purposes.

Under § 413.88(d)(1), we require an application to include a description of the operation of a plan for reducing the FTE residents in the qualifying entity's approved medical residency training programs, consistent with the percentage reduction requirements specified in section 1886(h)(6)(D) of the Act and described under section II.E. of this preamble. To ensure that we have sufficient data and information to ascertain that the voluntary reduction plan meets the percentage reductions specified in the statute, under § 413.88(d)(3) we further require the qualifying entity to submit FTE counts for its base number of residents (as defined in section II.D. of this preamble), with a breakdown of the number of primary care residents compared to the total number of residents. A primary care resident is defined in the existing Medicare regulations at § 413.86(b) as a resident enrolled in an approved medical residency training program in family medicine, general internal medicine, general pediatrics, preventive medicine, geriatric medicine or osteopathic general practice. We also are requiring the entity to submit its direct and indirect FTE counts as of June 30, 1997. For joint applicants, these counts must be provided individually and collectively. This information will be verified by the fiscal intermediary.

In addition, in § 413.88(d)(4) we are requiring the qualifying entity to submit, with the application, data on the annual and cumulative targets for reducing the number of FTE residents and the ratios of the number of primary care residents to the total number of residents for the year used to determine the base number and for each year in the 5-year reduction period. For joint applicants, these data must be provided individually and collectively. In the case of joint applicants, the group of participating hospitals will be held to a collective target. None of the participating hospitals will receive incentive payments unless the collective target is met.

In accordance with section 1886(h)(6)(D)(iii) of the Act, the application must include an election of the period of residency training years during which the reductions will occur (§ 413.88(d)(2)). The reductions must be fully implemented by not later than the fifth residency training year in which the plan is effective.

Under § 413.88(d)(5) and in accordance with section 1886(h)(6)(B)(iv) of the Act, we are requiring the qualifying entity in its application to agree to not reduce the proportion of its primary care residents to its total number of residents below the proportion that exists in the residency training program year that the entity used to determine the base number of residents, as described in section II.D. of this preamble.

Under the Secretary's authority under section 1886(h)(6)(B)(v) of the Act to determine other requirements for voluntary reduction plans and entities as necessary, we are requiring under § 413.88(d)(7) that for a qualifying entity that is also member of an affiliated group as defined in § 413.86(b), a statement be submitted along with the application that all members of the affiliated group (that are not a part of the qualifying entity) agree to an aggregate FTE cap that reflects the resident count during each year of the qualifying entity's plan and the 1996 FTE count of the other hospital(s) in the affiliated group. In addition, we are requiring under § 413.88(d)(6) that the qualifying entity, in its application, agree to comply with data submission requirements deemed necessary by HCFA to make annual incentive payments during the 5-year residency reduction plan, and to fully cooperate with additional audit and monitoring activities deemed necessary by HCFA.

D. Definition of the Base Number of Residents

Under section 1886(h)(6)(D), the residency reduction requirement for a qualifying entity depends on the entity's base number of residents. Section 1886(h)(6)(D)(vi) of the Act, as added by section 4626(a) of the BBA, defines the term ''base number of residents'' to mean—

> * * * with respect to a qualifying entity (or its participating hospitals) operating approved medical residency training programs, the number of full-time equivalent residents in such an entity's programs (before application of weighting factors) of the entity as of the most recent residency training year ending before June 30, 1997 or, if less, for any subsequent residency training year that ends before the date the entity makes application under this paragraph.

Under § 413.88(g)(1) of these interim final regulations, we define the base number of residents using the counting rules for determining a hospital's direct GME FTE count under existing § 413.86 with two changes to reflect the provisions of section 4626 of the BBA. First, consistent with section 1886(h)(6)(D)(vi), we specify that the base number of residents will be determined on the basis of a July 1 to June 30 ''residency training year,'' rather than the hospital's cost reporting period. Second, under existing § 413.86(g), a weighting factor is applied to each resident included in a hospital's direct GME FTE count. Residents within an initial residency period are weighted at 1.0 FTE and residents beyond the initial residency period are weighted at 0.5 FTE. However, consistent with section 1886(h)(6)(D)(vi) of the Act, in determining the base number of residents for voluntary residency reduction plans, we are requiring under § 413.88(g)(1)(i) that FTEs be counted ''before application of weighting factors,'' so that each resident will be weighted at 1.0 FTE.

In summary, we are specifying in § 413.88(g)(1)(i) that the base number of residents means the lesser of (1) The number of FTE residents in all approved medical residency training programs of the qualifying entity (before application of weighting factors under § 413.86(g)) for the most recent residency training year ending June 30, 1996; or (2) the number of FTE residents in all approved medical residency training programs of the qualifying entity (before application of weighting factors under § 413.86(g)) for any subsequent residency training year that ends before the date the entity submits its plan to the fiscal intermediary and HCFA. The residency training year used to determine the base number of residents is the ''base year'' for determining residency reduction requirements described under section II.E. of this preamble.

E. Residency Reduction Requirements

Section 1886(h)(6)(D) of the Act, as added by the BBA, specifies the methodology for determining the number of FTE residents in all of the qualifying entity's approved medical residency training programs that must be reduced in order for each type of qualifying entity to receive incentive payments.

1. Qualifying Entities That Are Individual Hospitals

a. *Hospitals with a base number of residents that is greater than 750.* If an individual hospital's base number of residents exceeds 750 residents, the voluntary plan must specify a reduction in the base number of residents by at least 20 percent.

b. *Hospitals with a base number of residents between 601 and 750.* If an individual hospital's base number of residents exceeds 600 but is not in excess of 750, the voluntary plan must specify a reduction in the base number of residents by at least 150 residents. Alternatively, the plan may specify a reduction of at least 20 percent if the base number of residents in primary care is increased during the plan by at least 20 percent.

c. *Hospitals with a base number of residents that is 600 or fewer.* Hospitals with a base number of residents of 600 or less have the option of reducing the base number of residents by at least 25 percent. Alternatively, the plan may specify a reduction of at least 20 percent if the number of primary care residents is increased by at least 20 percent.

We have incorporated these provisions at § 413.88(g)(2).

2. Qualifying Entities With Two or More Hospitals (Joint Applicants)

Joint applicants must reduce their combined base number of residents by 25 percent; or if there is an increase in the combined base number of primary care residents of at least 20 percent, by at least 20 percent. Section 413.88(g)(3) contains this provision.

3. Consortia Applicants

The statute specifies that consortia applicants must reduce the combined base number of residents by at least 20 percent. As indicated earlier, we are not accepting applications from consortia until we have established criteria for consortia under section 4628 of the BBA and have some experience with the demonstration project. Therefore, this interim final rule does not contain provisions relating to consortia. However, until we have issued these criteria, a qualifying entity that may later qualify as a consortium may apply in the interim as an individual hospital or multihospital joint applicant as described above.

Under section 1886(h)(6)(B)(iv) of the Act, a qualifying entity applicant may not reduce the base year proportion of its primary care residents to its total number of residents below the proportion that exists in the residency training program year used to determine the base number of residents. In other words, the proportion of residents in primary care at the end of the plan must be at least the same as or greater than the proportion of total residents in primary care in the base number of residents. We have incorporated these provisions at § 413.88(g)(2)(ii)(B), (g)(2)(iii)(B) and (g)(3)(ii).

Section 1886(h)(6)(D)(iv) of the Act specifies that voluntary residency reductions in the base number of residents must be fully effective no later than the fifth residency training year in which the application is effective. The following table illustrates the resident reduction options under the voluntary plans for the different types of qualifying entity applicants:

Type of applicant	Reduction option (5 year plan)
Individual Hospitals:	
More than 750 Residents	≥20%.
601 to 750 Residents	≥150 Residents or ≥20% if primary care residents increase by ≥20%.
600 or fewer Residents	≥25% or ≥20% if number of primary care residents increased by ≥20%.
Joint Applicants	≥25% or ≥20% if number of primary care residents increased by ≥20%.
Consortia Applicants	≥20%.
All Applicants	May Not Reduce Primary Care/Total Resident Ratio.

F. Incentive Payments

Sections 1886(h)(6)(A) and (E) of the Act prescribe the formula for calculating the amount of incentive payments. Although hospitals may participate as a joint applicant (or later as a consortium, as discussed earlier in this preamble), incentive payments will be made to individual hospitals through the regular Medicare payment process via cost reports.

Incentive payments will be made on the basis of a cost reporting period even though residency reductions under the plan are made on a July 1 to June 30 medical residency program year. If a hospital cost reporting period coincides with a residency program training year, incentive payments may begin at the beginning of the first cost reporting period in which resident reductions are made under the voluntary residency reduction plan. For instance, if a hospital chooses to participate in the voluntary residency reduction plan for the residency training year July 1, 2000 to June 30, 2001 and the hospital has a July 1 to June 30 cost reporting period, the first year in which Medicare may make incentive payments for voluntary residency reductions would be the hospital's July 1, 2000 to June 30, 2001 cost reporting period. If a hospital's cost reporting period does not coincide with a residency training year, the first year in which incentive payments may be made under the voluntary residency reduction plan would be the hospital's cost reporting period that overlaps the July 1, 2000 beginning date of the voluntary residency reduction plan. For instance, if a hospital participates in the residency reduction plan effective July 1, 2000, and the hospital has a January 1 to December 31 cost reporting period, incentive payments may be made under the voluntary residency plan beginning

in the hospital's January 1, 2000 to December 31, 2000 cost reporting period. If the hospital's cost reporting period does not coincide with a July 1 to June 30 residency training year, the applicable hold-harmless percentages described earlier would be prorated accordingly over the respective cost reporting period(s). In addition, if the hospital's cost reporting period does not coincide with a July 1 to June 30 residency training year, for purposes of calculating the number of residents in each plan year, the number of FTE residents would be prorated over the respective cost reporting periods.

In § 413.88(j), we specify that annual incentive payments through cost reports will only be made to hospitals that are or are part of qualifying entities over the 5-year reduction period if the qualifying entity meets specified annual residency reduction goals. An incentive payment will be made for any given year only when the participant meets or exceeds the cumulative annual target applicable to that year. Consistent with section 1886(h)(6)(F) of the Act, if a participating entity fails to comply with its residency reduction plan by the end of the fifth residency training year, the hospitals that comprise the qualifying entity will be liable for repayment of all incentive payments.

We will allow an entity to update its annual targets as specified in its plan only under limited circumstances. If the entity has failed to meet any of its annual targets in a plan year, it will not receive incentive payment for that particular plan year. To be eligible for future incentive payments for the duration of the plan, the entity may update future annual targets for the remaining years of the plan in order to comply with its cumulative target. We would require the updated plan to be submitted prior to the beginning of each July 1 medical residency training year during the plan years.

In accordance with section 1886(h)(6)(A) of the Act, each individual entity participating in the plan will receive incentive payments based on the following calculation (as specified under § 413.88(h)): The sum of the entity's direct and indirect GME payment based on 95 percent of the total number of weighted residents in the approved medical residency training programs of the qualifying entity on June 30, 1997 subtracted by the sum of the qualifying entity's direct and indirect GME payment based on 100 percent of the number of weighted FTE residents in each of the 5 plan years. This difference will be multiplied by a decreasing hold-harmless percentage for the given plan year, to arrive at an individual hospital's incentive payment.

In accordance with section 1886(h)(6)(E) of the Act, the applicable hold-harmless percentages are as follows (as specified under § 413.88(i)):

Plan year	Percentage
1	100
2	100
3	75
4	50
5	25

As stated above, the applicable hold-harmless percentages must be prorated over two hospital cost reporting periods if the hospital's cost reporting period does not coincide with the residency training program year. For instance, a hospital participating in the voluntary plan will be making reductions on the basis of a July 1 to June 30 program year. If the hospital has a January 1 to December 31 cost reporting period, the applicable hold-harmless percentages will change on July 1 of each year, which is in the middle of the hospital's cost reporting period. For this reason, the applicable hold-harmless percentage for the cost reporting period will reflect a weighted average of the residency reductions in each portion of the cost reporting period. In addition, in calculating the incentive payments we will apply weighting factors to the total resident count as of June 30, 1997 and for each plan year. This is consistent with our existing policy under § 413.86(g) of applying weighting factors to resident FTE counts.

We are providing the following simplified example to illustrate application of the incentive payment calculation.

Assume a hospital's resident program year is the same as its cost reporting year, and that it receives $10 million for direct and indirect GME based on 100 FTE residents as of June 30, 1997. Also assume that the hospital's average payment per resident for indirect and direct GME of $100,000 (derived from $10 million/100 residents) does not change from June 30, 1997 to the end of the 5-year reduction plan. If the hospital agrees to reduce its FTE count by 5 residents per year and 25 residents over 5 years, it would be paid as follows:

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	Resident Reduction Plan Year					Total Payment (in millions)
	1st	2nd	3rd	4th	5th	
FTEs on June 30, 1997 *(a)*	100	100	100	100	100	-----
Cumulative FTE resident reduction *(b)*	5	10	15	20	25	-----
FTE residents in each plan year *(c)* *(c= a-b)*	95	90	85	80	75	-----
Adjusted June 30, 1997 FTEs *(d)* *(d= a (0.95))*	95	95	95	95	95	-----
FTE loss applied to incentive calculation *(e)* *(e= c-d)*	0	5	10	15	20	-----
Total direct & indirect GME payments for residents in each plan year *(f)* (in millions) *(f= c ($100,000))*	$9.5	$9.0	$8.5	$8.0	$7.5	$ 42.5
Total direct & indirect GME loss relative to June 30, 1997 FTE count *(g)* (in millions) *(g= b ($100,000))*	$0.5	$1	$1.5	$2.0	$2.5	------
Total direct & indirect GME loss applied to incentive calculation *(h)* (in millions) *(h= e ($100,000))*	$0	$0.5	$1.0	$1.5	$2.0	-----
Hold-Harmless percentage *(i)*	1.0	1.0	0.75	0.50	0.25	-----
Incentive payment *(j)* (in millions) *(j= h (i))*	$0	$0.5	$0.75	$0.75	$0.5	$ 2.5
Grand Total Payments *(k)*	-----	-----	-----	-----	-----	$ 45.0

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As depicted in the preceding chart, in any year of the residency reduction plan, the hospital receives incentive payments based on 95 percent of its number of residents on June 30, 1997. In each year of the plan, the incentive payment is based on a declining percentage (hold-harmless percentage, line (i) in the preceding chart) of the hospital's direct and indirect GME payment loss associated with residency reduction below 95 percent of its base number of residents line (h). In this example, the hospital's revenues for indirect and direct GME would have declined by a total of $7.5 million ($50 million-$42.5 million) over a 5-year period if the hospital did not reduce the number of residents according to the plan. A hospital participating in the voluntary plan, however, received $2.5 million in incentive payments. Of the $5 million difference ($7.5 million-$2.5 million), $2.5 million is due to the hold-harmless percentage (i) and the remaining $2.5 million is due to the 5-percent adjustment to the number of residents on June 30, 1997.

Under section 1886(h)(6)(A) of the Act, the determination of the incentive payments for any year must be made on the basis of the Medicare payment provisions ''in effect on the application deadline date for the first calendar year to which the reduction plan applies.'' Thus, the amount of the incentive payment depends on the Medicare provisions in effect on the application deadline date (§ 413.88(h)(2)). As specified earlier, applications must be filed at least one day prior to the effective date of the plan but no later than November 1, 1999. For example, if a hospital wants the reduction plan provision to go into effect on September 1, 1999, the deadline for the application would be August 31, 1999. Therefore, the Medicare payment provisions in effect on August 31, 1999, would be used to calculate the amount of the incentive payment. The latest date for applying for incentive payments is November 1, 1999.

G. Repayment Penalty Provision

Section 1886(h)(6)(F)(ii) of the Act, as added by the BBA, sets forth a repayment penalty following a qualifying entity's completion of a voluntary residency reduction plan in which the entity received incentive payments if the entity exceeds the number of residents that it has agreed to in its plan. We are specifying in § 413.88(k) that the entity is liable for repayment for the total amount of the incentive payments if the number of FTE residents increases above the number of such residents permitted under the reduction plan after the completion of the plan. If the number of FTE residents increases above the number of residents permitted under the voluntary reduction plan, the following provisions of repayment apply:

- In any postplan year, a qualifying entity that successfully completed the reduction plan either as an individual hospital or a member of a joint applicant is subject to the total repayment provisions if its resident count exceeds the number of residents specified in the voluntary residency reduction plan.
- As contained in § 413.88(l)(1), the end-of-plan residency cap will equal the unweighted FTE count used for direct medical education payments for the last residency training program year in which a qualifying entity participates in a plan. For each subsequent cost reporting year that ends after the end of the reduction plan, the unweighted direct FTE resident count will be compared to the unweighted direct GME FTE resident count for the last residency training program year. If the unweighted direct GME FTE resident count for a cost reporting period post plan exceeds the resident count specified in the voluntary residency reduction plan, the qualifying entity is subject to the total repayment provision.
- The repayment provision applies until such time when a full credit has been made against the total amount of incentive payments made to the qualifying entity. For individual hospitals, the total incentive payment amount equals all of the incentive payments made to the hospital. For joint participants, the total payment amount equals the sum of all incentive payments made to the individual hospitals that make up the membership of the joint participant.
- For the purpose of calculating the credit amount in each postplan year to which the total repayment provision applies, an individual hospital's direct and indirect GME payments will be calculated based on the hospital's actual FTE resident counts in that year. Payments are made to the hospital up to the amount that applies to the end-of-plan FTE resident count. The remainder is credited against the total repayment amount. The total repayment amount is equal to the actual annual incentive payments made during the voluntary reduction plan years. An example would be a hospital that had a base number of 200 FTE residents and by the end of the plan reduces its FTE count to its cumulative target of 160 FTE residents. If, at a later date after the completion of the plan, the entity increases its FTE count from 160 FTEs to 161 FTEs, the repayment penalty provision would be in effect. The entity would be required to repay the entire amount it received as incentive payments during the plan years. However, the method of repayment is limited to the direct and indirect payments the entity would have received for the 161st resident. These direct and indirect GME payments are credited against the total repayment amount the entity is required to repay.
- Once the total penalty is repaid, the qualifying entity's adjusted FTE cap reverts back to its original 1996 FTE cap, since effectively all benefits of participating in the plan will have been eliminated (§ 413.88(l)(2)(ii)).

H. Related BBA Provisions and Their Effect on Voluntary Plan Reduction Provisions

Several other provisions of the BBA that were implemented in the **Federal Register** on August 29, 1997 (62 FR 46003 through 46007), and on May 12, 1998 (63 FR 26318) have an effect on incentive payments under the voluntary residency reduction plan.

1. Reduction in the Indirect Medical Education Adjustment

Section 4621 of the BBA revised section 1886(d)(5)(B) of the Act to reduce the level of the IME adjustment in effect prior to the enactment of the BBA (approximately 7.7 percent for every 10-percent increase in the resident-to-bed ratio) over several years. The schedule for the IME adjustment is as follows: 7.0 percent for discharges during FY 1998; 6.5 percent during FY 1999; 6.0 percent during FY 2000; and 5.5 percent during FY 2001 and thereafter. In determining the voluntary residency reduction incentive payment calculation, the respective IME adjustment factors will apply for the number of FTE residents in each of the 5 plan years and to the number of FTE residents as of June 30, 1997.

2. Caps on the Number of FTEs

Sections 4621 and 4623 of the BBA amended section 1886 of the Act to limit the number of residents that a hospital can count for purposes of determining payment for indirect and direct GME costs. For cost reporting periods beginning on or after October 1, 1997, the total number of allopathic and osteopathic medical residents that a hospital may include in its FTE count in either a hospital or nonhospital setting for IME payments is limited to the total number of such resident FTEs included in the hospital's most recent cost reporting period ending on or before December 31, 1996. Similarly, for direct GME payments, the number of

allopathic and osteopathic medical residents that a hospital may include in its unweighted direct medical education FTE count for cost reporting periods beginning on or after October 1, 1997, is limited to the number included in the hospital's most recent cost reporting period ending on or before December 31, 1996. The August 29, 1997 final rule with comment period and the May 12, 1998 final rule amended §§ 412.105 and 413.86 of the regulations to implement these provisions for indirect and direct GME, respectively.

Since the counting rules for indirect and direct GME in hospital cost reports ending on or before December 31, 1996 were different, the FTE caps may also be different. Prior to enactment of the BBA, a hospital's IME FTE count could only include residents working in inpatient areas of the hospital subject to the prospective payment system and hospital outpatient departments. Residents in nonhospital settings and areas of the hospital not subject to the prospective payment system could not be counted. For direct GME, a hospital could include residents in all areas of the hospital complex (including areas not subject to the prospective payment system) and nonhospital settings (if the criteria of § 413.86(f)(1)(iii) are met). However, residents in subspecialty training and residents otherwise beyond the initial residency period included in a hospital's direct GME FTE count are weighted at 0.5 FTE under § 413.86(g).

The BBA limits the FTE caps to allopathic and osteopathic medical residents and does not apply FTE caps to podiatry and dentistry residents. For purposes of the voluntary residency reduction plans, the base number of residents under section 1886(h)(6)(D)(vi) of the Act includes all of a hospital's residents (including residents in dentistry and podiatry). Therefore, we will determine whether a hospital is eligible for incentive payments under the voluntary residency reduction plan by counting all residents participating in approved medical residency training programs. Accordingly, a hospital that receives incentive payments under the voluntary residency reduction plan remains subject to the indirect and direct GME FTE caps mandated under sections 1886(d)(5)(B) and 1886(h)(4)(H) of the Act and §§ 412.105 and 413.86 of the regulations.

3. Counting Residents Based on a 3-Year Average in the Plan Year

Section 1886(d)(5)(B)(vi)(II) of the Act, as amended by section 4621 of the BBA, provides that a hospital's IME FTE resident count for a cost reporting period beginning during FY 1998 will be based on the average of the number of residents for the cost reporting period and the prior cost reporting period. The hospital's IME FTE count for cost reporting periods beginning in FY 1999 and subsequent years will be based on an average of the FTE count for the cost reporting period and the prior two cost reporting periods. Similarly, section 1886(h)(4)(G) of the Act, as amended by section 4623 of the BBA, provides that a hospital's direct GME FTE resident count for a cost reporting period beginning during FY 1998 will be based on the average of number of residents for the cost reporting period and the prior cost reporting period. The hospital's direct GME FTE count for cost reporting periods beginning in FY 1999 and subsequent years will be based on an average of the FTE count for the cost reporting period and the prior two cost reporting periods.

We determine the level of payments for the cost reporting period using the number of residents as of June 30, 1997 without regard to averaging rules. However, the averaging rules described above are applicable when determining incentive payments for the hospital's actual residents in a voluntary plan year.

4. Capital IME Payment

Section 1886(h)(6)(A) of the Act limits the incentive payments to direct GME payments and operating IME payments. However, under section 1886(g) of the Act and § 412.322 of the existing regulations, we also make capital IME payments on the basis of the hospital's ratio of residents to average daily census. Since capital IME payments are also a function of the number of residents in approved programs, we believe we have discretion to provide incentive payments for capital IME using a methodology similar to the one used for determining operating IME payments under this interim final rule. We are including language in § 413.88(h)(1)(iii) that will allow hospitals participating in voluntary residency reduction plans to receive incentive payments for capital IME.

5. Counting FTEs in Nonhospital Settings

Under § 413.86(f)(1)(iii), on or after July 1, 1987 and before January 1, 1999, a resident may be included in a hospital's direct GME FTE count if the resident spends time in patient care activities outside of the hospital and there is a written agreement between the hospital and the nonhospital entity that the resident's compensation for training time spent outside of the hospital setting is to be paid by the hospital. Section 4621(b)(2) of the BBA amended section 1886(d)(5)(B)(v) of the Act to allow all the time spent by residents in patient care activities under an approved medical residency training program in a nonhospital setting to be counted towards the determination of FTEs for IME, if the hospital incurs all, or substantially all, of the costs for the training program in the nonhospital setting. In accordance with section 1886(h)(4)(E) of the Act, we are currently using the same criteria for determining whether a hospital may include a resident in its FTE count for direct GME. However, in the July 31, 1998 **Federal Register** (63 FR 41005), we revised the definition of ''all or substantially all of the costs'' in order to implement section 4625 of the BBA, which permits payment to certain nonhospital providers. The revised rule requires the written agreement to indicate that the hospital will incur the costs of the resident's compensation in the nonhospital site and provide reasonable compensation to the nonhospital site for supervisory teaching activities. If a hospital includes residents in nonhospital settings in its IME FTE count, consistent with section 1886(d)(5)(B)(v) of the Act, the hospital must include those residents in determining whether it has exceeded its IME FTE cap. In addition, if a hospital included residents in nonhospital settings in its direct GME FTE count, the hospital must include these residents in determining whether it has exceeded its direct GME FTE cap.

A hospital that incurs ''all or substantially all of the costs'' and is counting the FTE for the time a resident spends in a nonhospital site for purposes of direct and indirect GME payments must also include the FTE in the nonhospital site for purposes of counting the FTE in making the target reductions under the plan. In other words, qualifying entities that include the FTE in nonhospital sites for GME payment must also include it when making the target reductions.

6. New Medical Residency Training Programs

Section 1886(h)(5)(H) of the Act permits special rules in the case of medical residency training programs established on or after January 1, 1995. Under a final rule published in the **Federal Register** on May 12, 1998 (63 FR 26333) such new medical residency training programs are permitted to have an adjustment to the FTE cap. (We have proposed to further clarify the requirements for receiving an adjustment to the FTE cap for new medical residency training programs in

a notice of proposed rulemaking published in the **Federal Register** on May 7, 1999 (64 FR 24735)).

For purposes of this interim final rule with comment period, however, since section 1886(h)(6) of the Act does not provide for adjustments to the FTE counts, we will not adjust a hospital's base number of residents for adjustments that may be otherwise made to hospital FTE caps for new medical residency training programs. For example, a hospital that had a 100 FTE cap that qualifies for a new medical residency training program adjustment to raise its FTE cap to 120 FTE residents would not be able to count the 20 FTE adjustment for purposes of calculating the base number of residents for the voluntary residency reduction plan.

7. Hospitals That Meet the Definition of Affiliated Groups

Section 1886(h)(5)(H)(ii) of the Act allows the Secretary to prescribe rules that allow institutions that are members of the same affiliated group to elect to apply the FTE caps on an aggregate basis. In the May 12, 1998 final rule (63 FR 26358), an affiliated group is defined as follows:

- Two or more hospitals located in the same urban or rural area (as those terms are defined in § 412.62(f)) or in contiguous areas if individual residents work at each of the hospitals during the course of the program; or
- If the hospitals are not located in the same or contiguous rural and urban areas, hospitals that are jointly listed—

++ As sponsor, primary clinical site, or major participating institution for one or more of the programs as those terms are used in the *Graduate Medical Education Directory*, 1997–1998; or

++ As the sponsor or under affiliations and outside rotations for one or more programs in operation in *Opportunities, Directory of Osteopathic Postdoctoral Education Programs*; or

- Hospitals that are under common ownership.

For purposes of this interim final rule with comment period, we will permit applications from one or more hospitals that qualify as an affiliated group under § 413.86. A qualification that must be met for affiliated groups that involve one or more member hospitals participating in the voluntary residency reduction plan is that all members of the affiliated group agree to an aggregate FTE cap that reflects the resident count during each plan year of the hospital that is in the voluntary reduction plan.

As stated earlier, section 1886(h)(6)(F)(ii) of the Act requires a qualifying entity to refund all incentive payments if it has more residents after the end of the plan than it was permitted under the plan. Affiliated groups that include hospitals in the voluntary residency reduction plan that have successfully completed the plan must also agree to an aggregate cap based on the 1996 FTE count of each hospital in the affiliated group, adjusted for the participating hospital's final FTE count under the voluntary residency reduction plan. However, in the event that a qualifying entity increases its FTE count above its target reduction and has refunded all incentive payments received under the plan (since effectively all benefits of participation in the plan will have been eliminated), the aggregate FTE cap would include that entity's FY 1996 FTE cap.

In accordance with the requirement established under § 413.88(g)(4), a hospital participating in the voluntary residency reduction plan and is a member of an affiliated group, may not achieve its residency reduction goals by rotating residents to other members of the affiliated group that are not participating in the voluntary residency reduction plan.

8. Payments to Hospitals for Indirect and Direct GME Costs Associated with Medicare+Choice Enrollees

Section 4622 of the BBA added section 1886(d)(11) to the Act to provide for IME payments to teaching hospitals for discharges associated with Medicare+Choice enrollees for portions of cost reporting periods occurring on or after January 1, 1998. The additional payment is equal to an applicable percentage of the estimated average per discharge amount that would have been made for the discharge for IME if the beneficiary were not enrolled in managed care. The applicable percentage set forth in section 1886(h)(3)(D)(ii) of the Act is equal to 20 percent in 1998, 40 percent in 1999, 60 percent in 2000, 80 percent in 2001, and 100 percent in 2002 and subsequent years.

Section 4624 of the BBA amended section 1886(h)(3) of the Act to provide a 5-year phase-in of the payments to teaching hospitals for direct GME costs associated with services to Medicare+Choice discharges for portions of cost reporting periods occurring on or after January 1, 1998. The amount of payment is equal to the product of the per resident amount, the total weighted number of FTE residents working in all areas of the hospital (and nonhospital settings in certain circumstances) subject to the limit on the number of FTE residents under section 1886(h)(4)(F) of the Act and the averaging rules under section 1886(h)(4)(G) of the Act, the ratio of the total number of inpatient bed days that are attributable to Medicare+Choice enrollees to total inpatient days and an applicable percentage. The applicable percentages are 20 percent in 1998, 40 percent in 1999, 60 percent in 2000, 80 percent in 2001, and 100 percent in 2002 and subsequent years.

The effect of this provision for qualifying entities participating in voluntary residency reduction plans is that the level of payments for the cost reporting period will be determined using the actual number of residents reflective of the additional indirect and direct GME payments associated with Medicare+Choice discharges. The difference between the hospital's payments using the number of residents as of June 30, 1997, and the actual number of residents in a voluntary residency reduction plan year, including the effect of adjustments for payments associated with Medicare+Choice discharges, will be the basis for the incentive payment calculation.

I. Other Issues

1. Mergers, Acquisitions, and Related Changes

We recognize that hospitals participating in an approved voluntary residency reduction plan may undergo hospital mergers, acquisitions, or related changes (for example, system dissolution) that may affect the qualifying entity. We invite comments on how we can most appropriately address such situations.

2. Evaluation

We do not have specific plans to evaluate the impact of the voluntary residency reduction plans at this time. However, we may request information from entities approved for participation in a voluntary residency reduction plan. If a full evaluation is conducted, cooperation will be voluntary.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA) of 1995 requires that we solicit comment on the following issues:

• The need for the information collection and its usefulness in carrying out the proper functions of our agency.

• The accuracy of our estimate of the information collection burden.

• The quality, utility, and clarity of the information to be collected.

• Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Section 413.88(d) of this document contains information collection requirements. However, given that we anticipate the submission of less than 10 applications on an annual basis, these collection requirements are not subject to the PRA. Therefore, at this time we are not submitting a copy of this document to OMB for its review of these information collection requirements. If we determine, at a later date, that we will receive more than 10 applications prior to the November 1, 1999 application submission deadline, we will submit these information collection requirements to the OMB, as required by section 3504(h) of the PRA.

Although we believe that these information collection requirements are not subject to the PRA, we still welcome public comment on each of the following issues for the section of this document that contains information collection requirements:

Section 413.88(d) requires that a qualified entity must submit a voluntary residency reduction plan application that contains the following information or documents:

(1) A description of the operation of a plan for reducing the FTE residents in its approved medical residency training programs, consistent with the percentage reduction requirements described under section II.E. of this preamble.

(2) An election of the period of residency training years during which the reductions will occur;

(3) FTE counts for the base number of residents, with a breakdown of the number of primary care residents compared to the total number of residents; and the direct and indirect GME FTE counts for the entity on June 30, 1997. For joint applicants, these counts must be provided individually and collectively;

(4) Data on the annual and cumulative targets for reducing the number of FTE residents and the ratios of the number of primary care residents to the total number of residents for the base year and for each year in the 5-year reduction period. For joint applicants, these data must be provided individually and collectively;

(5) An agreement to not reduce the proportion of its primary care residents to its total number of residents below the proportion that exists in the base year;

(6) An agreement to comply with data submission requirements deemed necessary by HCFA to make annual incentive payments during the 5-year residency reduction plan, and to fully cooperate with additional audit and monitoring activities deemed necessary by HCFA; and

(7) For a qualifying entity that is also member of an affiliated group as defined in § 413.86(b), a statement that all members of the affiliated group—that are not part of the qualifying entity—agree to an aggregate FTE cap that reflects the resident count during each year of the qualifying entity's plan and the 1996 FTE count of the other hospital(s) in the affiliated group; and

(8) A statement indicating voluntary participation in the plan under the terms of this section, signed by each hospital that is part of the applying entity.

Each applicant will determine its own annual and cumulative targets for the number of FTE reductions. Annual and collective targets must be included in the application. In the case of a joint applicant, the group of participating hospitals will be held to a collective target. None of the participating hospitals will receive incentive payments unless the collective target is met.

Qualifying entities with approved voluntary resident reduction plans will be required to submit data on annual and cumulative targets deemed necessary by HCFA. Qualifying entities will also be required to submit update plan if annual targets are not met and if the qualifying entities wish to request that future annual targets be adjusted to comply with their cumulative targets.

We anticipate that on average it will require 15 hours for an applicant to complete and submit the required information.

Organizations and individuals that wish to submit comments on the information collection and recordkeeping requirements set forth in this interim final rule should direct them to HCFA and OMB officials whose names appear in the **ADDRESSEES** section of this preamble.

IV. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. Under the Administrative Procedure Act (APA), however, this procedure can be waived if an agency finds good cause that prior notice-and-comment procedures are impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and its reasons in the rule. As explained below, we find for good cause that it would be impracticable to undertake prior notice-and-comment procedures with respect to this rule before the provisions of the rule take effect.

The BBA was enacted on August 5, 1997. In section 4626(c), the Congress specifically authorized (but did not require) the Secretary to promulgate interim final rules ''by not later than 6 months after the date of the enactment of [the BBA].'' Thus, if the Secretary had published this document by February 5, 1998, the Secretary could have issued this rule on an interim final basis by exercising the specific authority in section 4626(c) of the BBA, rather than waiving notice-and-comment procedures in accordance with the APA.

Because of the numerous obligations imposed by the BBA, we were not able to promulgate this rule by February 5, 1998. The BBA required development of complex regulations establishing, among other things: hospital specific FTE caps; aggregate FTE caps in affiliated group arrangements; GME payments to nonhospital providers; and adjustment to FTE caps for new residency programs. Each of these represented a significant and complex change affecting Medicare payment for indirect and direct GME.

Nevertheless, we believe that the Congress' grant of specific authority to issue interim final rules evinces an intent to allow hospitals to begin participating in the voluntary residency reduction plans at the earliest practicable date; if we undertook prior notice-and-comment procedures now, we would have to allow for a 60 day comment period before publishing final regulations, and this would further delay the effective date of this rule.

We also find good cause to waive the prior notice of proposed rulemaking with respect to the provisions of this document concerning capital IME. Capital IME payments—like operating IME and direct GME payment—are a function of the number of residents in approved programs. Consistent with our broad authority to implement the capital prospective payment system, this interim final rule with comment period provides that the amount of incentive payments reflects the effect of the residency reduction on capital IME. Given that we find good cause to waive prior notice and comment procedures with respect to the other provisions of this rule, and given our interest in

promoting uniformity and consistency, we believe it would be impracticable to conduct prior notice and comment procedures for the provisions of this document concerning capital IME payments.

For all these reasons, as well as the statutory requirement that applications for incentive payments must be received no later than November 1, 1999, we find good cause to waive the prior notice of proposed rulemaking and to issue this final rule on an interim basis. We invite written comments on this interim final rule and will consider comments we receive by the date and time specified in the **DATES** section of this preamble.

V. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VI. Impact Analysis

A. Background

We have examined the impacts of this interim final rule with comment period as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, most hospitals, and most other providers, physicians, and health care suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually.

B. Executive Order 12866 and RFA Analysis

Without knowing the number of applications that we will receive and the characteristics of the hospitals that will apply, we believe it is difficult to assess the impact of this interim final rule with comment period. However, we do believe that few hospitals will apply for the voluntary residency reduction plan. As stated earlier, section 4623 of the BBA requires the Secretary to determine incentive payment based on an average of the hospital's FTE count for the cost reporting period and the prior two cost reporting periods (the prior one cost reporting period for the hospital's first cost reporting period beginning on or after October 1, 1997). Using the 3-year averaging rule, Medicare makes a partial payment for each resident eliminated and no longer included in a hospital's resident FTE counts by phasing in the reduction over 3 years. Therefore, the 3-year averaging rule provides similar incentives to those available under the voluntary residency reduction plan without requiring a permanent minimum reduction of either at least 25 percent or, with an increase in primary care residents of at least 20 percent, at least 20 percent. Further, under the 3-year averaging rules, the regulations do not mandate the hospital to maintain the proportion or increase the number of residents in primary care. Finally, hospitals participating in the voluntary plan will be subject to repayment of all incentive funds if they subsequently increase the number of residents. Hospitals that receive additional payments by downsizing residents under the 3-year averaging rules are not subject to a similar refund provision. We are providing the following hypothetical examples that illustrate how hospitals could potentially be affected under the voluntary residency reduction plan.

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Example 1--A Hospital Participates in the Voluntary Residency Reduction Plan (20% Reduction)							
Year	**FTEs**	**3-Year Rolling Avg. FTE**	**Per Resident Payment**	**Direct GME Payments**	**Hold-Harmless Percentage**	**Incentive Payments**	**Total Payments**
Base Year[2]	200	200.00	$ 50,000.00	$10,000,000.00	--	--	--
95% of Base	190	190.00	$ 50,000.00	$ 9,500,000.00	--	--	--
Year 1	192	197.33[1]	$ 50,000.00	$ 9,866,500.00	100		$9,866,500.00
Year 2	184	192.00	$ 50,000.00	$ 9,600,000.00	100	--	$9,600,000.00
Year 3	176	184.00	$ 50,000.00	$ 9,200,000.00	75	$225,000.00	$9,425,000.00
Year 4	168	176.00	$ 50,000.00	$ 8,800,000.00	50	$350,000.00	$9,150,000.00
Year 5	160	168.00	$ 50,000.00	$ 8,400,000.00	25	$275,000.00	$8,675,000.00
5 Year Total				$45,866,500.00		$850,000.00	$46,716,500.00

[1] Assumes that the 3-year Rolling Average FTE = ((200+200+192)/3)
[2] Base year = number of FTE residents on June 30, 1997

Example 2--Hospital Does Not Participate in the Voluntary Residency Reduction Plan (20% Reduction)				
Year	**FTEs**	**3-Year Rolling Avg. FTE**	**Per Resident Payment**	**Total Payments**
Base Year[2]	200	200	$ 50,000.00	--
Year 1	192	197.33[1]	$ 50,000.00	$9,866,500.00
Year 2	184	192	$ 50,000.00	$9,600,000.00
Year 3	176	184	$ 50,000.00	$9,200,000.00
Year 4	168	176	$ 50,000.00	$8,800,000.00
Year 5	160	168	$ 50,000.00	$8,400,000.00
5 Year Total				$45,866,500.00

[1] Assumes that the 3-year Rolling Average FTE = ((200+200+192)/3)
[2] Base year = number of FTE residents on June 30, 1997

Example 3--Hospital Does Not Participate in the Voluntary Residency Reduction Plan (19% Reduction)				
Year	**FTEs**	**Average FTE**	**Per Resident Payment**	**Total Payments**
Base Year[2]	200	200.00	$ 50,000.00	--
Year 1	192	197.33[1]	$ 50,000.00	$9,866,500.00
Year 2	184	192.00	$ 50,000.00	$9,600,000.00
Year 3	176	184.00	$ 50,000.00	$9,200,000.00
Year 4	168	176.00	$ 50,000.00	$8,800,000.00
Year 5	162	168.67	$ 50,000.00	$8,433,500.00
5 Year Total				$45,900,000.00

[1] Assumes that the 3-year Rolling Average FTE = ((200+200+192)/3)
[2] Base year = number of FTE residents on June 30, 1997

Example 4--Hospital Does Not Participate in the Voluntary Residency Reduction Plan (15% Reduction)				
Year	**FTEs**	**Average FTE**	**Per Resident Payment**	**Total Payments**
Base Year[2]	200	200.00	$ 50,000.00	--------
Year 1	194	197.33[1]	$ 50,000.00	$9,990,000.00
Year 2	188	192.00	$ 50,000.00	$9,700,000.00
Year 3	182	184.00	$ 50,000.00	$9,400,000.00
Year 4	176	176.00	$ 50,000.00	$9,100,000.00
Year 5	170	168.67	$ 50,000.00	$8,800,000.00
5 Year Total	-----	--------	---------	$46,850,000.00

[1] Assumes that the 3-year Rolling Average FTE = ((200+200+192)/3)
[2] Base year = number of FTE residents on June 30, 1997

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These examples are simplified but do illustrate the impact on hospital revenues from various reduction options assuming fixed Medicare per resident payment amounts under several reduction options. The examples do not take into account any changes in IME payments, updates to the per resident amounts, changes in Medicare utilization or other factors that affect Medicare payment for direct and indirect GME. However, generally IME payments are twice the amount of direct GME payments for the average hospital. In each of these examples, the hospital's payments under current law are based on a 3-year average of the FTEs. The hospital's Medicare direct GME payments are equal to the product of the average FTEs and the Medicare per resident payment amount. The difference between the payments based on the number of residents on June 30, 1997 and plan year payments are multiplied by the hold-harmless percentage to determine incentive payments. The incentive payments are added to the hospital's Medicare direct GME payments to determine total payments.

In example 1, the hospital participates in the voluntary residency reduction plan under the 20-percent option (this option would also require an increase in the number of primary care residents by 20 percent which is not illustrated). The hospital achieves its residency reduction under the plan by reducing 4 percent per year from the base number of residents. The incentive payments are based on the difference in payments using 95 percent of the count of residents as of June 30, 1997, and rate year payments using the 3-year average count of residents. In example 1, the hospital does not receive an incentive payment during the first 2 years of the plan because its average count of FTEs is more than 95 percent of its number of residents as of June 30, 1997. The hospital receives incentive payments for the remaining 3 years of the voluntary plan and its total incentive payments are $850,000. Its total direct GME payments over the 5 plan years are $46.72 million. If the hospital increases residents above the level it has at the end of the plan, the hospital will be required to refund $850,000. Although the hospital could receive higher incentive payments by making larger reductions in year 1 and year 2 of the plan, our experience indicates that hospitals are actually planning smaller reductions in the first 2 years of the plan because of prior commitments made to residents. In fact, we believe this example may actually present a larger resident reduction in the first 2 years of the plan than hospitals are likely to make.

In example 2, all of the variables are the same as example 1 except the hospital does not participate in the voluntary plan. Since the hospital does not participate in the voluntary plan, it does not receive incentive payments and its total payments are $850,000 less over 5 years than the hospital in example 1. This hospital can subsequently increase its residents to its FTE caps and will not be liable for any refunds.

In example 3, all of the variables are the same as example 2 except the hospital reduces its number of residents from the count as of June 30, 1997 by 19 percent. In this example, the hospital receives slightly higher payments than the hospital in example 2 because it has more residents over 5 years. Its payments are $816,500 lower than the hospital that participated in the voluntary plan. Again, this hospital can increase its residents to its FTE cap level without being liable for refunds of incentive payments to Medicare.

In example 4, the hospital does not participate in the voluntary plan and reduces its number of residents from the count on June 30, 1997 by 15 percent. In this example, the hospital actually receives higher total payments than the hospital in any of the previous examples, including the hospital participating in the voluntary residency reduction plan because of Medicare revenues associated with a higher count of residents.

We recognize that there are many factors that may induce a hospital to participate in the voluntary residency reduction plan. Medicare direct and indirect medical education revenues are only one factor in deciding whether to participate. We urge hospitals to carefully consider all factors before deciding whether to participate in the voluntary plans. However, we believe Medicare incentive payments for resident reductions made under this provision may not provide a strong incentive to participate in the voluntary plan unless a hospital is already planning permanent residency reductions of 20 to 25 percent even in the absence of the voluntary residency reduction plan. Even if the hospital is planning residency reductions of 20 to 25 percent, it may be reluctant to participate in the plan because of the requirement that the hospital refund all incentive funds if the hospital increases its residents higher than the level permitted under its voluntary residency reduction plan.

In summary, we do not believe many hospitals are likely to participate in the voluntary residency reduction plans because the 3-year average count provides similar incentives without mandating reductions of 20 to 25 percent, non-receipt of incentive payments for the first 5 percent of resident reduction, and full refund of all incentive payments if a hospital ever increases its number of residents in training. We believe that only hospitals that anticipate making reductions of 20 to 25 percent over the next 5 years are likely to consider participating.

C. Rural Hospital Impact

Section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any interim final rule with comment period that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the R.F.A. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing a rural hospital impact statement since we have determined, and certify, that this interim final rule with comment period will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this interim final rule with comment period was reviewed by the Office of Management and Budget.

We have reviewed this interim final rule with comment period under the threshold criteria of Executive Order 12612. We have determined that it does not significantly affect States' rights, roles, and responsibilities.

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 413 is amended as set forth below:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

2. A new § 413.88 is added to subpart F to read as follows:

§ 413.88 Incentive payments under plans for voluntary reduction in number of medical residents.

(a) *Statutory basis.* This section implements section 1886(h)(6) of the Act, which establishes a program under which incentive payments may be made to qualifying entities that develop and implement approved plans to voluntarily reduce the number of residents in medical residency training.

(b) *Qualifying entity defined.* ''Qualifying entity'' means:

(1) An individual hospital that is operating one or more approved medical residency training programs as defined in § 413.86(b) of this chapter; or

(2) Two or more hospitals that are operating approved medical residency training programs as defined in § 413.86(b) of this chapter and that submit a residency reduction application as a single entity.

(c) *Conditions for payments.* (1) A qualifying entity must submit an application for a voluntary residency reduction plan that meets the requirements and conditions of this section in order to receive incentive payments for reducing the number of residents in its medical residency training programs.

(2) The incentive payments will be determined as specified under paragraph (g) of this section.

(d) *Requirements for voluntary plans.* In order for a qualifying entity to receive incentive payments under a voluntary residency reduction plan, the qualifying entity must submit an application that contains the following information, documents, and agreements—

(1) A description of the operation of a plan for reducing the full-time equivalent (FTE) residents in its approved medical residency training programs, consistent with the percentage reduction requirements specified in paragraphs (g)(2) and (g)(3) of this section;

(2) An election of the period of residency training years during which the reductions will occur. The reductions must be fully implemented by not later than the fifth residency training year in which the plan is effective;

(3) FTE counts for the base number of residents, as defined in paragraph (g)(1) of this section, with a breakdown of the number of primary care residents compared to the total number of residents; and the direct and indirect FTE counts of the entity on June 30, 1997. For joint applicants, these counts must be provided individually and collectively;

(4) Data on the annual and cumulative targets for reducing the number of FTE residents and the ratios of the number of primary care residents to the total number of residents for the base year and for each year in the 5-year reduction period. For joint applicants, these data must be provided individually and collectively;

(5) An agreement to not reduce the proportion of its primary care residents to its total number of residents below the proportion that exists in the base year, as specified in paragraph (g)(1) of this section;

(6) An agreement to comply with data submission requirements deemed necessary by HCFA to make annual incentive payments during the 5-year residency reduction plan, and to fully cooperate with additional audit and monitoring activities deemed necessary by HCFA;

(7) For a qualifying entity that is a member of an affiliated group as defined in § 413.86(b), a statement that all members of the group agree to an aggregate FTE cap that reflects—

(i) The reduction in the qualifying entity's FTE count as specified in the plan during each year of the plan; and

(ii) The 1996 FTE count of the other hospital(s) in the affiliated group.

(8) A statement indicating voluntary participation in the plan under the terms of this section, signed by each hospital that is part of the applying entity.

(e) *Deadline for applications.* A qualifying entity must submit an application that meets the requirements of paragraph (d) of this section at least one day prior to the first day of the period to which the plan would be effective but no later than November 1, 1999. The application must be submitted to the fiscal intermediary, with a copy to HCFA.

(f) *Effective dates of plans.* Residency reduction plans that are submitted to the fiscal intermediary on or after September 17, 1999 but on or before November 1, 1999, may be effective for portions of cost reporting periods beginning no earlier than the day after the date of the application.

(g) *Residency reduction requirements*—(1) *Base number of residents defined.* (i) ''Base number of residents'' means the lesser of—

(A) The number of FTE residents in all approved medical residency training programs of the qualifying entity (before application of weighting factors under § 413.86(g)) for the most recent residency training year ending June 30, 1996; or

(B) The number of FTE residents in all approved medical residency training programs of the qualifying entity (before application of weighting factors under § 413.86(g)) for any subsequent residency training year that ends before the date the entity submits its plan to the fiscal intermediary and HCFA.

(ii) The residency training year used to determine the base number of residents is the ''base year'' for determining reduction requirements.

(iii) The qualifying entity's base number of residents may not be adjusted to reflect adjustments that may otherwise be made to the entity's FTE caps for new medical residency training programs.

(2) *Qualifying entity consisting of individual hospital.* The base number of FTE residents in all the approved medical residency training programs operated by or through a qualifying entity consisting of an individual hospital must be reduced as follows:

(i) If the base number of residents exceeds 750, residents, by at least 20 percent of the base number.

(ii) If the base number of residents exceeds 600 but is less than or equal to 750 residents—

(A) By 150 residents; or

(B) By 20 percent, if the qualifying entity increases the number of primary care residents included in the base number by at least 20 percent.

(iii) If the base number of residents is 600 or less residents—

(A) By 25 percent; or

(B) By 20 percent, if the qualifying entity increases the number of primary care residents included in the base number of residents by at least 20 percent.

(3) *Qualifying entity consisting of two or more hospitals.* The base number of FTE residents in the aggregate for all the approved medical residency training programs operated by or through a qualifying entity consisting of two or more hospitals must be reduced—

(i) By 25 percent; or

(ii) By 20 percent, if the qualifying entity increases the number of primary care residents included in the base number of residents by at least 20 percent.

(4) *Treatment of rotating residents.* A qualifying entity will not be eligible for incentive payments for a reduction in the base number of residents if the reduction is a result of the entity rotating residents to another hospital that is not a part of its voluntary residency reduction plan.

(5) *Updates to annual and cumulative targets.*—(i) Except as provided in paragraph (g)(5)(ii) of this section an entity with an approved voluntary residency reduction plan may not change the annual and cumulative reduction targets that are specified in its plan in accordance with paragraphs (g)(2) and (g)(3) of this section.

(ii) An entity may update annual reduction targets specified in its plan only if—

(A) It has failed to meet a specified annual target for a plan year in the 5-year period; and

(B) It wishes to adjust future annual targets for the remaining years of the plan in order to comply with its cumulative target.

(iii) An updated plan allowed under paragraph (g)(5)(ii) of this section must be submitted prior to the beginning of each July 1 medical residency training year during the plan years.

(h) *Computation of incentive payment amount.* (1) Incentive payments to qualifying entities that meets the requirements and conditions of paragraphs (d) and (g) of this section will be computed as follows:

(i) *Step 1.* Determine the amount (if any) by which the payment amount that would have been made under § 413.86(d) if there had been a 5-percent reduction in the number of FTE residents in the approved medical education training programs of the hospital as of June 30, 1997, exceeds the amount of payment that would have been made under § 413.86(d) in each year under the voluntary residency reduction plan, taking into account the reduction in the number of FTE residents under the plan.

(ii) *Step 2.* Determine the amount (if any) by which the payment amount that would have been made under § 412.105 of this chapter if there had been a 5-percent reduction in the number of FTE residents in the approved medical education training programs of the hospital as of June 30, 1997, exceeds the payment amount made under § 412.105 of this chapter in each year under the voluntary residency reduction plan, taking into account the actual reduction in the number of FTE residents.

(iii) *Step 3.* Determine the amount (if any) by which the payment amount that would have been made under § 412.322 of this chapter if there had been a 5-percent reduction in the number of FTE residents in the approved medical education training programs of the hospital as of June 30, 1997, exceeds the payment amount made under § 412.322 of this chapter in each year under the voluntary residency reduction plan, taking into account the actual reduction in the number of FTE residents.

(iv) *Step 4.* Multiply the sum of the amounts determined under paragraph (h)(i), (ii), and (iii) of this section by the applicable hold harmless percentages specified in paragraph (i) of this section.

(2) The determination of the amounts under paragraph (h)(1) of this section for any year is based on the applicable Medicare statutory provisions in effect on the application deadline date for the voluntary reduction plan specified under paragraph (e) of this section.

(i) *Applicable hold-harmless percentage.* The applicable hold-harmless percentages for each year in which the residency reduction plan is in effect are as follows:

(1) 100 percent for the first and second residency training years;

(2) 75 percent for the third year;

(3) 50 percent for the fourth year; and

(4) 25 percent for the fifth year.

(j) *Payments to qualifying entities.* Annual incentive payments through cost reports will be made to each hospital that is or is part of a qualifying entity over the 5-year reduction period if the qualifying entity meets the annual and cumulative reduction targets specified in its voluntary reduction plan.

(k) *Penalty for noncompliance*—(1) *Nonpayment.* No incentive payment may be made to a qualifying entity for a residency training year if the qualifying entity has failed to reduce the number of FTE residents according to its voluntary residency reduction plan.

(2) *Repayment of incentive amounts.* The qualifying entity is liable for repayment of the total amount of incentive payments it has received if the qualifying entity—

(i) Fails to reduce the base number of residents by the percentages specified in paragraphs (g)(2) and (g)(3) of this section by the end of the fifth residency training year; or

(ii) Increases the number of FTE residents above the number of residents permitted under the voluntary residency reduction plan as of the completion date of the plan.

(l) *Postplan determination of FTE caps for qualifying entities*—(1) *No penalty imposed.* Upon completion of a voluntary residency reduction plan, if no penalty is imposed, the qualifying entity's 1996 FTE count is permanently adjusted to equal the unweighted FTE count used for direct GME payments for the last residency training year in which a qualifying entity participates.

(2) *Penalty imposed.* Upon completion of the voluntary residency reduction plan—

(i) *During repayment period.* If a penalty is imposed under paragraph (k)(2) of this section, during the period of repayment, the qualifying entity's FTE count is as specified in paragraph (l)(1) of this section.

(ii) *After repayment period.* Once the penalty repayment is completed, the qualifying entity's FTE reverts back to its original 1996 FTE cap.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: July 7, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: July 27, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–21322 Filed 8–17–99; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[MM Docket No. 97–234, GC Docket No. 92–52, and GEN Docket No. 90–264; FCC 99–201]

Implementation of Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concludes that it is appropriate for the Federal Communications Commission to attribute the mass media interests of investors holding more than a 33% equity and/or debt interest in a broadcast auction bidder claiming a New Entrant Bidding Credit, even if such an interest is non-voting.

DATES: The effective date is August 18, 1999.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418–1600.

SUPPLEMENTARY INFORMATION: This item contains information collections requirements for which we have received OMB approval, OMB Control Number 3060–0896. This *Memorandum Opinion and Order* concludes that it is

appropriate for the Federal Communications Commission to attribute the mass media interests of investors holding more than a 33% equity and/or debt interest in a broadcast auction bidder claiming a New Entrant Bidding Credit, even if such an interest is non-voting. This action is a further refinement of the eligibility standards for the New Entrant Bidding Credit available to bidders in broadcast auctions created by the Commission as a means to promote and facilitate the diversification of ownership in the mass media. In an earlier *Memorandum Opinion and Order,* 64 FR 24523 (May 7, 1999), the Commission revised the eligibility standards for the New Entrant Bidding Credit to ensure that those standards are consistent with the Commission's general attribution standards. In this Memorandum Opinion and Order, the Commission determined that it was appropriate to attribute the mass media interests held by very substantial investors in any broadcast auction applicant claiming a New Entrant Bidding Credit. The Commission explained that it was taking this action to ensure that only true new entrants qualify for the bidding credit, because holders of otherwise nonattributable interests may well have a ''realistic potential'' to influence bidders claiming new entrant status. The Commission further determined, based upon a review of the record in the broadcast attribution proceeding and the precedent provided by its long-standing cross-interest policy, that setting the attribution threshold at 33% is appropriate in the new entrant context.

Supplemental Regulatory Flexibility Analysis (FRFA)

As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, a Final Regulatory Flexibility Analysis (FRFA) was incorporated in Appendix B of the *First Report and Order,* 63 FR 48615 (September 11, 1998) in this proceeding. In addition, a Supplemental Final Regulatory Flexibility Analysis (First Supplemental FRFA) was incorporated in Appendix B of the *Memorandum Opinion and Order,* 64 FR 24523 (May 7, 1999) in this proceeding that resolved various petitions for reconsideration filed against the *First Report and Order.* The Commission's Supplemental Final Regulatory Flexibility Analysis (Second Supplemental FRFA) in this *Memorandum Opinion and Order* reflects revised or additional information to that contained in the FRFA and First Supplemental FRFA. This Second Supplemental FRFA is thus limited to issues addressed in this *Memorandum Opinion and Order.* This Second Supplemental FRFA conforms to the RFA, as amended by the Contract with America Advancement Act of 1996, Public Law No. 104–121, 110 Stat. 847 (1996) (CWAAA); see generally 5 U.S.C. 601 *et seq.* Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

I. Need For and Objectives of Action

In the *First Report and Order* in this proceeding, the Commission adopted rules and procedures to implement provisions of the Balanced Budget Act of 1997 expanding its competitive bidding authority, under Sections 309(j) and 309(l) of the Communications Act of 1934, 47 U.S.C. 309(j), 309(l), to include, inter alia, the commercial broadcast services. In a recent *Memorandum Opinion and Order* resolving numerous petitions for reconsideration filed against the *First Report and Order* the Commission generally upheld its previous determinations made with respect to auction rules and procedures for the various broadcast services. That *Memorandum Opinion and Order* did, however, refine the eligibility standards for the ''new entrant'' bidding credit, which, as adopted in the *First Report and Order,* provides a tiered credit for broadcast auction bidders with no, or very few, other media interests. In particular, the Commission concluded in its previous *Memorandum Opinion and Order* that the eligibility standards for the new entrant bidding credit should be amended to be consistent with the general broadcast attribution standards, by which the Commission defines what constitutes an attributable interest in applying the broadcast multiple ownership rules. In addition to attributing mass media interests for purposes of the new entrant bidding credit to the same extent that such media interests are considered attributable for purposes of the broadcast multiple ownership rules, the Commission determined in that *Memorandum Opinion and Order* to also consider, in a further order, whether to attribute the mass media interests of any individual or entity who holds a significant equity and/or debt interest in a broadcast auction bidder claiming new entrant status, even if such an interest is nonvoting. The above-referenced *Memorandum Opinion and Order* does in fact determine to attribute the mass media interests of investors holding more than a 33% equity and/or debt interest in a broadcast auction bidder claiming new entrant status, even if such an interest is nonvoting.

II. Significant Issues Raised by Public in Response to Final Regulatory Flexibility Analysis

No petitions or comments were received in response to the FRFA or the First Supplemental FRFA. Small business-related issues were raised indirectly by some parties filing petitions for reconsideration against the *First Report and Order.* These issues were addressed in detail in the previous *Memorandum Opinion and Order* and the First Supplemental FRFA.

III. Description and Estimate of the Number of Small Entities Involved

In the FRFA and First Supplemental FRFA, the Commission utilized the definition of ''small business'' promulgated by the Small Business Administration (SBA), even though, as discussed in detail in the FRFA, we tentatively believed that the SBA's definition of ''small business'' overstated the number of radio and television broadcast stations that were small businesses and was not particularly suitable for our purposes. No petitions or comments were received concerning the Commission's use of the SBA's small business definition for purposes of the FRFA and First Supplemental FRFA, and we will therefore continue to employ such definition for this Second Supplemental FRFA. As we are utilizing the same definition of small business for this Second Supplemental FRFA, the description and number of small entities affected by the rule change adopted in this *Memorandum Opinion and Order* should be the same as the entities described in both the FRFA and First Supplemental FRFA, and include, specifically, commercial broadcast stations (television, low power television, television translator, AM, FM and FM translator stations).

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

The *First Report and Order* adopted a number of rules that included reporting, recordkeeping and compliance requirements. These requirements were described in detail in the FRFA, and, as discussed in the First Supplemental FRFA, generally remained unchanged by the rule amendments adopted in the previous *Memorandum Opinion and Order.* The rule change adopted in this *Memorandum Opinion and Order* does not include any additional or different reporting or recordkeeping requirements, but only affects the

standards for qualifying for the new entrant bidding credit.

V. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The FRFA and First Supplemental FRFA described in considerable detail the steps taken in the *First Report and Order* and in the previous *Memorandum Opinion and Order* to minimize significant economic impact on small entities and the alternatives considered. The rule amendment adopted in this *Memorandum Opinion and Order* further refines the eligibility standards for the new entrant bidding credit. The Commission believes that attributing the mass media interests (if any) held by very substantial investors in bidders claiming new entrant status will help properly limit the scope of the bidding credit to those truly new entities intended to benefit from the credit (and who are likely to be small businesses). In addition, adoption of this attribution policy should reduce the likelihood of bidder manipulation of the eligibility standards for the bidding credit.

The Commission also believes that setting this attribution benchmark at 33% reasonably balances its interest in capturing investor relationships that provide a realistic potential to influence the core operating functions of broadcast auction applicants, and the needs of prospective auction applicants (including small businesses) to obtain financing. This 33% equity/debt attribution standard does not preclude an individual or entity (including any existing broadcaster) from investing any amount in a prospective broadcast auction applicant. Nor does this 33% equity/debt standard require an applicant claiming new entrant status to contribute a minimum amount of equity, or otherwise affect an applicant's right to participate in a broadcast auction. Because this standard only establishes that the attributable media interests (if any) of an investor who holds more than a 33% equity and/or debt interest in a broadcast auction bidder will be attributable to that bidder for determining its status as a new entrant, the Commission concludes that adoption of the 33% equity/debt standard should not unduly hinder the ability of broadcast licensees generally, or broadcast auction applicants specifically, to obtain capital.

VI. Report to Congress

The Commission will send a copy of this *Memorandum Opinion and Order,* including this Second Supplemental FRFA, 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). In addition, the Commission will send a copy of the *Memorandum Opinion and Order,* including the Second Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Memorandum Opinion and Order* and Second Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

Authority for issuance of this *Memorandum Opinion and Order* is contained in Sections 4 (i) and (j), 301, 303(f), 303(g), 303(h), 303(j), 303(r), 307(c), 308(b), 309(j), 309(l) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303(f), 303(g), 303(h), 303(j), 303(r), 307(c), 308(b), 309(j), 309(l) and 403.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Reporting and recordkeeping requirements, Television broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Change

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

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.5008 is amended by revising paragraph (c) to read as follows:

§ 73.5008 Definitions applicable for designated entity provisions.

* * * * *

(c) An *attributable interest* in a winning bidder or in a medium of mass communications shall be determined in accordance with § 73.3555 and Note 2. In addition, the attributable mass media interests, if any, held by an individual or entity with an equity and/or debt interest(s) in a winning bidder shall be attributed to that winning bidder for purposes of determining its eligibility for the new entrant bidding credit, if the equity (including all stockholdings, whether voting or nonvoting, common or preferred) and debt interest or interests, in the aggregate, exceed thirty-three (33) percent of the total asset value (defined as the aggregate of all equity plus all debt) of the winning bidder.

[FR Doc. 99–21471 Filed 8–17–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 081399A]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1999 total allowable catch (TAC) of northern rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 13, 1999, through 2400 hrs, A.l.t., December 31, 1999.

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 1999 TAC of northern rockfish in the Western Regulatory Area of the Gulf of Alaska was established by the Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) as 840 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1999 TAC for northern rockfish has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 740 mt, and is setting aside

the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1999 TAC of northern rockfish for the Western Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. 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 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: August 13, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–21434 Filed 8–13–99; 3:14 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 081299A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific ocean perch in the West Yakutat District of the Gulf of Alaska management area (GOA). This action is necessary to fully utilize the 1999 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 15, 1999.

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

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 600 and 50 CFR part 679.

The 1999 TAC of Pacific ocean perch in the West Yakutat District of the GOA was established by the Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) as 820 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii).

The Administrator, Alaska Region, NMFS, has established a directed fishing allowance of 670 mt, and set aside the remaining 150 mt as bycatch to support other anticipated groundfish fisheries. The fishery for Pacific ocean perch in the West Yakutat District of the GOA was closed to directed fishing under § 679.20(d)(1)(iii) on July 19, 1999, (64 FR 39090, July 21, 1999).

NMFS has determined that as of July 31, 1999, 217 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific ocean perch in the West Yakutat District of the GOA.

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific ocean perch TAC. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: August 13, 1999

Richard W. Surdi,

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

[FR Doc. 99–21433 Filed 8–13–99; 3:14 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 159
Wednesday, August 18, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AG22

Elimination of the Requirement for Noncombustible Fire Barrier Penetration Seal Materials and Other Minor Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its fire protection regulations to remove the requirement that fire barrier penetration seal materials be noncombustible, and to make other minor changes. The proposed rule would also include editorial changes to comply with the Presidential memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing.''

DATES: Submit comments by November 1, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff, Mail Stop O–16C1.

Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Copies of comments received may be examined at NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

You may also submit comments via the NRC's interactive rulemaking Web site through the NRC home page <http://ruleforum.llnl.gov>. This site provides the availability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher at 301–415–5905; or by e-mail at CAG@nrc.gov. Comments received may also be viewed and downloaded electronically at this Web site.

Single copies of NUREG–1552, ''Fire Barrier Penetration Seals in Nuclear Power Plants,'' and NUREG–1552, Supp. 1, which are related to this rulemaking, may be obtained by writing to U.S. Nuclear Regulatory Commission, Reproduction and Distribution Services Section, OCIO, Washington, DC 20555–0001; or by fax at 301–415–5272.

FOR FURTHER INFORMATION CONTACT: Daniele Oudinot, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–3731; e-mail DHO@nrc.gov

SUPPLEMENTARY INFORMATION:

I. Background

The NRC conducted a technical assessment of fire barrier penetration seals. The NRC documented the results of its assessment in SECY–96–146, ''Technical Assessment of Fire Barrier Penetration Seals in Nuclear Power Plants,'' July 1, 1996; in NUREG–1552, ''Fire Barrier Penetration Seals in Nuclear Power Plants,'' July 1996; and in NUREG–1552, Supplement 1, January 1999. In these reports, the NRC stated that, on the basis of its findings, the noncombustibility criterion for penetration seal materials that is specified in the NRC fire protection regulation and review guidance does not contribute significantly to safety, and recommended that this noncombustibility criterion be deleted.

II. Proposed Action

The NRC is proposing to amend the regulations governing fire protection in § 50.48, and Appendix R to Part 50 of Title 10 of the Code of Federal Regulations (Appendix R). The proposed amendments would remove the words ''shall utilize only noncombustible materials and'' in 10 CFR Part 50, Appendix R, Section III.M, ''Fire Barrier Cable Penetration Seal Qualification;'' remove footnote 3 from § 50.48(a); remove footnote 4 from § 50.48(b); remove §§ 50.48 (c), (d), and (e); correct a spelling error in footnote 2 of Appendix R, Section III.G., ''fire protection of safe shutdown capability;'' and make editorial changes.

III. Discussion

1. Fire Barrier Penetration Seals

Appendix R, Section III.M currently states: ''Penetration seal designs shall utilize only noncombustible materials and shall be qualified by tests that are comparable to tests used to rate fire barriers.'' The NRC is proposing to amend Appendix R, Section III.M, by removing the words ''shall utilize only noncombustible materials and . . .''

The technical basis for removing the noncombustibility requirement for fire barrier penetration seal materials is documented in NUREG–1552 and NUREG–1552, Supplement 1. A summary of the technical basis for this action follows.

NRC requirements and guidelines for penetration seals appear in a number of documents. In 1971, the NRC promulgated General Design Criterion (GDC) 3, ''Fire protection,'' and subsequently developed specific guidance for implementing GDC 3; Branch Technical Position (BTP) Auxiliary Power Conversion Systems Branch (APCSB) 9.5–1, ''Guidelines for Fire Protection for Nuclear Power Plants,'' May 1, 1976; and Appendix A to BTP APCSB 9.5–1, ''Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976,'' February 24, 1977. Most licensees complied with most of the implementing guidance. To resolve the contested issues, the NRC published the final fire protection rule (§ 50.48) and Appendix R to 10 CFR Part 50 on November 10, 1980 (45 FR 76602). It is important to note that Appendix R is not a set of generically applicable fire protection requirements and applies only to plants that were operating before January 1, 1979.

The record for Appendix R does not disclose technical basis for including the noncombustibility criterion in Appendix R. The noncombustibility criterion is not included in BTP APCSB 9.5–1, Appendix A to BTP APCSB 9.5–1, or in the industry fire endurance test standards. Also, § 50.48 does not address the use of combustible materials. Although GDC 3 states that noncombustible and heat-resistant materials must be used wherever practical, GDC 3 does not preclude the use of combustible materials. In fact, combustible materials are installed in nuclear power plants. In general, when these materials are incorporated as

integral components of the plant fire protection program, including the fire hazard analysis, they are acceptable.

Fire barrier penetration seals are one element of the defense-in-depth concept at nuclear power plants. The objectives of the defense-in-depth concept are to:

(1) Prevent fires from starting;

(2) Promptly detect, control, and extinguish those fires that do occur; and

(3) Protect structures, systems, and components important to safety so that a fire that is not extinguished promptly will not prevent the safe shutdown of the plant.

To achieve defense in depth, each operating reactor maintains an NRC-approved fire protection program. Nuclear power plants are divided into separate areas by structural fire barriers, such as walls and floor-ceiling assemblies whose fire-resistance rating, typically 1, 2, or 3 hours, is determined by testing. The function of these structural barriers is to prevent a fire that starts in one area from spreading to another area. Penetration seals are used to close openings through the structural fire barriers. The intended design function of the penetration seal is to confine a fire to the area in which it started and to protect important equipment within an area from a fire outside the area. As for other fire barriers, the fire-resistance rating of the penetration seals is determined by testing.

The ability of a particular penetration seal to achieve its intended design function (i.e., to contain a fire), as determined by a fire endurance test conducted in accordance with an industry standard, is the foremost design consideration. In the report documenting the results of the fire barrier penetration seal reassessment, the NRC concluded the following:

(1) There are no reports of fires that challenged the ability of nuclear power plant fire-rated penetration seals to confine a fire.

(2) A large body of fire endurance tests had established the fire-resistive capabilities of the penetration seal materials, designs, and configurations installed in nuclear power plants.

(3) If penetration seals are properly designed, tested, configured, installed, inspected, and maintained, there is reasonable assurance that they will provide the fire resistance of the tested configuration, maintain the fire-resistive integrity of the fire barriers in which they are installed, and confine the fire to the area of origin.

The NRC evaluated silicone-based penetration seal materials that are combustible and are the most widely used materials for penetration seals throughout the commercial nuclear power industry. In presenting the results of its evaluation in NUREG–1552 and in NUREG–1552, Supplement 1, the NRC concluded the following:

(1) Properly tested, configured, installed, and maintained silicone-based penetration seals are not credible fire hazards.

(2) Despite the fact that a silicone-based penetration seal could contribute some fuel to a fire, its relative contribution to overall fire severity would be negligible.

(3) Qualified silicone-based fire barrier penetration seals can accomplish their intended design function; and

(4) The benefits of the silicone-based penetration seal materials outweigh any potential concerns regarding material combustibility.

2. Footnotes 3 and 4 in § 50.48

Footnote 3 in § 50.48(a) states that basic fire protection guidance for nuclear power plants is contained in two NRC documents: Branch Technical Position (BTP) Auxiliary Power Conversion System Branch (APCSB) 9.5–1, ''Guidelines for Fire Protection for Nuclear Power Plants'' (for new plants docketed after July 1, 1976), dated May 1976, and Appendix A to BTP APCSB 9,5–1, ''Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976'' (for plants that were operating or in various stages of design or construction before July 1, 1976), dated August 23, 1976. Footnote 3 also refers to footnote 4 in § 50.48(b), that lists four additional documents related to permissible alternatives to satisfy Appendix A to BTP APCSB 9.5–1. The six documents that are referred to in footnotes 3 and 4 no longer reflect accurately the guidance documents published by the NRC.

Footnotes 3 and 4 were not intended to be rulemaking requirements but rather statements of fact. The footnotes reflected the Commission's approval of the NRC staff's practice, as reflected in Branch Technical Position (BTP) APCSB 9.5–1 and in its Appendix A, that the date of the docketing of the construction permit would determine the NRC staff's review criteria for verifying compliance with General Design Criterion (GDC) 3, and that compliance with the guidance of BTP APCSB 9.5–1 or its Appendix A and the other listed guidance documents would establish compliance with GDC 3. The NRC has completed its review of the fire protection programs at all operating reactors and has issued license conditions that establish the licensing bases for each reactor. The licensing bases may include the documents listed in footnotes 3 and 4 but typically include a number of other guidance documents that the NRC issued after it promulgated § 50.48. In addition, the licensees included the fire protection licensing basis for each reactor in the Updated Final Safety Analysis Report for the facility. Footnotes 3 and 4 have served their purpose and are not needed by the NRC or the licensees to maintain the fire protection licensing bases for the reactors.

The proposed rule change would not affect or change the licensing basis for any plant. However, it would make 10 CFR 50.48 consistent with other reactor regulations that do not identify guidance documents. It would also eliminate the need to update the footnotes to include the large number of guidance documents that the NRC has issued since it promulgated § 50.48 and to conduct future rulemakings to add new guidance documents as they are issued. The proposed change would also resolve an inconsistency between the information in footnote 3 to § 50.48 and the regulatory requirements of § 50.34(g)(1)(ii). Specifically § 50.34(g)(1)(ii) states, in part, that ''Applications for light water cooled nuclear power plant construction permits, manufacturing licenses, and preliminary or final design approvals for standard plants docketed after May 17, 1982, shall include an evaluation of the facility against the SRP * * *,'' whereas, footnote 3 indicates that the fire protection portions of these applications would be reviewed against BTP APCSB 9.5–1.

3. Implementation Requirements in § 50.48 (c), (d), and (e)

Paragraphs (c) and (d) of § 50.48 currently list schedule requirements that were added to the Code of Federal Regulations when Appendix R became effective on February 17, 1981. These requirements apply to nuclear power plants licensed before January 1, 1979, and involve fire protection installation modifications, revisions of administrative controls, manpower changes, and training. These requirements were to be completed on a schedule determined by the provisions specified in § 50.48 (c) and (d). All schedular requirements of § 50.48 (c) and (d) have been implemented and need not be retained.

Paragraph (e) of § 50.48 currently specifies that nuclear power plants licensed after January 1, 1979, shall complete all fire protection modifications needed to satisfy GDC 3 of Appendix A to 10 CFR Part 50 in accordance with the provisions of their licenses. License conditions pertaining

to fire protection have been implemented at all plants. Therefore, § 50.48(e) has been implemented and need not be retained.

4. Grammatical Correction

Footnote 2 to Section III.G.3 of Appendix R currently reads, ''Alternative shutdown capability is provided by rerouting, relocating, or modificating of existing systems; dedicated shutdown capability is provided by installing new structures and systems for the function of post-fire shutdown.'' This amendment would replace the words ''modificating of'' with ''modifying.''

IV. Plain Language

The Presidential memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the Federal Government's writing be in plain language (63 FR 31883, June 10, 1998). In compliance with this directive, editorial changes have been made in these proposed amendments to improve the readability of the existing language of the provisions being revised. These types of changes are not discussed further in this document. The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used in this notice. Comments on the language used should be sent to the NRC as indicated under the **ADDRESSES** heading.

V. Finding of No Significant Environmental Impact

Environmental Assessment

The NRC has determined, in accordance with the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that the proposed amendments, if adopted, would not be a major Federal action significantly affecting the quality of the human environment; therefore, an environmental impact statement is not required.

1. The Proposed Action

The NRC is proposing to amend its regulations that require fire barrier penetration seal materials to be noncombustible and to make minor changes to § 50.48 and to Appendix R.

These minor changes are to remove footnote 3 from § 50.48(a) and footnote 4 from § 50.48(b); remove paragraphs (c), (d), and (e) from § 50.48; correct a grammatical error in footnote 2 to Section III.G.3 of Appendix R; and make editorial changes.

2. Need for the Rulemaking Action

The technical basis for removing the noncombustibility requirement for fire barrier penetration seal materials is documented in NUREG–1552, ''Fire Barrier Penetration Seals in Nuclear Power Plants,'' July 1996; and in NUREG–1552, Supplement 1, January 1999. In these reports, the NRC staff stated that the noncombustibility criterion for penetration seal materials specified in the NRC fire protection regulations and review guidance does not contribute significantly to safety and recommended that this noncombustibility criterion be deleted. In a staff requirements memorandum dated June 30, 1998, the Commission directed the NRC staff to amend Section III.M of Appendix R to Part 50 of Title 10 of the Code of Federal Regulations (Appendix R) to eliminate the noncombustibility requirement for penetration seal material and to make other minor changes to the fire protection regulations. These minor changes include the deletion of references that no longer reflect accurately the guidance documents published by the NRC in footnotes 3 and 4 of § 50.48, the deletion of schedular requirements that have been implemented in § 50.48(c) and (d), and a grammatical correction in footnote 2 to Section III.G.3 of Appendix R. The NRC is also taking advantage of this rulemaking to make editorial changes to comply with the Presidential memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing.'' The proposed change would remove a requirement that does not contribute significantly to safety. It constitutes a burden reduction for the NRC and for the licensees.

3. ''No Regulatory Action'' Alternative

No regulatory action would continue the regulatory burden on licensees and on the NRC. Silicone-based material is currently the material of choice for fire barrier penetration seals and is combustible. The NRC has performed an assessment of silicone-based penetration seal materials and concluded that the benefits of the silicone-based materials in penetration seals, such as high-temperature stability, flexibility, and resistance to the effects of radiation exposure and aging, outweigh any potential concerns regarding material combustibility. In the past, licensees using silicone-based penetration seal materials have requested and been granted exemptions from the requirement of Section III.M of Appendix R to Part 50, regarding the use of noncombustible materials, provided the seals are qualified by fire endurance tests conducted in accordance with an industry standard. Under the current rule, licensees who choose penetration seals made of silicone-based materials for the replacement of existing seals or the installation of new seals must request exemptions from the requirement of Section III.M of Appendix R to the extent that the silicone-based material is combustible. These requests for exemption would increase the regulatory burden on both the NRC and on the licensees, and would present no safety benefit. No regulatory action regarding the removal of footnote 3 in § 50.48(a), footnote 4 in § 50.48 (b), and §§ 50.48 (c), (d), and (e) would have a negative regulatory impact for the following reasons. Footnotes 3 and 4 in § 50.48 are inaccurate and incomplete. In addition, the information in footnote 3 is inconsistent with the regulatory requirements contained in § 50.34(g)(1)(ii). The requirements in §§ 50.48 (c), (d), and (e) have been implemented and need not be retained. No regulatory action regarding the correction of a grammatical error in footnote 2 to Section III.G.3 of Appendix R to Part 50, which is administrative in nature, would not have any regulatory impact.

4. Environmental Impacts of the Proposed Amendment and the Alternative

The environmental impacts of the proposed amendment, as well as the alternative, are considered negligible by the NRC. The NRC has determined that the ability of a particular penetration seal to achieve its intended design function (i.e., to contain a fire), as determined by a fire endurance test conducted in accordance with an industry standard, is the foremost design consideration. The proposed amendment would not impact the ability to shut down the plant safely in the event of a fire and would provide a level of safety equivalent to that attained by compliance with Section III.M of Appendix R to 10 CFR Part 50. There is no environmental impact associated with the other changes which are administrative in nature. On this basis, the NRC concludes that there are no radiological environmental impacts associated with this proposed amendment. If no regulatory action were taken in regard to the noncombustibility requirement of Section III.M of Appendix R there would be no radiological environmental impact, the same as the proposed action. No regulatory action regarding the changes in § 50.48 (and the correction of an error in footnote 2 to Section III.G.3 of

Appendix R, which is administrative in nature) would have no radiological impact on the environment.

With regard to potential nonradiological impacts, the proposed amendment does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the NRC concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

5. List of Agencies and Persons Consulted

Much of the technical information required for this rulemaking was obtained directly from technical experts within the NRC. No other agencies were consulted in preparing this environmental assessment.

VI. Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0011.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

VII. Regulatory Analysis

The NRC has prepared the following regulatory analysis for the proposed rule.

1. Statement of the Problem

The NRC is proposing to amend its regulations regarding the requirement for fire barrier penetration seal materials to be noncombustible and is also proposing to make minor changes to § 50.48 and to Appendix R to 10 CFR Part 50. The proposed changes would remove footnote 3 from § 50.48(a) and footnote 4 from § 50.48(b); remove paragraphs (c), (d), and (e) from § 50.48; correct a grammatical error in footnote 2 to Section III.G.3 of Appendix R; and make editorial changes to comply with the Presidential memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing.''

2. Objectives of the Rulemaking

The main objective of the proposed rule is to remove the requirement of Section III.M of Appendix R to 10 CFR Part 50 that fire barrier penetration seal materials be noncombustible. In addition, this rule would remove certain parts of § 50.48, correct a grammatical error in Appendix R, and make editorial changes.

3. Alternative

The alternative of no regulatory action would continue the unnecessary regulatory burden on licensees and on the NRC.

4. Consequences

Removing the requirement that fire barrier penetration seal materials be noncombustible from Section III.M of Appendix R to Part 50 would lessen the unnecessary regulatory burden on licensees and on the NRC staff. It would allow licensees to use combustible materials in penetration seals without requesting an exemption from the requirement in Section III.M of Appendix R regarding the noncombustibility of penetration seal materials, provided the seals are qualified by fire endurance tests comparable to those used to rate fire barriers and conducted in accordance with an industry standard. The other minor changes are administrative and would not affect the regulatory burden on licensees.

5. Value Impact Analysis

The value (benefit) and impact (cost) of the proposed changes are estimated below. Section III.M of Appendix R to 10 CFR Part 50 applies to the plants that were operating before January 1, 1979, and had open items when Appendix R was published. As detailed in NUREG–1552, Supplement 1, Section III.M of Appendix R applies to 5 operating reactors. In order to estimate the benefit of the proposed change, the NRC assumed that the licensees for these plants may replace some of their penetration seals with penetration seals made of silicone-based combustible material and that these licensees request an exemption from the technical requirements of Section III.M of Appendix R. Labor cost is $145/hr for a power reactor licensee and $75/hr for NRC. The change to Section III.M of Appendix R would save licensees the cost of preparing an exemption request and would save the NRC the cost of preparing a safety evaluation and processing the request. Assuming a cost saving of approximately $7500 for licensees and approximately $2500 for NRC for each exemption request, the total cost saving from the change to Section III.M would be approximately $50,000. There would be no benefit or cost associated with the other proposed changes.

6. Decision Rationale

The NRC reviewed the requirement of Section III.M of Appendix R during its reassessment of fire barrier penetration seals and determined that this requirement does not contribute significantly to safety. The removal of the requirement of Section III.M would reduce the regulatory burden on the licensee without reducing safety. In addition, the proposed rule would make the following minor changes: remove footnote 3 from § 50.48(a) and footnote 4 from § 50.48(b); remove paragraphs (c), (d), and (e) from § 50.48; correct an error in footnote 2 to Section III.G.3 of Appendix R; and make editorial changes to comply with the Presidential memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing.'' The other changes as discussed above would not change the regulatory burden on the licensees and do not affect safety.

VIII. Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this proposed rule if adopted would not have a significant impact on a substantial number of small entities. Nuclear power plant licensees do not fall within the definition of small businesses as defined in Section 3 of the Small Business Act (15 U.S.C. 632) or the Commission's size standards at 10 CFR 2.810 (60 FR 18344; April 11, 1995).

IX. Backfit Analysis

The NRC has determined that these amendments do not involve any provisions that would impose backfits because it does not meet the definition of backfit contained in § 50.109(a)(1) for the following reasons. The removal of the requirement that fire barrier penetration seals be noncombustible is a permissive relaxation of an existing requirement and does not constitute imposition of a new requirement. The removal of footnotes 3 and 4 from § 50.48 does not affect the licensing basis for existing plants, does not constitute a change in design requirements for existing plants, and is not applicable to future plants. The schedular requirements contained in paragraphs (c) and (d) of § 50.48 apply to plants licensed before February 17, 1981, and have been implemented at these plants. The requirements contained in paragraph (e) of § 50.48 apply to existing plants and have been implemented at all applicable plants. Therefore, the removal of paragraphs (c),

(d), and (e) from § 50.48 does not affect the licensing basis and does not constitute a change in design or optional requirements for these plants. The correction of a grammatical error in footnote 2 to Section III.G.3 of Appendix R and the changes in the language of § 50.48 in accordance with the Executive Order on Plain English are administrative changes that do not change any requirement and need not be considered in this backfit determination. For the reasons stated above, a backfit analysis need not be prepared.

X. Voluntary Consensus Standards

The National Technology Transfer Act of 1995, Pub. L.104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. The NRC proposes to delete the Government-unique standard in 10 CFR Part 50, Appendix R, Section III.M, which requires that fire barrier penetration seals utilize only noncombustible materials. The NRC is not aware that deletion of this requirement is inconsistent with any voluntary consensus standard. The NRC will consider using a voluntary consensus standard if an appropriate standard is identified. If a voluntary consensus standard is identified for consideration, the submittal should explain how the voluntary consensus standard supports retention of the Government-unique standard or is otherwise inconsistent with deletion of the requirement and why the voluntary consensus standard should be used in lieu of implementing the action to delete the identified Government-unique standard.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons given in the preamble and under the authority for the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Section 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.Q. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.Q. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.Q. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.Q. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.Q. 2234). Appendix F also issued under sec. 187, 68 Stat. 954 (42 U.S.Q. 2237).

2. In § 50.48, paragraphs (a), (b), and (f) are revised to read as follows:

§ 50.48 Fire protection.

(a)(1) Each operating nuclear power plant must have a fire protection plan that satisfies Criterion 3 of appendix A to this part. This fire protection plan must:

(i) Describe the overall fire protection program for the facility;

(ii) Identify the various positions within the licensee's organization that are responsible for the program;

(iii) State the authorities that are delegated to each of these positions to implement those responsibilities; and

(iv) Outline the plans for fire protection, fire detection and suppression capability, and limitation of fire damage.

(2) The plan must also describe specific features necessary to implement the program described in paragraph (a)(1) of this section such as—

(i) Administrative controls and personnel requirements for fire prevention and manual fire suppression activities;

(ii) Automatic and manually operated fire detection and suppression systems; and

(iii) The means to limit fire damage to structures, systems, or components important to safety so that the capability to shut down the plant safely is ensured.

(3) The licensee shall retain the fire protection plan and each change to the plan as a record until the Commission terminates the reactor license. The licensee shall retain each superseded revision of the procedures for 3 years from the date it was superseded.

(b) Appendix R to this part establishes fire protection features required to satisfy Criterion 3 of appendix A to this part with respect to certain generic issues for nuclear power plants licensed to operate before January 1, 1979.

(1) Except for the requirements of Sections III.G, III.J, and III.O, the provisions of appendix R to this part do not apply to nuclear power plants licensed to operate before January 1, 1979, to the extent that—

(i) Fire protection features proposed or implemented by the licensee have been accepted by the NRC staff as satisfying the provisions of appendix A to Branch Technical Position (BTP) APCSB 9.5–1 reflected in NRC fire protection safety evaluation reports issued before the effective date of February 19, 1981; or

(ii) Fire protection features were accepted by the NRC staff in comprehensive fire protection safety evaluation reports issued before appendix A to Branch Technical Position (BTP) APCSB 9.5–1 was published in August 1976.

(2) With respect to all other fire protection features covered by appendix R, all nuclear power plants licensed to operate before January 1, 1979, must satisfy the applicable requirements of appendix R to this part, including specifically the requirements of Sections III.G, III.J, and III.O.

* * * * *

(f) Licensees that have submitted the certifications required under § 50.82(a)(1) shall maintain a fire protection program to address the potential for fires that could cause the release or spread of radioactive materials (i.e., that could result in a radiological hazard).

(1) The objectives of the fire protection program are to—

(i) Reasonably prevent such fires from occurring;

(ii) Rapidly detect, control, and extinguish those fires that do occur and that could result in a radiological hazard; and

(iii) Ensure that the risk of fire-induced radiological hazards to the public, environment and plant personnel is minimized.

(2) The licensee shall assess the fire protection program on a regular basis.

The licensee shall revise the plan as appropriate throughout the various stages of facility decommissioning.

(3) The licensee may make changes to the fire protection program without NRC approval if these changes do not reduce the effectiveness of fire protection for facilities, systems, and equipment that could result in a radiological hazard, taking into account the decommissioning plant conditions and activities.

3. In Appendix R, footnote 2 to Section III.G.3 and Section III.M are revised to read as follows:

Appendix R to Part 50—Fire Protection Program for Nuclear Power Facilities Operating Before January 1, 1979

* * * * *

III. Specific Requirements * * *

G. * * *

3. Alternative of dedicated shutdown capability and its associated circuits,[2] independent of cables, systems or components in the area, room, zone under consideration should be provided: * * *

[2] Alternative shutdown capability is provided by rerouting, relocating, or modifying existing systems; dedicated shutdown capability is provided by installing new structures and systems for the function of post-fire shutdown.

* * * * *

M. Fire barrier cable penetration seal qualification. Penetration seal designs must be qualified by tests that are comparable to tests used to rate fire barriers. The acceptance criteria for the test must include the following:

1. The cable fire barrier penetration seal has withstood the fire endurance test without passage of flame or ignition of cables on the unexposed side for a period of time equivalent to the fire resistance rating required of the barrier;

2. The temperature levels recorded for the unexposed side are analyzed and demonstrate that the maximum temperature is sufficiently below the cable insulation ignition temperature; and

3. The fire barrier penetration seal remains intact and does not allow projection of water beyond the unexposed surface during the hose stream test.

* * * * *

Dated at Rockville, Maryland, this 11th day of August, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–21396 Filed 8–17–99; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–14]

Proposed Amendment to Class D and Establishment of Class E2 Airspace; Fort Rucker, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class D hours of operation and establish Class E2 airspace at Fort Rucker, AL, for the Cairns Army Air Field. The control tower at Cairns Army Air Field is now open 0600–0100 daily. Therefore, the Class D airspace hours of operation are amended from continuous to part time. This action requires establishment of Class E2 surface area airspace when the tower is closed and approach control service is provided by Cairns Army Radar Approach Control Facility.

DATES: Comments must be received on or before September 17, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99–ASO–14, 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, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

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 and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–ASO–14.'' The postcard will be date/time stamped and returned to the commenter. All communications received 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 the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, 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 NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs 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 part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D hours of operation and establish Class E2 surface area airspace at Fort Rucker, AL, for the Cairns Army Air Field. The control tower at Cairns Army Air Field is open 0600–0100 daily. Therefore, the Class D airspace would be amended from continuous to part time. This action would also establish Class E2 surface area airspace when the tower is closed and approach control service is provided by Cairns Army Radar Approach Control Facility. Class D airspace designations and Class E airspace areas designated as a surface area for an airport are published in Paragraphs 5000 and 6002 respectively 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 Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an

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

Lislt of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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 AL D Fort Rucker, AL [Revised]

Cairns Army Air Field, AL
(Lat. 31°16′14″ N., long. 85°43′58″ W.)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 5-mile radius of lat. 31°18′30″ N. long. 85°42′20″ W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the DOD IFR—Supplement Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

ASO AL E2 Fort Rucker, AL [New]

Within a 5-mile radius of lat. 31°18′30″ N., long. 85°42′20″ W. This Class E surface area airspace 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 DOD IFR—Supplement Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on August 3, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–21037 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–6424–4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and request for comment.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is proposing to grant a petition submitted by DuraTherm, Incorporated (DuraTherm). DuraTherm petitioned the Agency to exclude (or delist) desorber solid waste generated at its recycling facility from the lists of hazardous wastes contained in 40 CFR 261.24, 261.31, and 261.32.

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

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

We believe that DuraTherm's petitioned waste is nonhazardous with respect to the original listing criteria and that the waste process DuraTherm uses will substantially reduce the likelihood of migration of hazardous constituents from this waste. Their process also minimizes short-term and long-term threats from the petitioned waste to human health and the environment.

DATES: We will accept comments until October 4, 1999. We will stamp comments postmarked after the close of the comment period as ''late.'' These ''late'' comments may not be considered in formulating a final decision.

ADDRESSES: Please send three copies of your comments: Send two copies to William Gallagher, Delisting Section, Multimedia Planning and Permitting Division (6PD–O), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. Send the third copy to the Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78753. Identify your comments at the top with this regulatory docket number: ''F–99–TXDEL–DURATHERM.''

You should address requests for a hearing to the Acting Director, Robert E. Hannesschlager, Multimedia Planning and Permitting Division (6PD), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

Your requests for a hearing must reach EPA by September 2, 1999. The request must contain the information prescribed in § 260.20(d).

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, contact Michelle Peace, Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, TX 75202, (214) 665–7430.

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

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

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

III. EPA's Evaluation of the Waste Data
- A. What wastes did DuraTherm petition EPA to delist?
- B. Who is DuraTherm, and what process do they use?

C. How did DuraTherm sample and analyze the waste data in this petition?
D. What were the results of DuraTherm's analysis?
E. How did EPA evaluate the risk of delisting this waste?
F. What did EPA conclude about DuraTherm's analysis?
G. What other factors did EPA consider?
H. What is EPA's final evaluation of this delisting petition?
IV. Next Steps
A. With what conditions must the petitioner comply?
B. What happens if DuraTherm violates the terms and conditions?
V. Public Comments
A. How may I as an interested party submit comments?
B. How may I review the docket or obtain copies of the proposed exclusions?

I. Overview Information

a. What Action is EPA Proposing?

The EPA is proposing:

(1) To grant DuraTherm's petition to have their desorber solids excluded, or delisted, from the definition of a hazardous waste; and (2) to use a fate and transport model to evaluate the potential impact of the petitioned waste on human health and the environment. The Agency uses this model to predict the concentration of hazardous constituents released from the petitioned waste once it is disposed.

B. Why is EPA Proposing To Approve This Delisting?

DuraTherm petitioned the Agency to exclude, or delist, the desorber solids because they do not believe that the petitioned waste meets the criteria for which EPA listed it. DuraTherm also believes no additional constituents or factors could cause the wastes to be hazardous.

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

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

We also evaluated the waste for other factors or criteria to assess whether these additional factors could cause the waste to be hazardous. These factors included, (1)whether the waste is considered acutely toxic; (2) the toxicity of the constituents, (3) the concentration of the constituents in the waste, (4) the waste constituent's tendency to migrate and to bioaccumulate, (5) its persistence in the environment once released from the waste, (6) plausible and specific types of management of the petitioned waste, (7) the quantity of waste produced, and (8) waste variability.

The EPA believes that the petitioned waste does not meet the criteria for which we listed the waste, and therefore, should be delisted. The EPA's decision to delist waste from DuraTherm's facility is based on the description of the thermal desorption treatment system and analytical data from the San Leon facility submitted to support today's rule.

C. How Will DuraTherm Manage the Waste if It Is Delisted?

If the petitioned waste is delisted, DuraTherm intends to manage it in one of three off-site municipal solid waste landfills. If the waste is stabilized, DuraTherm must ensure that the stabilized waste will also meet the delisting levels. DuraTherm currently disposes of the petitioned waste (desorber solids) generated at its facility in two off-site RCRA hazardous waste landfills that are not owned/operated by DuraTherm.

D. When Would the Proposed Delisting Exclusion Be Finalized?

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

This rule, if finalized, will become effective immediately upon final publication. The HSWA amended § 3010 of RCRA allows rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes.

The EPA believes that this exclusion should be effective immediately upon final publication because a six-month deadline is not necessary to achieve the purpose of § 3010, and a later effective date would impose unnecessary hardship and expense on this petitioner. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, 5 U.S.C. 553(d).

E. What States Would Be Affected By This Action?

Because EPA is issuing today's exclusion under the Federal RCRA delisting program, only States subject to Federal RCRA delisting provisions would be affected. This would exclude two categories of States: States having a dual system that includes Federal RCRA requirements and their own requirements, and States who have received our authorization to make their own delisting decisions.

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

The EPA has also authorized some States (for example, Louisiana, Georgia, Illinois) to administer a delisting program in place of the Federal program, that is, to make State delisting decisions. Therefore, this exclusion does not apply in those authorized States. If DuraTherm transports the petitioned waste to or manages the waste in any State with delisting authorization, DuraTherm must obtain delisting authorization from that State before they can manage the waste as nonhazardous in the State.

II. Background

A. What Is the History of the Delisting Program?

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

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

Individual waste streams may vary, however, depending on raw materials,

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

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

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

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

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

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

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

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

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

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

The ''mixture'' and ''derived-from'' rules are now final, after having been vacated, remanded, and reinstated. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the ''mixture/derived from'' rules and remanded them to the EPA on procedural grounds. *See Shell Oil Co.* v. *EPA.*, 950 F.2d 741 (D.C. Cir. 1991). On March 3, 1992, EPA reinstated the mixture and derived-from rules, and solicited comments on other ways to regulate waste mixtures and residues (57 FR 7628). These rules became final on October 30, 1992 (57 FR 49278). Consult these references for more information about mixtures derived from wastes.

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

A. What Wastes Did DuraTherm Petition EPA To Delist?

On November 6, 1998, DuraTherm in San Leon, Texas, petitioned the EPA for a standard exclusion of 20,000 cubic yards of desorber solids, per calendar year, resulting from its thermal desorption treatment process. The Agency has presently listed the resulting waste under § 261.3(c)(2)(I) (the ''derived from'' rule), as EPA Hazardous Waste No. F037, F038, K048, K049, K050 and K051. Table 1 lists the constituents of concern for these waste codes.

TABLE 1.—HAZARDOUS WASTE CODES ASSOCIATED WITH WASTE STREAMS

Waste Code	Basis for Characteristics/Listing
F037	Benzene, benzo(a)pyrene, Chrysene, lead, chromium.
F038	Benzene, benzo(a)pyrene, Chrysene, lead, chromium.
K048	Hexavalent Chromium, Lead
K049	Hexavalent Chromium, Lead.
K050	Hexavalent Chromium.
K051	Hexavalent Chromium, Lead.

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

To support its petition, DuraTherm submitted:

(1) Descriptions of its thermal desorption processes associated with petitioned wastes;

(2) results of the total constituent list for 40 CFR part 264 Appendix IX volatiles, semivolatiles, and metals except pesticides, herbicides, and PCBs;

(3) results of the constituent list for Appendix IX on Toxicity Characteristic Leaching Procedure (TCLP) extract for volatiles, semivolatiles, and metals;

(4) results for reactive sulfide,

(5) results for reactive cyanide,

(6) results for pH,

(7) results of the metals concentrations in the Multiple Extraction Procedure extract, and

(8) results of ignitability.

DuraTherm tested and analyzed the waste stream under five conditions to properly account for variables in the waste stream: during start-up operations, shut-down operations, slow feed rates, fast feed rates, and normal operations. For wastes that failed to meet the estimated delisting levels, DuraTherm stabilized the wastes to prevent leaching metal constituents from the wastes. The facility submitted results from the Multiple Extraction Procedure run on the stabilized materials.

C. Who Is DuraTherm, and What Process Do They Use To Generate the Petitioned Waste?

DuraTherm is an environmental waste management and resource recovery company specializing in separation technologies applicable to hydrocarbon contaminated wastes. The company has operated a RCRA Part B permitted thermal desorber facility since 1994. The facility processes large volumes of hazardous waste from petroleum industries. The DuraTherm process recovers hydrocarbons from hydrocarbon contaminated soils and sludges and reduces the volume of solids requiring landfill disposal. The thermal desorption process uses high temperatures to volatilize organics from a waste matrix in a nonoxidizing atmosphere, while pulverizing the waste material.

The thermal desorption system:

(1) Consists of a rotating drum that a gas-fired convection heater externally heats.

(2) Has support systems for feed, vapor condensation, recovery and phase separation of liquids, solids, cooling and handling and airs pollution control devices.

(3) Uses countercurrent inert gas or nitrogen purge/sweep to maintain oxygen levels below those required for combustion. The purge/sweep system also directs volatilized contaminants to the vapor exit.

(4) Uses a continuous feed system. Feed rates can vary from 2,000 to 8,000 pounds per hour depending on moisture content. Weight scales in the hopper monitor the feed rates.

Hot air that is circulated around the drum heats the rotary drum. A high temperature fan pulls the hot air away

from the enclosed burner box through the stationary heater shell and across the finned section of the rotary drum.

The solids are removed from the drum by water jacketed hollow shaft screw conveyors that are split to two parallel lines and then discharged through an air lock into roll-off containers. These containers are sealed under hydraulically controlled lids to eliminate particulate emissions. The facility moves roll-off containers of filled with desorber solids to a container storage area.

DuraTherm then samples and tests the desorber solids. They ship the waste when the analysis is complete and results indicate the materials meet applicable land disposal restrictions.

DuraTherm sells the recovered oil that meets the used oil specifications as product. The company sells the oil that fails the used oil specifications to petroleum refiners for use in the refining process.

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

DuraTherm generated the waste samples from the thermal desorption unit under five different operating conditions: at start-up, shutdown, high feed rates, low feed rates, and under normal operating conditions.

For sampling, DuraTherm developed a list of constituents of concern from comparing a list of all raw materials used in the plant that could potentially appear in the petitioned waste with those in 40 CFR Appendix IX part 264.

During a twenty-one day operational period, DuraTherm conducted its sampling. Using the list of constituents of concern, DuraTherm developed a sampling list based on the availability of test methods and process knowledge. DuraTherm analyzed the forty composite samples:

(1) For the total concentrations (that is, the mass of a particular constituent per mass of waste) of selected volatiles and semivolatiles, and metals from Appendix IX.

(2) to determine whether the waste exhibited ignitable, corrosive, or reactive properties as defined under 40 CFR 261.21, 261.22, and 261.23, including analysis for total constituent concentrations of cyanide, sulfide, reactive cyanide, and reactive sulfide.

(3) for TCLP concentrations (that is, the mass of a particular constituent per unit volume of extract) of selected volatiles, semivolatiles, and metals on the Appendix IX list.

DuraTherm Used These Methods	To Quantify
SW–846 Method 8260A, 8270B, and 6010.	The total constituent concentrations of 40 CFR, part § 264 Appendix IX Volatiles Appendix IX Semivolatiles (excluding PCBs, Pesticides, Herbicides) and Appendix IX Metals.
SW–846 Methods 1311, 8260A, 8270B, 6010, 8290.	The TCLP concentrations of constituents in the extract.
SW–846 1320	The concentration of metal constituents in the extract after the Multiple Extraction Procedure.
SW–846 Methods 7470A, 7471A.	Mercury.
SW–846 9071A	Total oil and grease.
SW–846 9045A	pH.
SW–846 9030	Reactive Sulfide.
SW–846 9010A	Reactive Cyanide.

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

The Desorber Solids do not meet the definitions for characteristic waste as defined by §§ 261.21–261.24. Table 2 presents the maximum total constituent and leachate concentrations for the Desorber Solids.

Twenty-six of the forty samples tested exceeded the maximum allowable leachate concentration for antimony. For this petition the maximum allowable leachate concentration for antimony is 0.162 mg/L. The EPA did not base its listing of F037, F038, K048, K049, K050 or K051 on the presence of antimony. One of the twenty-six waste samples exceeded the maximum allowable leachate concentration for lead (0.405 mg/L). We eliminated these samples from the delisting evaluation. The EPA evaluated fourteen samples of waste. We believe that these fourteen samples are representative of the waste codes to be delisted. DuraTherm also anticipated the failures, stabilized the waste with Portland Cement, and analyzed three of these samples using the Multiple Extraction Procedure. The Multiple Extraction Procedure detected metals concentrations for zinc (3.98 mg/l), antimony (0.15 mg/l), barium (3.37 mg/l), chromium (0.01 mg/l), and vanadium (0.03 mg/l). These concentrations were below the maximum allowable leachate concentrations EPA sets as delisting criteria.

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

Constituents	Total constituent analyses (mg/kg)	Leachate analyses (mg/l)
Antimony	107	0.14
Arsenic	67.1	0.67
Barium	7,750	2.86
Benzene	5.56	0.0129
Benzo (a) anthracene.	0.241	ND
Beryllium	4.73	0.006
Bis ethylhexyl phthalate.	0.356	ND
Butanone (MEK)	1.76	0.0315
Cadmium	7.19	0.11
Carbon Disulfide	0.67	ND
Chromium	987	0.18
Chrysene	0.08	ND
o-Cresol	0.134	0.0044
m,p cresols	0.088	0.0053
Ethylbenzene	0.15	ND
Fluoranthene	0.166	ND
Lead	3,910	0.23
Nickel	1,310	2.37
Phenanthrene	0.284	ND
Phenol	0.259	0.0135
Pyrene	0.153	ND
Selenium	58.8	0.22
Silver	8.05	0.02
Styrene	0.38	ND
Toluene	1.16	0.0008
Vanadium	3,760	0.11
Xylene	0.17	ND
Zinc	6,290	26.5
Reactive sulfide	60	
Total sulfide	21,800	
Total cyanide	2.3	
Oil and grease	4,700	
pH	5.97–12.4	

ND Denotes that the constituent was not detected at the detection limit specified in the table.

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

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

The EPA considered the appropriateness of alternative waste management scenarios for DuraTherm's desorber solids. Based on the information provided in the petition, we decided that disposing of the desorber solids in a municipal solid waste landfill is the most reasonable, worse-case scenario for the desorber solids.

Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The EPA, therefore, evaluated DuraTherm's petitioned wastes using the modified EPA Composite Model for Landfills/Surface Impoundments (EPACML). The model predicts the potential for ground water

contamination from wastes disposed of in a landfill.

You can find a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting in 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991) and the RCRA public docket. This model includes both unsaturated and saturated zone transport modules. It uses the reasonable worse-case contaminant levels in ground water at a compliance point; that is, a receptor well serving as a drinking-water supply.

Specifically, the model estimates the dilution/attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from ground water recharge for a specific volume of waste. The EPA requests comments on using the EPACML to evaluate DuraTherm's desorber solids.

To evaluate DuraTherm's petitioned waste, we used the EPACML to evaluate the mobility of the hazardous constituents detected in the extract of samples of DuraTherm's desorber solids. Typically, the EPA uses the maximum annual waste volume to derive a petition-specific DAF. The DAFs are currently calculated assuming that an ongoing process generates wastes for 20 years. The DAF for the waste volume of desorber solids is 20,000 cubic yards/year, assuming 20 years is 27.

The EPA's evaluation of the desorber solids using a DAF of 27, an estimated maximum waste volume of 20,000 cubic yards, and the maximum reported TCLP concentrations (see Table 2), yielded compliance point concentrations (see Table 3) that are below the current health-based levels.

TABLE 3.—COMPLIANCE POINT CONCENTRATIONS

Constituents	Compliance point concentration	Regulatory limit
Antimony	0.005	0.006
Arsenic	0.02	0.05
Barium	0.106	2
Benzene	0.0005	0.005
Beryllium	0.0002	0.004
Butanone (MEK)	0.0012	20
Cadmium	0.004	0.005
Chromium	0.006	0.1
o Cresol	0.002	2
m,p cresols	0.009	0.2
Lead	0.008	0.015
Nickel	0.087	0.1
Phenol	0.009	20
Selenium	0.008	0.05
Silver	0.0007	0.2
Styrene	0.0002	0.1
Toluene	0.0004	1
Vanadium	0.004	0.2
Zinc	0.981	10

The maximum reported or calculated leachate concentrations of barium, benzene, and selenium in the desorber solids yielded compliance point concentrations below the health-based levels used in the delisting decision-making.

The EPA did not evaluate the mobility of the remaining constituents (for example, anthracene and pyrene) from DuraTherm's waste because DuraTherm did not detect them in the leachate using the appropriate analytical test methods (see Table 2). As explained above, we do not evaluate nondetectable concentrations of a constituent of concern in a petitioner's modeling efforts for delisting.

We believe the TCLP is the appropriate analytical method to use in evaluating this petition. DuraTherm's waste streams range in pH between 5.97 and 12.4. We also know the disposal scenarios used. The EPA believes that the TCLP will adequately predict the leachability of constituents in the waste. To confirm that the waste will not leach at concentrations that may affect human health and the environment, EPA will require DuraTherm to analyze the constituents in the waste at varying pH conditions during the verification testing.

G. What Did EPA Conclude About DuraTherm's Analysis?

After reviewing DuraTherm's processes, the EPA concludes that:

(1) No additional hazardous constituents of concern are likely to be present or formed as reaction products or by-products in DuraTherm's waste.

(2) the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. *See* §§ 261.21, 261.22, and 261.23, respectively.

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

During the evaluation of DuraTherm's petition, the EPA also considered the potential impact of the petitioned waste via air emission and surface run-off.

Potential Impact Via Air Emission

The Agency evaluated the potential hazards resulting from airborne exposure to the hazardous constituents released from the desorber solids. We investigated the potential hazard from exposure to particulates released from the surface of an open landfill.

We considered exposure to hazardous constituents through: (1) Inhalation of particulates and absorption into the lungs, (2) ingestion of particulates eliminated from respiratory passages and subsequently swallowed, and (3) air deposition of particulates and subsequent ingestion of the soil/waste mixture.

We believe that exposure to airborne contaminants from DuraTherm's petitioned wastes is unlikely. DuraTherm's waste should have no appreciable air releases under the proposed disposal conditions.

The results of this worse-case analysis suggested no substantial present or potential hazard to human health from airborne exposure to constituents from DuraTherm's desorber solids.

The estimated levels of the hazardous constituents of concern released into the air are below health-based levels for human health, ingestion, and inhalation levels of concern, and the EPA Concentration-Based Exemption Criteria for Soils (57 FR 21450, May 20, 1992).

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

Potential Impact Via Surface Run-off Water Routes

The EPA also considered the potential impact of the petitioned wastes via a surface water route. The EPA believes those containment structures at municipal solid waste landfills can effectively control surface water runoff, as the Subtitle D regulations prohibit pollutant discharges into surface waters. *See* 56 *FR* 50978, October 9, 1991.

The concentrations of any hazardous constituents dissolved in the run-off might be lower than the levels in the TCLP leachate analyses reported in today's notice due to the aggressive acidic medium used for extraction in the TCLP.

We believe leachate derived from the waste is unlikely to directly enter a surface water body. The leachate will not enter a surface water body without first traveling through the saturated subsurface where dilution and attenuation of hazardous constituents will also occur. Leachable concentrations provide a direct measure of solubility of a toxic constituent in water. The leachable concentration shows the fraction of the constituent that mobilizes in surface water and ground water.

For the reasons discussed above, EPA believes that the contamination of surface water through runoff from the waste disposal area is very unlikely. Nevertheless, we evaluated the potential impacts on surface water if release of constituents of DuraTherm's waste by runoff and erosion occurs. *See* the RCRA public docket for today's

proposed rule. The estimated levels of the hazardous constituents of concern in surface water are below health-based levels for human health and the EPA Chronic Water Quality Criteria for aquatic organisms (EPA, OWRS, 1987).

The EPA, therefore, concluded that DuraTherm's desorber solids waste is not a substantial or potential hazard to human health and the environment via surface water exposure.

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

The descriptions of the DuraTherm hazardous waste process and analytical characterization, with the proposed verification testing requirements (as discussed later in this notice), provide a reasonable basis for EPA to grant the exclusion. We conclude DuraTherm's process will substantially reduce the likelihood of migration of hazardous constituents from the petitioned waste. Their process also minimizes short-term and long-term threats from the petitioned waste to human health and the environment.

Thus, EPA believes we should grant DuraTherm a conditional exclusion for the desorber solids. The EPA believes the data submitted in support of the petition show DuraTherm's process can render the desorber solids nonhazardous.

We have reviewed the sampling procedures used by DuraTherm and have determined they satisfy EPA criteria for collecting representative samples of variable constituent concentrations in the desorber solids. The data submitted in support of the petition show that constituents in DuraTherm's waste are presently below the compliance point concentrations used in the delisting decision-making and would not pose a substantial hazard to the environment. The EPA believes that DuraTherm has successfully demonstrated that the desorber solids are nonhazardous.

The EPA therefore, proposes to grant a conditional exclusion to the DuraTherm Corporation, in San Leon, Texas, for the desorber solids described in its petition. The EPA's decision to conditionally exclude this waste is based on descriptions of the treatment activities associated with the petitioned waste and characterization of the desorber solids.

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

IV. Next Steps

A. With What Conditions Must the Petitioner Comply?

The petitioner, DuraTherm, must comply with the requirements in 40 CFR part 261, Appendix IX, Tables 1 and 2. The text below gives the rationale and details of those requirements.

(1) Delisting Levels

This paragraph provides the levels of constituents that DuraTherm must test the leachate from the desorber solids, below which these wastes would be considered nonhazardous.

The EPA selected the set of inorganic and organic constituents specified in Paragraph (1) because of information in the petition. We compiled the list from the composition of the waste, descriptions of DuraTherm's treatment process, previous test data provided for the waste, and the respective health-based levels used in delisting decision-making.

We established the proposed delisting levels by calculating the Maximum Allowable Leachate (MALs) concentrations from the Health-based levels (HBL) for the constituents of concern and the EPACML chemical-specific DAF of 27, that is, MAL = HBL × DAF. We also limited the MALs so the concentrations would not exceed non waste water concentrations in the Land Disposal Restriction treatment standards for F037, F038, K048, K049, K050, and K051 in 40 CFR part 268. These delisting levels correspond to the allowable levels measured in the TCLP extract of the waste.

(2) Waste Holding and Handling

The purpose of this paragraph is to ensure that DuraTherm manages and disposes of any desorber solids that might contain hazardous levels of inorganic and organic constituents according to Subtitle C of RCRA. Holding the desorber solids until characterization is complete will protect against improper handling of hazardous material. If EPA determines that the data collected under this Paragraph do not support the data provided for in the petition, the exclusion will not cover the petitioned waste. The exclusion is effective when we sign it, but the disposal cannot begin until the verification sampling is completed.

(3) Verification Testing Requirements

(A) *Initial Verification Testing:*

If the EPA determines that the data from the initial verification period shows the treatment process is effective, DuraTherm may request that EPA allow it to conduct verification testing quarterly. If EPA approves this request in writing, then DuraTherm may begin verification testing quarterly.

The EPA believes that an initial period of 60 days is adequate for a facility to collect sufficient data to verify that the data provided for the desorber solids, in the 1998 petition, is representative.

We are requiring DuraTherm to conduct a multiple pH analysis because in our experience more leaching can occur from disposed waste when the pH of the waste is extremely acidic or basic. DuraTherm's desorber solids vary greatly in pH, from 5.97 to 12.4. The pH of the desorber solid cannot exceed a pH of 12.5 when measured using SW–846, Method 9045C. DuraTherm must analyze 10 samples of the desorber solids using a multiple pH extraction procedure. The 10 waste samples should consist of both the non-stabilized and stabilized residual solids samples. If none of the samples collected during the 60 day test period need to be stabilized, DuraTherm should provide multiple pH data on the first sample of stabilized wastes generated. The multiple pH test is similar to the TCLP, but the test uses different pH extraction fluids. DuraTherm should design the analytical test to show that the petitioned waste when disposed of in an acidic and basic landfill environment would not leach concentrations above the levels of regulatory concern. The third condition should reflect how the petitioned waste will behave when it is disposed in a landfill environment similar to the pH of the waste. The EPA believes that evaluating the leachate generated from using extraction fluids over a range of pHs can simulate general disposal conditions and provide added assurance that the waste will remain nonhazardous when disposal conditions change. The petitioner must perform these analyses to confirm that the leachate concentrations do not exceed the concentrations in Paragraph 1 over a wide pH range. While the waste's pH does vary, the Agency believes that under the various pH conditions the waste will remain stable, and thus will proceed with the promulgation of the proposed decision.

If we determine that the data collected under this Paragraph do not support the data provided for the petition, the exclusion will not cover the generated wastes. If the data from the initial verification period demonstrate that the treatment process is effective, DuraTherm may request quarterly testing. EPA will notify DuraTherm, in writing, if and when they may replace the testing conditions in paragraph

(3)(A)(i) with the testing conditions in (3)(B).

(B) *Subsequent Verification Testing:* The EPA believes that the concentrations of the constituents of concern in the desorber solids may vary over time. As a result, to ensure that DuraTherm's treatment process can effectively handle any variation in constituent concentrations in the waste, we are proposing a subsequent verification testing condition.

The proposed subsequent testing would verify that DuraTherm operates the thermal desorption as it did during the initial verification testing. It would also verify that the desorber solids do not exhibit unacceptable levels of toxic constituents. The EPA is proposing to require DuraTherm to analyze representative samples of the desorber solids quarterly during the first year of waste generation. DuraTherm would begin quarterly sampling on the anniversary date of the final exclusion as described in Paragraph (3)(B). They must also use the multiple pH extraction procedure for samples collected during the quarterly and annual sampling.

(C) *Termination of Organic Testing:* The EPA is proposing to end the subsequent testing conditions for organics during the first year in Paragraph (1)(C) after DuraTherm has demonstrated that the waste consistently meets the delisting levels. Annual testing requires the full list of components in Paragraph 1.

If the annual testing of the waste does not meet the delisting requirements in Paragraph 1, DuraTherm must notify the Agency according to the requirements in Paragraph 6. We will take the appropriate actions necessary to protect human health and the environment. The facility must provide sampling results that support the rationale that the delisting exclusion should not be withdrawn.

To confirm that the characteristics of the waste do not change significantly over time, DuraTherm must continue to analyze a representative sample of the waste for organic constituents annually. If operating conditions change as described in Paragraph (4); DuraTherm must reinstate all testing in Paragraph (1)(A). They must prove through a new demonstration that their waste meets the conditions of the exclusion. DuraTherm must continue organic testing of the desorber solids for the exclusion of that waste.

(4) Changes in Operating Conditions

Paragraph (4) would allow DuraTherm the flexibility of modifying its processes (for example, changes in equipment or change in operating conditions) to improve its treatment process. However, DuraTherm must prove the effectiveness of the modified process and request approval from the EPA. DuraTherm must manage wastes generated during the new process demonstration as hazardous waste until they have obtained written approval and Paragraph (3) is satisfied.

(5) Data Submittals

To provide appropriate documentation that DuraTherm's facility is properly treating the waste, DuraTherm must compile, summarize, and keep delisting records on-site for a minimum of five years. They should keep all analytical data obtained through Paragraph (3) including quality control information for five years. Paragraph (5) requires that DuraTherm furnish these data upon request for inspection by any employee or representative of EPA or the State of Texas.

If the proposed exclusion is made final, it will apply only to 20,000 cubic yards of desorber solids, generated annually at the DuraTherm facility after successful verification testing.

We would require DuraTherm to file a new delisting petition under any of the following circumstances:

(a) If they significantly alter the thermal desorption treatment system except as described in Paragraph (4)

(b) If they use any new manufacturing or production process(es), or significantly change from the current process(es) described in their petition; or

(c) If they make any changes that could affect the composition or type of waste generated.

DuraTherm must manage waste volumes greater than 20,000 cubic yards of desorber solids as hazardous until we grant a new exclusion.

When this exclusion becomes final, DuraTherm's management of the wastes covered by this petition would be relieved from Subtitle C jurisdiction. DuraTherm must either treat, store, or dispose of the waste in an on-site facility. If not, DuraTherm must ensure that it delivers the waste to an off-site storage, treatment, or disposal facility that has a State permit, license, or register to manage municipal or industrial solid waste.

(6) Reopener Language

The purpose of Paragraph 6 is to require DuraTherm to disclose new or different information related to a condition at the facility or disposal of the waste if it is pertinent to the delisting. DuraTherm must also use this procedure, if the waste sample in the annual testing fails to meet the levels found in Paragraph 1. This provision will allow EPA to reevaluate the exclusion if a source provides new or additional information to the Agency. The EPA will evaluate the information on which we based the decision to see if it is still correct, or if circumstances have changed so that the information is no longer correct or would cause EPA to deny the petition if presented.

This provision expressly requires DuraTherm to report differing site conditions or assumptions used in the petition in addition to failure to meet the annual testing conditions within 10 days of discovery. If EPA discovers such information itself or from a third party, it can act on it as appropriate. The language being proposed is similar to those provisions found in RCRA regulations governing no-migration petitions at § 268.6.

The EPA believes that we have the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978) *et seq.*, to reopen a delisting decision. We may reopen a delisting decision when we receive new information that calls into question the assumptions underlying the delisting.

The Agency believes a clear statement of its authority in delistings is merited in light of Agency experience. See Reynolds Metals Company at 62 FR 37694 and 62 FR 63458 where the delisted waste leached at greater concentrations in the environment than the concentrations predicted when conducting the TCLP, thus leading the Agency to repeal the delisting. If an immediate threat to human health and the environment presents itself, EPA will continue to address these situations case by case. Where necessary, EPA will make a good cause finding to justify emergency rulemaking. *See* APA 553 (b).

(7) Notification Requirements

In order to adequately track wastes that have been delisted, EPA is requiring that DuraTherm provide a one-time notification to any State regulatory agency through which or to which the delisted waste is being carried. DuraTherm must provide this notification within 60 days of commencing this activity.

D. What Happens if DuraTherm Violates the Terms and Conditions?

If DuraTherm violates the terms and conditions established in the exclusion, the Agency will start procedures to withdraw the exclusion. Where there is an immediate threat to human health and the environment, the Agency will

continue to evaluate these events on a case-by-case basis. The Agency expects DuraTherm to conduct the appropriate waste analysis and comply with the criteria explained above in Paragraphs 3, 4, 5 and 6 of the exclusion.

V. Public Comments

A. How May I as an Interested Party Submit Comments?

The EPA is requesting public comments on this proposed decision and on the applicability of the fate and transport model used to evaluate the petition.

Please send three copies of your comments: Send two copies to William Gallagher, Delisting Section, Multimedia Planning and Permitting Division (6PD–O), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. Send the third copy to the Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78753. Identify your comments at the top with this regulatory docket number: F–99–TXDEL–DURATHERM.

You should address requests for a hearing to the Acting Director, Robert E. Hannesschlager, Multimedia Planning and Permitting Division (6PD), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

B. How May I Review the Docket or Obtain Copies of the Proposed Exclusion?

You may review the RCRA regulatory docket for this proposed rule at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202. It is available for viewing in the EPA Freedom of Information Act Review Room from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at fifteen cents per page for additional copies.

VI. Regulatory Impact

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

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

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

VII. Regulatory Flexibility Act

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

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

VIII. Paperwork Reduction Act

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

IX. Unfunded Mandates Reform Act

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

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

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

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

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

X. Executive Order 12875

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

XI. Executive Order 13045

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

XII. Executive Order 13084

Because this action does not involve any requirements that affect Indian Tribes, the requirements of section 3(b) of E.O. 13084 do not apply.

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

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

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

XIII. National Technology Transfer and Advancement Act

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

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

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

List of Subjects in 40 CFR Part 261

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

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

Dated: July 13, 1999.

Robert E. Hannesschlager,

Acting Division Director, Multimedia Planning and Permitting Division.

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

PART 261—IDENTIFYING AND LISTING HAZARDOUS WASTE

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

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

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

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

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility and address	Waste description
*	* * * * * * *
DuraTherm, Incorporated San Leon, Texas.	Desorber solids, (at a maximum generation of 20,000 cubic yards per calendar year) generated by DuraTherm using the thermal desorption treatment process, (EPA Hazardous Waste No. F037 and F038) and that is disposed of in Subtitle D landfills after [publication date of the Final exclusion]. For the exclusion to be valid, DuraTherm must implement a testing program that meets the following Paragraphs: (1) Delisting Levels: All leachable concentrations for those constituents must not exceed the following levels (ppm). The petitioner must use an acceptable leaching method, for example SW-846, Method 1311 to measure constituents in the waste leachate. Desorber solids— (i) Inorganic Constituents Arsenic—1.35; Antimony—0.162; Barium-21.0; Beryllium—0.108; Cadmium-0.135; Chromium-2.7; Lead-0.405; Nickel—2.7; Selenium-0.82; Silver-0.43; Vanadium-4.3; Zinc-270. (ii) Organic Constituents Anthracene—0.28; Benzene—0.135; Benzo(a) anthracene—0.059; Benzo(b)fluoranthene—0.11; Benzo(a)pyrene—0.061;Bis-ethylhexylphthalate—0.28; Carbon Disulfide—3.8; Chlorobenzene—0.057; Chrysene—0.059; o,m,p Cresols—54; Dibenzo(a,h) anthracene—0.055; 2,4 Dimethyl phenol—18.9; Dioctyl phthalate—0.017; Ethylbenzene—0.057; Fluoranthene—0.068; Fluorene—0.059; Naphthalene—0.059; Phenanthrene—0.059; Phenol—6.2; Pyrene—0.067; Styrene—2.7; Trichloroethylene—0.054; Toluene—0.08; Xylene—0.032 (2) Waste Holding and Handling: DuraTherm must store the desorber solids as described in its RCRA permit, or continue to dispose of as hazardous all desorber solids generated, until they have completed verification testing described in Paragraph (3)(A) and (B), as appropriate, and valid analyses show that paragraph (1) is satisfied. (B) Levels of constituents measured in the samples of the desorber solids that do not exceed the levels set forth in Paragraph (1) are nonhazardous. DuraTherm can manage and dispose the nonhazardous desorber solids according to all applicable solid waste regulations.

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

Facility and address	Waste description
	(C) If constituent levels in a sample exceed any of the delisting levels set in Paragraph (1), DuraTherm must retreat or stabilize the batches of waste used to generate the representative sample until it meets the levels. DuraTherm must repeat the analyses of the treated or stabilized waste. (D) If the facility has not treated or stabilized the waste, DuraTherm must manage and dispose the waste generated under Subtitle C of RCRA. (3) *Verification Testing Requirements:* DuraTherm must perform sample collection and analyses, including quality control procedures, according to SW–846 methodologies. If EPA judges the process to be effective under the operating conditions used during the initial verification testing, DuraTherm may replace the testing required in Paragraph (3)(A) with the testing required in Paragraph (3)(B). DuraTherm must continue to test as specified in Paragraph (3)(A) until and unless notified by EPA in writing that testing in Paragraph (3)(A) may be replaced by Paragraph (3)(B). (A) *Initial Verification Testing:* After EPA grants the final exclusion, DuraTherm must do the following: (i) Collect and analyze composites of the desorber solids. (ii) Make two composites of representative grab samples collected. (iii) Analyze the waste, before disposal, for all of the constituents listed in Paragraph 1. (iv) Sixty (60) days after this exclusion becomes final, report the operational and analytical test data, including quality control information. (v) Submit the test plan for conducting the multiple pH leaching procedure to EPA for approval at least 10 days before conducting the analysis. (vi) Conduct a multiple pH leaching procedure on 10 samples collected during the sixty-day test period. (vii) The ten samples should include both non-stabilized and stabilized residual solids. If none of the samples collected during the sixty-day test period need to be stabilized, DuraTherm should provide multiple pH data on the first sample of stabilized wastes generated. (vii) Perform the toxicity characteristic leaching procedure using three different pH extraction fluids to simulate disposal under three conditions. Simulate an acidic landfill environment, basic landfill environment, and a landfill environment similar to the pH of the waste. (B) *Subsequent Verification Testing:* Following written notification by EPA, DuraTherm may substitute the testing conditions in (3)(B) for (3)(A)(i). DuraTherm must continue to monitor operating conditions, and analyze representative samples each quarter of operation during the first year of waste generation. The samples must represent the waste generated in one quarter. DuraTherm must run the multiple pH procedure on these waste samples. (C) *Termination of Organic Testing:* (i) DuraTherm must continue testing as required under Paragraph (3)(B) for organic constituents in Paragraph (1)(A)(ii), until the analytical results submitted under Paragraph (3)(B) show a minimum of two consecutive samples below the delisting levels in Paragraph (1)(A)(i), DuraTherm may then request that EPA stop quarterly organic testing. After EPA notifies DuraTherm in writing, the company may end quarterly organic testing. (ii) Following cancellation of the quarterly testing, DuraTherm must continue to test a representative composite sample for all constituents listed in Paragraph (1) annually (by twelve months after final exclusion). (4) *Changes in Operating Conditions:* If DuraTherm significantly changes the process described in its petition or starts any processes that generate(s)the waste that may or could affect the composition or type of waste generated as established under Paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), they must notify EPA in writing; they may no longer handle the wastes generated from the new process as nonhazardous until the wastes meet the delisting levels set in Paragraph (1) and they have received written approval to do so from EPA. (5) *Data Submittals:* DuraTherm must submit the information described below. If DuraTherm fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in Paragraph 6. DuraTherm must: (A) Submit the data obtained through Paragraph 3 to Mr. William Gallagher, Chief, Region 6 Delisting Program, EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733, Mail Code, (6PD-O) within the time specified. (B) Compile records of operating conditions and analytical data from Paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when EPA or the State of Texas request them for inspection. (D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. § 1001 and 42 U.S.C. § 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. If any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion. (6) *Reopener Language*—

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

Facility and address	Waste description
	(A) If, anytime after disposal of the delisted waste, DuraTherm possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Regional Administrator or his delegate in granting the petition, then the facility must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (B) If the annual testing of the waste does not meet the delisting requirements in Paragraph 1, DuraTherm must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (C) If DuraTherm fails to submit the information described in paragraphs (5),(6)(A) or (6)(B) or if any other information is received from any source, the Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If the Regional Administrator or his delegate determines that the reported information does require Agency action, the Regional Administrator or his delegate will notify the facility in writing of the actions the Regional Administrator or his delegate believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Agency action is not necessary. The facility shall have 10 days from the date of the Regional Administrator or his delegate's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Regional Administrator or his delegate will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator or his delegate's determination shall become effective immediately, unless the Regional Administrator or his delegate provides otherwise. (7) Notification Requirements: DuraTherm must do following before transporting the delisted waste: Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision. (A) Provide a one-time written notification to any State Regulatory Agency to which or through which they will transport the delisted waste described above for disposal, 60 days before beginning such activities. (B) Update the one-time written notification if they ship the delisted waste into a different disposal facility.

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility and address	Waste description
* * *	* * * * *
DuraTherm, Incorporated San Leon, Texas.	Desorber Solids, (at a maximum generation of 20,000 cubic yards per calendar year) generated by DuraTherm using the treatment process to treat the Desorber solids, (EPA Hazardous Waste No. K048, K049, K050, and K051 and disposed of in a Subtitle D landfill. DuraTherm must implement the testing program found in Table 1. Wastes Excluded From Non-Specific Sources, for the petition to be valid.

[FR Doc. 99–21422 Filed 8–17–99; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6423–9]

Hazardous Waste Management Program: Final Authorization of State Hazardous Waste Management Program Revisions for State of Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA (also, ''the Agency'' in this preamble) is proposing to grant final authorization to the Texas Natural Resource Conservation Commission (TNRCC) for its hazardous waste program revisions, specifically, revisions needed to meet Resource Conservation and Recovery Act (RCRA) Cluster V, which contains Federal rules promulgated between July 1, 1994 to June 30, 1995. In the ''Rules and Regulations'' section of this **Federal Register** (FR), EPA is authorizing the State's program revisions as an immediate final rule without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. The Agency has explained the reasons for this authorization in the preamble to the immediate final rule. If the EPA does not receive adverse written comments, the immediate final rule will become effective and the Agency will not take further action on this proposal. If the EPA receives adverse written comments, a second **Federal Register** document will be published before the time the immediate final rule takes effect. The second document may withdraw the immediate final rule or identify the issues raised, respond to the comments and affirm that the immediate final rule will take effect as scheduled. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before September 17, 1999.

ADDRESSES: Mail written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Louisiana during normal business hours at the

following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444; or Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana, 70810, (504) 765–0617.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665–8533.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: July 30, 1999.

W.B. Hathaway,

Acting Regional Administrator, Region 6.

[FR Doc. 99–21424 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32, 43, and 64

[CC Docket No. 99–253; FCC 99–174]

Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirement for Incumbent Local Exchange Carriers: Phase 1

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission is initiating a comprehensive review of its accounting and reporting requirements. In this comprehensive review, we plan to reevaluate our existing accounting and reporting requirements to determine whether they should be modified or eliminated as changes occur in the industry. We also consider the appropriate timing of accounting and reporting changes to assure that we will continue to have the information we need to make informed decisions.

DATES: Interested parties may file written comments on the proposed information collections by August 23, 1999 and reply comment on or before September 9, 1999. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before October 18, 1999.

ADDRESSES: Office of the Secretary, Room TW–B204, Federal Communications Commission, 445 12th Street, NW., Washington, DC 20554. 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, Room 1–C804, 445 12th Street, NW., Washington, DC 20054, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, NW., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Mika Savir, Accounting Safeguards Division, Common Carrier Bureau, (202) 418–0384 or Andy Mulitz, Accounting Safeguards Division, Common Carrier Bureau, (202) 418–0850. For additional information concerning the information collections contained in this NPRM contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), CC Docket 99–253, adopted on July 13, 1999, and released on July 14, 1999. It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding. The full text of the NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street NW., Washington, DC 20554. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, Washington, DC 20036, telephone (202) 857–3800.

OMB Approval No.: None.

Title: Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 1, CC Docket No. 99–253 (NPRM).

Form No.: FCC Report 43–02.

Type of Review: New Collections.

Respondents: Business or other for profit.

Title	No. of respondents	Estimated hours per response	Total annual burden
Uniform Systems of Accounts	239	9540	2,280,080
Annual Auditors Attestations	19	268	5,100
ARMIS USOA Report	52	284	14,770
Allocation of Cost, Cost Allocation Manual	18	300	10,800
Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996 (Affiliate Transaction Only)	20	24	480

Total Annual Burden: 2,311,230.

Estimated Costs Per Respondent: $1,200,000.

Needs and Uses: In CC Docket No. 99–253, the Commission is initiating a comprehensive review of its accounting and reporting requirements. The Commission seeks comment on its proposals to reduce or further streamline its recordkeeping requirements for common carriers, audit requirements for the large incumbent LECs and reduce filing requirements of accounting record changes on the part of affected common carriers. The information is needed so that the Commission can fulfill its statutory responsibilities and obligations.

Summary of Notice of Proposed Rulemaking

We are performing this comprehensive review in two phases. Phase 1, which commences with this Notice of Proposed Rulemaking (NPRM) and will conclude by the end of the year, will address accounting and reporting reform measures that can be implemented without delay and still retain sufficient information for the Commission and state commissions to meet their responsibilities. Phase 2, which will begin in the last quarter of 1999, will examine the current accounting and reporting structure and address long-term changes needed as local exchange markets become competitive. During this process, the Common Carrier Bureau will continue to work closely with the National Association of Regulatory Utility Commissioners (NARUC) and state commissioners so that, in addition to eliminating unnecessary reporting requirements, the Commission and states will focus on further steps necessary to eliminate unnecessary

overlap of Federal and state reporting requirements.

In this first phase of the comprehensive review, we seek comment on the following accounting issues: eliminating or revising the matrix used to classify expenses in the Uniform System of Accounts (USOA); reducing the audit burdens on incumbent local exchange carriers (ILECs); adopting a *de minimis* exception to our affiliate transactions rules; eliminating the 15-day prefiling for cost pool changes; eliminating the notifications and approvals required in §§ 32.13(a)(3) and 32.25; and revising the accounting requirements for §§ 32.2002 and 32.2003. In addition, we seek comment on streamlining the reporting requirements in the ARMIS 43–02 USOA Report. Specifically, we seek comment on eliminating certain corporate information collected in the ''C'' series tables and on consolidating certain information into one table. We also seek comment on eliminating certain information concerning balance sheet accounts reported in the ''B'' series tables and income statement accounts reported in the ''I'' series tables.

A. Accounting Rules

1. Expense Matrix

Section 32.5999(f) of the Commission's rules requires carriers to maintain disaggregated financial data in subsidiary record categories to be reported in an expense matrix. The Commission uses the detailed data contained in the carriers' expense subsidiary record categories in performing studies and trend analyses, and in its overall monitoring efforts. The additional information provided by the expense matrix helps the Commission analyze a carrier's expenses. In particular, the Commission has relied heavily upon the salaries and wages and rent data detailed in the expense matrix. For example, when the Financial Accounting Standards Board (FASB) promulgated new accounting standards for post-employment benefits and post-retirement benefits other than pensions, the Commission used the salaries and wages data in its analysis of the reasonableness of carrier projections related to implementation of the new accounting standards. The Commission also uses the salaries and wages data in calculating productivity factors used to adjust price cap indices. This expense data would be needed for future productivity studies if the price cap formula is revised. Expense matrix data is also used in tracking the salaries and wages and rents portion of maintenance expense in the analysis of service quality. Furthermore, carriers, competitors, and the Commission use the pole rents information detailed in the expense matrix in the formula to calculate carriers' pole attachment rates.

We tentatively conclude that we can eliminate the expense matrix or reduce it to the minimum amount necessary to meet other regulatory purposes. We believe that this information could be provided by the carriers on an as-needed basis even if the Commission did not prescribe it to be maintained. We seek comment on this tentative conclusion. Commenters should discuss whether it would be more burdensome to maintain and file the expense matrix or to keep such data, at the same level of disaggregation, for several years, to provide to the Commission if requested. We seek comment on whether, as an alternative, the reporting burden would be alleviated by reducing the expense matrix to two classifications: (1) salary and wages and (2) other. Commenters should specifically address whether this would affect the analysis of the price cap performance/productivity factor calculations. In addition, we seek comment on whether, and how, elimination of the expense matrix would affect the jurisdictional separations process, universal service support calculations, or service quality studies.

In the *Accounting Reductions Report and Order*, FCC No. 99–106, released June 30, 1999, we required mid-sized ILECs to maintain subsidiary record categories to capture the pole attachment data currently provided in the Class A accounts. We believe it is necessary to require subsidiary records for data needed in pole attachment formulas to assure that the data is publicly available, uniformly maintained among the carriers, and maintained in a manner that can be audited. We propose that, if the expense matrix is eliminated, carriers maintain subsidiary records to provide the data used in the pole attachment formulas and report in their ARMIS reports the information necessary for the Commission, carriers, and competitors to calculate pole attachment rates. We seek comment on this proposal.

2. Audits

The Commission has established accounting safeguards governing the allocation of costs between the carriers' regulated and nonregulated activities. These safeguards are designed to promote fair cost allocations and to protect regulated ratepayers from absorbing the costs of nonregulated activities. One of the accounting safeguards, prescribed in § 64.904 of the Commission's rules, is that carriers obtain an independent audit of reported cost allocation data. Before adoption of the *Accounting Reductions Report and Order*, our rules required that the audit be performed annually for ILECs required to file cost allocation manuals, that it provide a positive opinion, that the reported data is presented fairly in all material respects, and that it be conducted in accordance with generally accepted auditing standards.

In the *Accounting Reductions Report and Order*, we revised the audit requirement for mid-sized ILECs. Under rules adopted in that Order, mid-sized ILECs are required to obtain a less stringent attestation every two years (covering the prior two year period) instead of an annual financial audit requiring a positive opinion. The financial audit requires that an ILEC's independent auditor provide assurance that the reported data are fairly reported. An attestation requires that the auditor provide assurance that specific management assertions are fairly stated. An attestation generally provides less assurance and is governed by less stringent standards of testing, reporting, and expression of opinion than the financial audits required by § 64.904 for large ILECs.

We tentatively conclude that, if properly implemented, a less stringent audit requirement for the large ILECs will provide the necessary assurance that the carriers' cost allocations are consistent with our rules and at the same time result in significant savings in both time and money for the carriers. We note that in other instances the Commission requires something less than a positive opinion audit. For example, we have new audit requirements specifically for § 272 affiliates. Section 272 of the Act permits a BOC to manufacture equipment, originate in-region, interLATA telecommunications services, and provide interLATA information services only if it does so through one or more separate affiliates. The BOC and its affiliate(s) must, among other things, obtain a joint Federal/State audit every two years conducted by an independent auditor. Our rules require that the independent auditor perform an agreed-upon procedures engagement as specified by the regional Federal/State biennial oversight team.

We tentatively conclude that we can reduce our audit requirements for the large ILECs—the BOCs and GTE—by extending the same audit requirements to the large ILECs that we adopted for mid-sized ILECs in the *Accounting Reductions Report and Order, i.e.,*

allowing carriers to obtain an attestation, instead of an annual financial audit requiring a positive opinion. We seek comment on this tentative conclusion. Furthermore, we seek comment on whether we should adopt an audit requirement similar to the § 272 biennial audit, an agreed-upon procedures engagement, for the large ILECs. Commenters should discuss whether these alternatives would provide the necessary assurance that the reported cost allocation data is an accurate reflection of the carrier's CAM and the Commission's rules. Commenters should also discuss any other alternatives to an annual financial audit requiring a positive opinion. In addition, commenters should address whether the new audit procedure should be an annual requirement.

3. Affiliate Transactions Rules

In the *Accounting Safeguards Order,* 62 FR 02918 (January 21, 1997) the Commission amended the affiliate transactions rules for services provided by a carrier to its affiliate and services received by a carrier from its affiliate that are not subject to: (1) an existing tariff rate, (2) a publicly-filed agreement or statement, or (3) a qualified prevailing price valuation. Services provided by a carrier to its affiliate must be recorded at the higher of fair market value or fully distributed cost. Services received by a carrier from its affiliate must be recorded at the lower of fair market value or fully distributed cost. The Commission further required carriers to make a good faith determination of fair market value in those instances when a fair market value was not readily available so that the carrier could assign the appropriate value to the service when recording its value under the affiliate transactions rules.

Based on our experience enforcing these requirements over the past two years, we tentatively conclude that when the total annual value of transactions for that service is *de minimis,* the regulatory benefits of requiring carriers to make a good faith determination of the fair market value of a service are outweighed by the administrative cost and effort of making such a determination. We tentatively conclude that such a *de minimis* exception will not lessen the effectiveness of the Commission's affiliate transactions rules, and at the same time, will reduce the burden associated with the requirement that carriers make a good faith determination of fair market value. We, therefore, propose to eliminate the requirement that carriers make a good faith determination of fair market value for each service in which the total annual value of transactions for that service is less than $250,000. We propose that in such cases the service should be recorded at fully distributed cost, and carriers should continue to report such transactions in their cost allocation manuals and ARMIS reports.

We seek comment on our proposals and tentative conclusions. We also seek comment on whether a different threshold should serve to delineate the *de minimis* treatment. Commenters proposing a different threshold should explain why their proposed threshold should be higher or lower than $250,000. In addition, commenters should address whether affiliate transaction services conducted pursuant to §§ 260, and 271–276 of the Act should be included in the services eligible for the *de minimis* exception.

4. Elimination of 15-Day Prefiling for Cost Pool Changes

Section 64.903 of the Commission's rules requires that carriers update their CAMs at least annually except that changes to the cost apportionment table and time-reporting procedures must be filed at least 15 days before the carrier plans to implement changes. Once a CAM change has been filed, the Chief, Common Carrier Bureau may suspend any such changes for a period not to exceed 180 days, and may thereafter allow the change to become effective. BellSouth claims that the 15-day special filing requirement for changes in cost pools discloses sensitive competitive service information. We tentatively conclude that we should eliminate the 15-day pre-filing requirement in order to eliminate any disclosure of sensitive data in advance of implementation of a service. If we adopt this proposal, carriers would file the necessary CAM changes contemporaneous with the implementation of the change. We seek comment on this tentative conclusion.

5. Revision to Section 32.13, Accounts—General

Section 32.13(a)(3) of the Commission's rules permits carriers to establish temporary or experimental accounts provided they notify the Commission of the nature and purpose of the accounts within 30 days of establishing them. This requirement was adopted to allow the Commission to review the nature of the proposed temporary or experimental accounts prior to the effective date. Carriers use these temporary accounts as clearing accounts, which are closed each financial period and do not alter the Part 32 accounting structure. We tentatively conclude that this 30-day notification is not necessary because other accounting safeguards, such as ARMIS reporting and our audit program, together with our ability to obtain additional information as necessary, are sufficient for our regulatory oversight. Accordingly, we propose to modify § 32.13(a)(3) by eliminating the notification requirement. We seek comment on our tentative conclusion and proposal.

6. Revision to Section 32.25, Unusual Items and Contingent Liabilities

Section 32.25 of the Commission's rules requires carriers to submit journal entries detailing extraordinary items, contingent liabilities, and material prior period adjustments for Commission approval before recording them in their books of account. This requirement was established as a safeguard to prevent carriers from inflating their rate base through the use of accounting adjustments. We tentatively conclude that prior Commission review of journal entries is not necessary for the Commission's regulatory oversight, and that other accounting safeguards, such as the ARMIS reporting and our audit program, together with our ability to obtain additional information as necessary, are sufficient to assure that carriers will comply with our accounting requirements. We tentatively conclude, therefore, that it is no longer necessary to require the routine filing of these journal entries. Accordingly, we propose to eliminate the § 32.25 filing requirement. We seek comment on our tentative conclusion and proposal.

7. Revision to Section 32.2002, Property Held for Future Telecommunications Use

Section 32.2002 of the Commission's rules requires that carriers record to Account 2002 the costs of property held for no longer than two years under a definite plan for use in telecommunications service. After two years, § 32.2002 requires that the carrier reclassify the cost of the property to Account 2006, Nonoperating plant. BellSouth states that this reclassification is burdensome and that the property could remain recorded in Account 2002, but be removed from the ratebase in a less burdensome manner. We tentatively conclude that we should allow carriers to maintain the costs in Account 2002 but we should require carriers to exclude the cost of such property, and the associated depreciation reserve, from the ratebase. The depreciation expense associated with such property should also be excluded from ratemaking considerations. These

amounts would be reported in the ARMIS 43–01, column (e) All Other Adjustments and ARMIS 43–03, column (l) Other Adjustments. We believe that adoption of this tentative conclusion will provide the same protection for ratepayers while alleviating the burden on carriers to reclassify these costs to Account 2006. We seek comment on this tentative conclusion.

8. Revisions to Section 32.2003, Telecommunications Plant Under Construction

Section 32.2003 of the Commission's rules requires that carriers record to Account 2003 the original cost of construction projects including all related direct and indirect costs as provided under § 32.2000(c). If the construction project has been suspended for six months or more, the cost of the project must be reclassified to Account 2006, Nonoperating plant. If the project is eventually abandoned, these costs must be charged to Account 7370, Special charges. BellSouth states that this reclassification is burdensome and that the property could remain recorded in Account 2003 but be excluded from the ratebase in a less burdensome manner. We tentatively conclude that carriers be permitted to maintain the costs in Account 2003 and that carriers be required to remove the cost of suspended projects after six months from the ratebase. Additionally, carriers would be required to discontinue capitalization of allowance for funds used during construction under § 32.2000(c)(2)(x) until construction is resumed. These amounts would be reported in the ARMIS 43–01, column (e) All Other Adjustments and ARMIS 43–03, column (l) Other Adjustments. Carriers would still charge Account 7370 if the project were abandoned. We believe that adoption of this tentative conclusion will provide the same protection for ratepayers while alleviating the burden on carriers to reclassifying these costs to Account 2006. We seek comment on this tentative conclusion.

B. ARMIS Reporting Requirements

1. Reductions to ARMIS 43–02 USOA Report

In the ARMIS 43–02 USOA Report, carriers report their annual operating results for every account in the USOA. The USOA contains both balance sheet and income statement accounts which report the results of operational and financial events. Information provided by these accounts is used to review the overall investment and expense levels, affiliate transactions, property valuation, and depreciation rates of regulated carriers. The ARMIS 43–02 USOA Report contains a total of 27 tables, and is one of the most voluminous reporting requirements in ARMIS. The tables are set out in three series: (1) the ''C'' series, which includes 5 tables that provide corporate information; (2) the ''B'' series, which includes 15 tables that provide information about the balance sheet accounts of the carrier; and (3) the ''I'' series, which includes 7 tables that provide information about the carriers' income and expenses.

In light of the objectives we seek to achieve in Phase 1 of our comprehensive review, we are proposing significant reductions in reporting requirements in the ARMIS 43–02 USOA Report for the largest ILECs. For the reasons discussed below, we tentatively conclude that the filing burden imposed on the largest ILECs by ARMIS 43–02 USOA Report should be reduced by eliminating the requirement to file 14 of 27 tables, adding one short-form table, and changing the threshold level of reporting required in 3 of the remaining 13 tables. We propose eliminating or modifying the reporting requirements for the following tables: C–1 (Identity of Respondent); C–2 (Control Over Respondent); C–3 (Board of Directors and General Officers); C–4 (Stockholders); C–5 (Important Changes During the Year); B–8 (Capital Leases); B–9 (Deferred Charges); B–11 (Long-Term Debt); B–12 (Net Deferred Income Taxes); B–13 (Other Deferred Credits); B–14 (Capital Stock); and B–15 (Capital Stock and Funded Debt Reacquired or Retired During the Year); I–3 (Pension Costs); I–4 (Operating Other Taxes); I–5 (Prepaid Taxes and Accruals); I–6 (Special Charges); and I–7 (Donations or Payments for Services Rendered by Persons Other Than Employees).

We seek comment generally on our tentative proposal to streamline the ARMIS 43–02 USOA Report for the largest ILECs. Specifically, we seek comment on whether alternative sources of information would provide sufficient protection against the potentially anti-competitive practices we identified in the *ARMIS Reductions Report and Order*, FCC No. 99–107, released June 30, 1999. For instance, we believe that much of the information contained in the series ''C'' tables can be obtained from the carrier's Form 10-K Annual Report filed with the Securities and Exchange Commission (SEC), as well as in other publicly available reports. We also believe that, to a large extent, balance sheet and income statement information reported in the series ''B'' and ''I'' tables may be obtained from underlying source data and can be readily provided by the carrier upon request. Although we continue to believe that access to information is crucial for our processes as well as for the state commissions, we believe access to this information may be more efficiently obtained through other sources. We also believe that the need for obtaining certain data on a regular basis may not be so vital to regulatory mandates as to outweigh the burden imposed on the ILECs in reporting this information. We seek comment on these overall tentative conclusions.

2. ARMIS 43–02 USOA Report: Table C Reductions

The ''C'' series tables of the ARMIS 43–02 USOA Report include five tables containing carrier and stockholder information. We believe we could reduce the burdens imposed on the carriers by modifying these tables. We believe that most of the data contained in C–1 (Identity of Respondent), C–2 (Control Over Respondent), and C–4 (Stockholders), are available in public filings. Our experience suggests that routine filing of information contained in C–3 (Board of Directors and General Officers) may not be needed if the information is made available upon request. We tentatively conclude that because carriers must publicly file most of the information in these tables with the SEC in their Form 10–K Annual Reports, which are available on the Internet, and because we may request and obtain this information as necessary, streamlining these reporting requirements will not impair our ability to perform necessary oversight functions but will reduce the filing burden on large ILECs. Certain basic information contained in these reports, however, may be needed for purposes of efficiency in administering and managing the database. Thus, we tentatively propose to consolidate all basic information into one table, which would generally provide information on the carrier's name, carrier's address, operating states, and executive officers. We seek comment on these proposals and tentative conclusions.

Table C–5 (Important Changes During the Year) provides information on significant events, such as extensions of systems, substantial portions of property sold, changes in direct and indirect control of the carrier, important contracts or agreements entered into, and important changes in service and rate schedules. We believe the reporting requirements for table C–5 could be streamlined by eliminating the requirement to report certain information. For instance, we believe

that the data reported on changes in direct and indirect control may no longer be needed on a recurring basis. We believe this information may be available in the carrier's Form 10–K Annual Reports or in the carrier's cost allocation manuals, and where necessary, could be obtained from the carrier upon request. Thus, we tentatively conclude that the reporting requirements concerning changes in direct and indirect control of the carrier be eliminated. We seek comment on this tentative conclusion and proposal to modify table C–5 in this manner. We also believe that the information collected in table C–5 could be reduced further by collecting information only where the change involves a significant or material change. Thus, we seek comment on whether we should adopt a threshold amount for items reported in table C–5 (such as important contracts or agreements entered into, or important changes in service and rate schedules), and if so, what an appropriate threshold level would be. We seek comment on the above proposals for streamlining table C–5 reporting requirements.

3. ARMIS 43–02 USOA Report: Table B Reductions

The ''B'' series tables contain data about the balance sheet accounts. Table B–1 (Balance Sheet) and Table B–2 (Statement of Cash Flows) are basic financial statements that are essential to our analysis of a carrier's financial condition. Several other supporting tables are important in our analysis of investment in and transactions with affiliates and in evaluating carrier depreciation reserves. We are not proposing changes in these tables. We believe, however, that several other tables in the ''B'' series need not be routinely reported as long as we have continued access to the underlying data and source documents supporting these tables. Further, we believe that the carrier's own accounting practices, which are governed by standard accounting practices and procedures and subject to internal and external audits, should assure that these accounts are properly maintained. Thus, we propose to eliminate the following ''B'' tables: B–8: (Capital Leases); B–9 (Deferred Charges); B–11 (Long-Term Debt); B–12 (Net Deferred Income Taxes); B–13 (Other Deferred Credits); B–14 (Capital Stock); and B–15 (Capital Stock and Funded Debt Reacquired or Retired During the Year). We seek comment on these tentative conclusions and proposals. We are concerned that we not eliminate information that may be needed to carry out our responsibilities. We ask parties to address this concern and whether information concerning these accounts are readily available from other sources, such as in the carrier's Annual 10–K Report or through other internal records. We also ask parties to identify specific needs for this information and whether alternative sources of information provide sufficient level of detail to meet these needs.

4. ARMIS 43–02 USOA Report: Table I Reductions

We have also examined the continuing need for routine reporting of information contained in the ''I'' series tables, specifically I–3 (Pension Costs); I–4 (Operating Other Taxes); and I–5 (Prepaid Taxes and Accruals). For the reasons stated above with respect to the accounts reported in the ''B'' series, we tentatively conclude that carriers should no longer be required to report the information required in tables I–3, I–4, and I–5 annually to the Commission. We believe that as long as we have continued access to underlying data and source documents supporting these tables, this information can be obtained from the ILECs on an as-needed basis. We seek comment on these tentative conclusions and proposals.

Our review of table I–6 (Special Charges) finds that the information reported in this table continues to be essential. Data reported in this table are below-the-line amounts, i.e., are not an allowable expense to be charged against regulated revenues. Special Charges reported on this table include lobbying expenses, membership fees and dues, abandoned construction projects amounting to $100,000 or more, penalties and fines amounting to $100,000 or more, and charitable, social, or other community welfare expenses. We find it necessary to maintain routine reporting of these items to ensure that these expenses, especially if material, are properly recorded on the ILECs' books. The $100,000 reporting threshold, however, for reporting abandoned construction projects, penalties and fines may be relatively immaterial in light of the strong revenue growth since the outset of ARMIS in 1989. We seek comment, therefore, on whether the reporting threshold should be raised to a higher amount and, if so, what amount to establish as the reporting threshold.

Similarly, our review finds that information reported in table I–7 (Donations or Payments for Services by Persons Other than Employees) continues to be essential for regulatory monitoring purposes to ensure that material costs claimed against regulated revenues are appropriate. The information reported in table I–7 requires that carriers report all amounts paid to academia; amounts exceeding $250,000 paid for advertising and information services, clerical and office services, computer and data processing services, personnel services, printing and design services, and security services; amounts exceeding $25,000 paid for audit and accounting services, consulting and research services, financial services, and legal services; and amounts exceeding $10,000 for membership fees and dues. Again, in light of the tremendous growth in ILEC revenues, the reporting thresholds may now be too low. We seek comment, therefore, on whether the reporting thresholds for each of the above mentioned payments to outside vendors should be raised to a higher amount and, if so, what amounts to establish as the reporting thresholds.

IV. Procedural Issues

A. Ex Parte Presentations

This is a permit but disclose rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206.

B. Final Regulatory Flexibility Certification

The Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (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).

This Notice of Proposed Rulemaking proposes to eliminate or revise the matrix used to classify expenses in the Uniform System of Accounts (USOA); reduce the audit burdens on incumbent local exchange carriers (ILECs); adopt a *de minimis* exception to the Commission's affiliate transactions rules; eliminate the 15-day prefiling for

cost pool changes; eliminate the notifications and approvals required in §§ 32.13(a)(3) and 32.25; and revise the accounting requirements for §§ 32.2002 and 32.2003. In addition, with respect to ARMIS reporting requirements, the Notice of Proposed Rulemaking seeks comment on eliminating certain corporate information collected in the ''C'' series tables and on consolidating certain information into one table. The Notice of Proposed Rulemaking also seeks comment on eliminating certain information concerning balance sheet accounts reported in the ''B'' series tables and income statement accounts reported in the ''I'' series tables.

Neither the Commission nor SBA has developed a definition of ''small entity'' specifically applicable to LECs. The closest definition under SBA rules is that for establishments providing ''Telephone Communications, Except Radiotelephone,'' which is Standard Industrial Classification (SIC) code 4813. Under this definition, a small entity is one that, including affiliates of the entity, employs no more than 1,500 persons. For the purpose of this present certification we would assume that an ILEC can be characterized as non dominant for the purpose of analysis under the Regulatory Flexibility Act.

We certify that the proposals in this Notice of Proposed Rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. Pursuant to long-standing rules, ILECs with annual operating revenues equal to or exceeding the indexed revenue threshold must comply with the Commission's record keeping rules and CAM audit requirements. The Commission proposes to reduce certain of these CAM and record retention requirements. These changes should be easy and inexpensive for ILECs to implement and will not require costly or burdensome procedures. We therefore expect that the potential impact of the proposal rules, if such are adopted, is beneficial and does not amount to a possible significant economic impact on affected entities. If commenters believe that the proposals discussed in the Notice require additional RFA analysis, they should include a discussion of these issues in their comments.

The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this Notice of Proposed Rulemaking, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration. A copy will also be published in the **Federal Register**.

C. Paperwork Reduction Act

This NPRM contains either a proposed or modified information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on information collections contained in this Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Notice of Proposed Rulemaking. Comments should address: (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 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.

D. Comment Filing Procedures

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before August 23, 1999, and reply on or before September 9, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

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 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.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Ernestine Creech, Accounting Safeguards Division, 445 12th Street, S.W., Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labelled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 99–253, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

Written comments by the public on the proposed information collections are due on or before August 23, 1999. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before October 18, 1999. 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, Room 1–C804, 445 12th Street, S.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

V. Ordering Clauses

Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 11, 201(b), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 161, 201(b), 303(r), and 403, this Notice of Proposed Rulemaking *is adopted*.

It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, *shall*

send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, 5 U.S.C. 605(b).

List of Subjects

47 CFR Part 32

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts

47 CFR Part 43

Communications common carriers, Radio, Reporting and recordkeeping requirements, Telegraph, Telephone

47 CFR Part 64

Communications common carriers, Federal Communications Commission, Radio, Reporting and recordkeeping requirements, Telegraph, Telephone

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–21402 Filed 8–17–99; 8:45 am]

BILLING CODE 6701–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF03

Endangered and Threatened Wildlife and Plants: Reopening of Comment Period for Proposed Rule To List the Contiguous United States Distinct Population Segment of the Canada Lynx

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: We are reopening the comment period on the proposal to list the contiguous United States distinct population segment of the Canada lynx to invite comment from all interested parties on new information contained within a U.S. Forest Service science report that we are accepting into the administrative report. This report contains new information pertinent to our findings and conclusions of the proposed rule of July 8, 1998. The information contained within available chapters of this report and all comments received in response to this information will be considered in our final decision on whether to list the Canada lynx under the Endangered Species Act.

DATES: Comments must be postmarked or emailed by September 25, 1999.

ADDRESSES: Written comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Montana Field Office, 100 N. Park Avenue, Suite 320, Helena, Montana 59601; or email <lynx@fws.gov>.

FOR FURTHER INFORMATION CONTACT: Kemper McMaster, Field Supervisor (see **ADDRESSES** section) (telephone 406/449–5225, facsimile 406/449–5339). The Internet is the fastest method for obtaining a copy of the report. Finalized chapters from the report can be retrieved from the Internet at <http://www.fs.fed.us/rl>.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 1998 (63 FR 36994), we published a proposed rule to list the contiguous United States distinct population of the Canada lynx (*Lynx canadensis*) as threatened under the Endangered Species Act of 1973, as amended. As described in the proposed rule, the range of the lynx included portions of States of Washington, Oregon, Idaho, Montana, Utah, Wyoming, Colorado, Minnesota, Wisconsin, Michigan, Maine, New Hampshire, Vermont, New York, Pennsylvania, and Massachusetts. Threats to this population segment of the Canada lynx were considered to be human alteration of forests, low numbers as a result of past overexploitation, expansion of the range of competitors (bobcats (*Felis rufus*) and coyotes (*Canis latrans*)), and elevated levels of human access into lynx habitat. The rule also proposed to list the captive population of Canada lynx within the coterminous United States (lower 48 States) as threatened due to similarity of appearance and permitted the continued export of captive-bred Canada lynx.

We published notice of a 6-month extension on the proposed rule to list the lynx on July 8, 1999 (64 FR 36836). The final decision on the proposal is now due January 8, 2000.

Public Comments Solicited

We are reopening the comment period on our July 8, 1998, proposal to list the contiguous United States distinct population segment of the Canada lynx. We are seeking additional comment on our proposal based on new information contained within a report, ''The scientific basis for lynx conservation in the contiguous United States.'' This report is being completed by a team led by Rocky Mountain Research Station, U.S. Forest Service. We are accepting finalized chapters of this report into the administrative record. The report contains new information pertinent to our findings and conclusions in the proposed rule. The information contained within available chapters of this report and all comments received in response to this information will be considered in our final decision on whether to list the Canadian lynx under the Endangered Species Act.

At this time, three chapters of the report are final and available to the public. These three chapters represent substantive new information pertinent to the scientific basis for our findings and conclusion regarding our final decision on whether to list the Canadian lynx under the Endangered Species Act. Additional chapters of the report are expected to be finalized and released to the public throughout the comment period. This will be the only notice of the availability of chapters of this report.

Finalized chapters from the report can be retrieved from the Internet at <http://www.fs.fed.us/rl>. The Internet is the best method for making the report rapidly available. If you cannot get the report through the Internet, please call the Montana Field Office (see **ADDRESSES** section). Please check this website regularly or call the Montana Field Office to obtain new chapters, which will be made available as soon as they are finalized. Your written comments on the proposal based on new information contained in this report must be postmarked or e-mailed by September 24, 1999, to the Montana Office (see **ADDRESSES** section above).

Author

The author of this notice is Lori Nordstrom (see **ADDRESSES** section.)

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated August 12, 1999.

Mary L. Gessner,

Regional Director.

[FR Doc. 99–21391 Filed 8–17–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 072699D]

RIN 0648–AL81

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Compliance with Sustainable Fisheries Act Provisions for Management Plans in the Gulf of Mexico; Generic Amendment to the Fishery Management Plans of the Gulf of Mexico Region

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

ACTION: Notice of availability of a generic amendment to fishery management plans for the Gulf of Mexico Region; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted to NMFS its Generic Sustainable Fisheries Act Amendment (SFA Amendment) to the fishery management plans of the Gulf of Mexico for review, approval, and implementation. This amendment would set standards regarding overfishing levels and stock rebuilding on which future management measures will be based. Written comments are requested from the public.

DATES: Written comments must be received on or before October 18, 1999.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the amendment, which includes a regulatory impact review and an environmental assessment, should be sent to the Gulf of Mexico Management Council, The Commons at Rivergate, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266; phone: 813–228–2815; fax: 813–225–7015.

FOR FURTHER INFORMATION CONTACT: Roy Crabtree, NMFS; phone: 727-570-5305; fax 727–570–5583.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires Regional Fishery Management Councils to submit proposed fishery management plans (plans) or amendments to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment from a Council, immediately publish a document in the **Federal Register** stating that the plan or amendment is available for public review and comment. This document constitutes such notice for the SFA Amendment.

In 1998, NMFS published the National Standard Guidelines to assist Regional Fishery Management Councils in: Describing fisheries and fishing communities; establishing criteria to determine when a stock is overfished; proposing measures to prevent or end overfishing and rebuild overfished stocks: and assessing bycatch and proposing measures to minimize bycatch (63 FR 24212, May 1, 1998). The Council developed its SFA Amendment based on these guidelines.

The SFA Amendment describes Gulf of Mexico fishing communities; these descriptions are based on existing U.S. Census data and information about regional landings and about fishing participants in various fisheries for each of the Gulf of Mexico coastal states. The Council believes that these community descriptions are based on the best available information and comply with the national standard guidelines.

The SFA Amendment describes bycatch in Gulf fisheries and reflects the Council's conclusion that measures currently in place already minimize bycatch and bycatch mortality to the extent practicable. Under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, the Council has required bycatch reduction devices to minimize bycatch of red snapper and other species in shrimp trawls fished in the exclusive economic zone west of Cape San Blas, Florida. Under the FMP for stone crab, the Council's SFA Amendment proposes changes in the construction of stone crab pots intended to reduce finfish bycatch. Under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, the Council is phasing out fish traps in the reef fish fishery by 2007, in part to reduce bycatch. Under the Fishery Management Plan for Coastal Migratory Pelagic Species of the Gulf of Mexico and South Atlantic, minimum mesh sizes are required for gillnets in the coastal migratory pelagics fishery to reduce bycatch.

NMFS' Marine Recreational Fisheries Statistics Survey provides information on bycatch in the recreational fisheries. The SFA Amendment discusses additional measures to improve bycatch reporting. The Council anticipates that cooperative state-Federal programs developed or under development by the Gulf States Marine Fisheries Commission will provide adequate information on bycatch for all fisheries within the Council's area of jurisdiction. NMFS intends to improve bycatch reporting by requiring it in all commercial logbooks by January 1, 2001.

The SFA Amendment specifies fishing targets and overfishing thresholds for each FMP. For stocks other than shrimp and spiny lobster, static spawning potential ratio (SPR) proxies are used to define maximum sustainable yield (MSY), optimal yield (OY), and maximum fishing mortality thresholds (MFMT). For penaeid shrimp, MSY, OY, and MFMT are specified in numbers of spawning individuals remaining after the fishery. For royal red shrimp, MSY is specified as a range in pounds/kilograms, as recommended by the Crustacean Stock Assessment Panel; however, in its discussion of MSY, the Council expresses its view that the proposed MSY may be an underestimate of the true MSY. For spiny lobster, MSY, OY, and MFMT are specified as transitional SPR based on spawning biomass per recruit rather than based on fecundity. For stone crab, SPR is identified as realized egg production per recruit as a percentage of potential egg production in the unfished state. In general, SPR proxies for OY are greater than those for MSY, and MFMT is a fishing mortality rate set at the SPR rate equal to MSY (i.e. F_{MSY}). The SPR proxies for the parameters MSY, OY, and MFMT within each of the following fisheries—shrimp, red drum, Nassau grouper, jewfish, and stone crab—are the same. The SPR values for the three parameters for the above listed species are higher than those for other stocks, i.e., they are more conservative than those for other stocks. For shrimp, MSST is specified as the number of spawning individuals remaining after the annual fishery; for stone crab an SPR proxy is specified for MSST. MSST is not specified for other stocks but will be incorporated through the framework procedures of the Council's FMPs as MSST estimates are derived.

The SFA Amendment would establish rebuilding periods for red snapper (period of 1999–2033) and Gulf-group king mackerel (period of 1999–2009). The Council states that data are insufficient to develop rebuilding schedules for Nassau grouper, jewfish, or red drum but that such schedules would be specified and implemented through the framework procedures of its FMPs as such schedules are developed.

The SFA Amendment briefly addresses the Magnuson-Stevens Act requirement to describe fishing sectors and to quantify trends in landings by

sector. The SFA Amendment states that with the exception of the charter sector, trends in landings have been previously quantified for all FMPs except those for stone crab and spiny lobster. The amendment includes recently prepared descriptions of the Florida west-coast stone crab fishery and the Florida spiny lobster fishery.

The SFA Amendment would adopt the construction characteristics of stone crab traps set forth in Chapter 46–13.002(2)(a) of Florida law.

The SFA Amendment would modify the existing Council FMPs' framework procedures for regulatory adjustments. These framework procedures provide a streamlined rulemaking process that allows the Council to propose additional or modified measures under an FMP and for NMFS to approve and implement them without an FMP amendment. The amendment would add the following measures to those that can be implemented under the framework procedures: Biomass-based estimates for MSY, OY, and MSST; new estimates of MFMT; and rebuilding schedules for reef fish. The Council would use the modified framework procedures when estimates of these added measures are provided by NMFS, reviewed by the Stock Assessment Panels, and adopted by the Council.

In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the SFA Amendment, the Magnuson-Stevens Act, and other applicable law. Comments received by [*insert date 60 days after date of publication in the FEDERAL REGISTER*], whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the SFA Amendment. NMFS will not consider comments received after that date in this decision. NMFS will address in the final rule all comments received on the amendment or the proposed rule during their respective comment periods.

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

Dated: August 12, 1999.

Bruce C. Morehaed,

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

[FR Doc. 99–21468 Filed 8–17–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 990811217–9217–01; I.D. 061899A]

RIN 0648–AM82

Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna Fishery; Regulatory Adjustment

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

ACTION: Proposed rule; public hearings; request for comments.

SUMMARY: NMFS proposes to amend the regulations governing the Atlantic highly migratory species (HMS) fisheries to remove the 250 metric ton (mt) limit on allocating Atlantic bluefin tuna (BFT) landings quota to the Purse Seine category. Without this restriction, the annual allocation of BFT to the Purse Seine category would be 18.6 percent of the total landings quota available to the United States. The proposed regulatory amendments are necessary to achieve domestic management objectives for HMS fisheries. NMFS received extensive comment on this issue during the comment period for the rule to implement the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (FMP) and during a recent meeting of the HMS Advisory Panel (AP). However, NMFS will hold two public hearings to receive additional comments from fishery participants and other members of the public regarding these proposed amendments.

DATES: Comments are invited and must be received on or before September 27, 1999. The public hearings dates are:

1. Wednesday, September 1, 1999, 3:30–6:00 p.m. in Silver Spring, MD.
2. Tuesday, September 7, 1999, 7:00–9:00 p.m. in Fairhaven, MA.

ADDRESSES: Comments on the proposed rule should be sent to, Rebecca Lent, Chief, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282. Copies of supporting documents, including a Draft Environmental Assessment (EA), which includes a Draft Regulatory Impact Review (RIR), are available from Pat Scida, Highly Migratory Species Management Division, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930.

The public hearing locations are:

1. Silver Spring (Wednesday, September 1, 1999), NMFS, SSMC III - Room 4527, 1315 East-West Highway, Silver Spring, MD 20910.
2. Fairhaven (Tuesday, September 7, 1999), Seaport Inn, 110 Middle Street, Fairhaven, MA 02719.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, 978–281–9260.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). Within NMFS, daily responsibility for management of Atlantic HMS fisheries rests with the Office of Sustainable Fisheries, and is administered by the HMS Management Division.

Background

Based on the 1998 revised stock assessment, parties at the 1998 meeting of ICCAT adopted a 20-year west Atlantic BFT rebuilding program, beginning in 1999 and continuing through 2018. ICCAT has adopted an annual total allowable catch (TAC) for western Atlantic BFT of 2,500 mt whole weight (ww), inclusive of dead discards, to be applied annually until such time as the TAC is changed based on advice from the Standing Committee on Research and Statistics. The annual landing quota allocated to the United States was set at 1,387 mt ww. Regulations at 50 CFR 635.27 subdivide the U.S. BFT quota recommended by ICCAT among the various domestic fishing categories.

On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the HMS FMP that was adopted and made available to the public in April 1999. The HMS FMP and the implementing regulations established percentage quota shares for the ICCAT-recommended U.S. BFT landing quota for each of the domestic fishing categories. These percentage shares were based on historical allocations as had been adjusted in recent years. In the final rule, NMFS adopted a limit (cap) on the amount of the annual quota that would be

allocated to the Purse Seine category, establishing a percentage share of 18.6 percent of the overall U.S. BFT landings quota, or 250 mt, whichever is less. Under this cap, if 18.6 percent of the total ICCAT recommended annual landings quota would exceed 250 mt, only the 250 mt would be allocated to the Purse Seine category and the amount over 250 mt would be allocated to the Reserve.

In the final HMS FMP it was noted that discussions held at the HMS AP meetings were not conclusive regarding the purse seine category allocation with respect to a situation of increased quotas from ICCAT. NMFS indicated that although the final HMS FMP had adopted the cap of 250 mt, further discussions with the HMS AP were needed to clarify the issue, especially since ICCAT had recommended a small increase in landings quota available to the U.S. in 1999. NMFS therefore stated in the HMS FMP that, after later consultation with the HMS AP, the purse seine cap could be adjusted by regulatory amendment under the framework provisions of the FMP. Pending that consultation with the HMS AP, NMFS proceeded to issue final BFT quota specifications for the 1999 fishing year.

Purse Seine Quota Specification

The ICCAT-recommended 1999 U.S. BFT landings quota is 1,387 mt, 18.6 percent of which is 258 mt, or 8 mt over the cap. NMFS indicated in the HMS FMP that the additional 8 mt would be held in reserve until after the AP had discussed the issue. Thus, under the regulatory cap, the Purse Seine category was initially allocated a 250 mt BFT landings quota for 1999, and the additional 8 mt were allocated to the Reserve category. Given the regulatory provisions for interannual adjustments, an additional 2 mt Purse Seine category quota that was not harvested in 1998 was added to the category's quota for 1999, for an adjusted Purse Seine category quota of 252 mt (64 FR 29806, June 3, 1999).

The AP met in Silver Spring, MD on June 10 and June 11, 1999, and discussed, among other things, the Purse Seine category cap. After extensive discussion, a majority favored removal of the cap. The AP provided information and advice to NMFS on the issue of fairness in the context of allocation to the Purse Seine category. Among the points used by the AP in support of removing the cap were the following: (1) a cap on one category and not on others is not fair and equitable, (2) a cap on the only category in the fishery which is managed under limited access does not promote the objectives of limited access management systems, and (3) retention of a cap on the Purse Seine category's BFT quota allocation may cause purse seine vessels to increase fishing effort on yellowfin tuna, which is an important commercial and recreational species for vessels in other Atlantic tunas permit categories, and for which there is an ICCAT recommendation in place to limit effective fishing effort.

After considering the input from the HMS AP, NMFS transferred 8 mt of BFT quota from the Reserve to the Purse Seine category (64 FR 36818, July 8, 1999) for the 1999 fishing year. As a result of this transfer, the adjusted Purse Seine category quota for 1999 is 260 mt.

Proposed Management Measure

In addition to its commitment to considering the AP's advice on this issue, as stated in the FMP and its implementing regulations, NMFS is concerned that Purse Seine category vessels may increase fishing effort on yellowfin tuna if the cap is retained. As mentioned earlier, yellowfin tuna is an important commercial and recreational species for vessels in other Atlantic tunas permit categories, and for which there is an ICCAT recommendation in place to limit effective fishing effort. As yellowfin tuna is considered a fully-exploited species, and the latest ICCAT Standing Committee on Research and Statistics report indicates that the current fishing mortality may be higher than that which would support maximum sustainable yield on a continuing basis, any additional fishing effort directed at yellowfin tuna could have adverse impacts on optimum yield in that fishery.

Removing the cap on the Purse Seine category is also consistent with the Magnuson-Stevens Act in that it contributes to the goal of allocating restrictions needed to prevent overfishing and recovery benefits from rebuilding fairly and equitably among sectors of the fishery, in that no one quota category would be restricted in its allocation while others would not. It is also consistent with the objectives of the FMP to preserve traditional fisheries and historical fishing patterns, in the fact that the Purse Seine fishery is a historical component of the overall U.S. Atlantic BFT fishery, participating in the fishery since the 1950's.

NMFS proposes this action to remove the purse seine allocation cap under the framework provisions described in the FMP. NMFS believes that the allocation of a percentage of the BFT landings quota, without a cap, is consistent with management measures in the FMP, and is an appropriate regulatory action in order to meet the goals and objectives of the FMP.

After reviewing public comments and additional information or data that may be available, NMFS will, if appropriate, make final determinations regarding the consistency of this proposed measure with the objectives of the FMP, the national standards of the Magnuson-Stevens Act, and other applicable law.

Technical Correction

When NMFS first established a limited access and individual vessel allocation system for the Purse Seine category, the vessel allocations were made transferable. Initially, the allocations were transferable in whole, but in subsequent rulemaking, the allocations were made transferable in whole or in part (61 FR 30187, June 14, 1996). The allowance for partial transfers was made to reduce bycatch mortality during the last few sets as vessels approached the limits of individual allocations. In the final consolidated rule to implement the HMS FMP, NMFS inadvertently reissued the older procedures for notification of transfer of the entire allocation from one permitted purse seine vessel to another, omitting the newer procedures for notification of partial transfers. The proposed rule would reinstate updated notification procedures for transfers.

Public Hearings and Special Accommodations

The public hearing sites are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Murray-Brown (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the hearing.

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a NMFS representative will explain the ground rules (e.g., alcohol is prohibited from the hearing room, attendees will be called to give their comments in the order in which they registered to speak, each attendee will have an equal amount of time to speak, attendees should not interrupt one another). The NMFS representative will attempt to structure the hearing so that all attending members of the public are able to comment, if they so choose, regardless of the controversiality of the subject(s). Attendees are expected to respect the ground rules, and if they do not, they will be asked to leave the hearing.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act, 16 U.S.C. 971 *et seq*. Preliminarily, the AA has determined that the regulations contained in this proposed rule are consistent with the FMP, the Magnuson-Stevens Act, and the 1998 ICCAT recommendation (ICCAT Rebuilding Program).

NMFS prepared a draft EA for this proposed rule with a preliminary finding of no significant impact on the human environment. In addition, a draft RIR was prepared with a preliminary finding of no significant impact. The reasons this action is being considered and the objectives of, and legal basis for, the proposed rule are as stated in the preamble here. There are no relevant Federal rules which duplicate, overlap, or conflict with the proposed rule. NMFS considered alternatives to the preferred alternative, including: no action (maintaining cap of 250 mt for the Purse Seine category), removal of the cap on the Purse Seine category, and reduction of the Purse Seine category percentage share allocation by 50 percent.

Notwithstanding any other provision of 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 (OMB) control number.

This proposed rule restates an information collection requirement relating to purse seine landings quota allocations. Written requests for purse seine allocations for Atlantic tunas and notification of transfers as required under § 635.27 are not currently approved by OMB. However, requests for purse seine allocations and transfer notifications are not subject to the PRA because, under current regulations, a maximum of five vessels could be subject to reporting under this requirement. Since it is impossible for 10 or more respondents to be involved, the information collection is exempt from the PRA clearance requirement.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would remove the 250 metric ton (mt) maximum allocation restriction (cap) on the Purse Seine fishery for Atlantic bluefin tuna (BFT), establishing the Purse Seine category BFT quota allocation at 18.6 percent of the overall U.S. BFT landings quota (1,347 metric tons for 1999). Because the overall U.S. BFT landings quota would remain the same, and the amount of BFT quota that would be allocated to the Purse Seine category through this proposed action (8 metric tons) was previously allocated to the Reserve, and not to any particular fishing category, additional revenues would accrue to small businesses associated with the purse seine fishery without directly affecting other fishing categories.

Because of this certification, an Initial Regulatory Flexibility Analysis was not prepared.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS initiated formal consultation on the HMS and billfish fisheries on May 12, 1998. The consultation request concerned the possible effects of management measures in the HMS FMP and Billfish Amendment. On April 23, 1999, NMFS issued a Biological Opinion (BO) under section 7 of the Endangered Species Act. The BO applies to the Atlantic pelagic fisheries for tunas, sharks, swordfish, and billfish.

The BFT purse seine fishery is currently listed as a category III fisheries under the Marine Mammal Protection Act. This fishery was observed in 1996, with near 100–percent coverage. Six pilot whales, one humpback whale, and one minke whale were observed as encircled by the nets during the fishery. All were released alive or dove under the nets and escaped before being pursed. Purse seines are set when a school of fish is located, after which the vessel pays out the net in a circle around the school. This affords considerable control over what is encircled by the net and the net does not remain in the water for any considerable amount of time. Therefore, this gear-type is not likely to result in mortality or serious injury of marine mammals or sea turtles.

The BO states that after reviewing the current status of the subject species, the environmental baseline for the action area, the effects of the continued operation of the Atlantic HMS fisheries and associated management actions, and the cumulative effects, it is NMFS' BO that the continued operation of the purse seine fishery may adversely affect, but is not likely to jeopardize the continued existence of any endangered or threatened species under NMFS jurisdiction. A similar conclusion was reached for the other fisheries which are allocated BFT quota - the Atlantic pelagic longline fishery and the harpoon, hand gear, and rod and reel fisheries for Atlantic HMS.

This proposed rule would remove the 250 mt cap on the annual Purse Seine category BFT quota allocation. Because the only fisheries which may be affected by this proposed rule are Category III fisheries, the proposed rule is not expected to increase endangered species or marine mammal interaction rates.

The area in which this proposed action is planned has been identified as essential fish habitat (EFH) for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council and the Highly Migratory Species Division of NMFS. It is not anticipated that this action will have any adverse impacts to EFH and therefore no consultation is required.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: August 12, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

2. In § 635.27, introductory paragraph (a) and paragraphs (a)(4)(i) and (iii) are revised to read as follows:

§ 635.27 Quotas.

(a) *BFT*. Consistent with ICCAT recommendations, NMFS will subtract any allowance for dead discards from the fishing year's total U.S. quota for BFT that can be caught and allocate the remainder to be retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction. The total landing quota will be divided among the General, Angling, Harpoon, Purse Seine, Longline, and Trap categories. Consistent with these allocations and other applicable restrictions of this part, BFT may be taken by persons aboard vessels issued Atlantic Tunas permits or HMS Charter/Headboat permits. Allocations of the BFT landings quota will be made according to the following percentages: General - 47.1 percent; Angling - 19.7 percent, which includes

the school BFT held in reserve as described under paragraph (a)(7)(ii) of this section; Harpoon - 3.9 percent; Purse Seine - 18.6 percent; Longline - 8.1 percent; and Trap - 0.1 percent. The remaining 2.5 percent of the BFT landings quota will be held in reserve for inseason adjustments, to compensate for overharvest in any category other than the Angling category school BFT subquota or for fishery independent research. NMFS may apportion a landings quota allocated to any category to specified fishing periods or to geographic areas. BFT landings quotas are specified in whole weight.

* * * * *

(4) *Purse Seine category quota*. (i) The total amount of large medium and giant BFT that may be caught, retained, possessed, or landed by vessels for which Purse Seine category Atlantic Tunas permits have been issued is 18.6 percent of the overall U.S. BFT landings quota. The Purse Seine fishery under this quota commences on August 15 each year.

* * * * *

(iii) On or about May 1, NMFS will make equal allocations of the available size classes of BFT among purse seine vessel permit holders so requesting. Such allocations are freely transferable, in whole or in part, among vessels that have Purse Seine category Atlantic Tunas permits. Any purse seine vessel permit holder intending to land bluefin tuna under an allocation transferred from another purse seine vessel permit holder must provide written notice of such intent to NMFS, at an address designated by NMFS, 3 days before landing any such bluefin tuna. Such notification must include the transfer date, amount (mt) transferred, and the permit numbers of vessels involved in the transfer. Trip or seasonal catch limits otherwise applicable under § 635.23(e) are not altered by transfers of bluefin tuna allocation. Purse seine vessel permit holders who, through landing and/or transfer, have no remaining bluefin tuna allocation may not use their permitted vessels in any fishery in which Atlantic bluefin tuna might be caught, regardless of whether retained.

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[FR Doc. 99–21344 Filed 8–12–99; 3:18 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 159
Wednesday, August 18, 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

Blue Mountains Natural Resources Institute, Board of Directors, Pacific Northwest Research Station, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Blue Mountains Natural Resources Institute (BMNRI) Board of Directors will meet on September 15, 1999, at Island City Hall, 10605 Island Avenue, La Grande, Oregon. The meeting will begin at 9:00 a.m. and continue until 3:30 p.m. Agenda items to be covered will include: (1) Discussion and decision on new Institute direction, and (2) public comments. All BMNRI Board Meetings are open to the public. Interested citizens are encouraged to attend. Members of the public who wish to make a brief oral presentation at the meeting should contact Lynn Starr, BMNRI, 1401 Gekeler Lane, La Grande, Oregon 97850, 541–962–6548, no later than 5:00 p.m. September 10, 1999, to have time reserved on the agenda.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Lynn Starr, Acting Manager, BMNRI, 1401 Gekeler Lane, La Grande, Oregon 97850, 541–962–6548.

Dated: August 9, 1999.

Lynn Starr,

Acting Manager.

[FR Doc. 99–21430 Filed 8–17–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Annual Survey of Manufactures.

Form Number(s): MA–1000(L), MA–1000(S).

Agency Approval Number: 0607–0449.

Type of Request: Revision of a currently approved collection.

Burden: 190,080 hours.

Number of Respondents: 55,000.

Avg Hours Per Response: Three and a half hours.

Needs and Uses: The Census Bureau has conducted the Annual Survey of Manufactures (ASM) since 1949 to provide key measures of manufacturing activity during intercensal periods. In census years ending in ''2'' and ''7'', we mail and collect the ASM as part of the census of manufactures. This survey is an integral part of the Government's statistical program. The ASM furnishes up-to-date estimates of employment and payrolls, hours and wages of production workers, value added by manufacture, cost of materials, value of shipments by product class, inventories, and expenditures for both plant and equipment and structures. The survey provides data for most of these items for each of the 474 industries as defined in the North American Industry Classification System (NAICS). It also provides geographic data by state at a more aggregated industry level.

The survey also provides valuable information to private companies, research organizations, and trade associations. Industry makes extensive use of the annual figures on product class shipments at the U.S. level in its market analysis, product planning, and investment planning. The ASM data are used to benchmark and reconcile monthly and quarterly data on manufacturing production and inventories.

The content of the questionnaires for the 1999–2001 ASM is identical to the 1998 ASM report forms with the exception of our plans to use the ASM to collect some very basic base-line information about manufacturers use of e-commerce and e-business. We are still in the process of determining whether to include the questions on the bottom of the current ASM form or to put them on a separate one-page flier. We will make that determination based on how best to reach the appropriate respondent and our own internal processing efficiencies. These questions will be asked only during the 1999 ASM collection.

We are also still working on the exact wording and structure of the questions. The basic content will not change and is included with this submission. We will continue to refine the wording of these questions over the next few weeks. We estimate that these questions can be completed without referring to company records and can be completed in five minutes or less.

Affected Public: Businesses or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 182, 224, and 225.

OMB Desk Officer: Linda Hutton, (202) 395–7858.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Linda Hutton, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 13, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–21462 Filed 8–17–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Survey of Program Dynamics—2000

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 18, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Michael McMahon, U.S. Census Bureau, FOB 3, Room 3375, Washington, DC 20233–0001, (301) 457–3819.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Survey of Program Dynamics (SPD) is a household-based survey designed as a data collection vehicle that can provide the basis for an overall evaluation of how well welfare reforms are achieving the aims of the Administration and the Congress and meeting the needs of the American people.

The SPD is a large, longitudinal, nationally-representative study that measures participation in welfare programs, including both programs that are being reformed and those that remain unchanged. The SPD measures other important social, economic, demographic, and family changes that will allow analysis of the effectiveness of the welfare reforms.

With the August 22, 1996, signing of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub L. 104–193), the Census Bureau is required to conduct the SPD, using as the sample the households from the 1992 and 1993 Survey of Income and Program Participation (SIPP). The information obtained will be used to evaluate the impact of this law on a sample of previous welfare recipients and future recipients of assistance under new state programs funded under this law as well as assess the impact on other low-income families. Issues of particular attention include welfare dependency, the length of welfare spells, the causes of repeat welfare spells, educational enrollment and work training, health care utilization, out-of-wedlock births, and the status of children.

The 2000 SPD is the third year of data collection using the same core questions. A one-time topical module will collect the residential histories of children. The previous wave, conducted in the spring of 1999, collected core data plus extended measures of child well-being. The 1998 SPD included an adolescent self-administered questionnaire. A bridge survey using the Current Population Survey March questionnaire was conducted in the spring of 1997 to provide a link to baseline data for the period prior to the implementation of the welfare reform activities.

II. Method of Collection

The SPD is a longitudinal study of welfare-related activities with the sample respondents originally selected from 1992 and 1993 SIPP panels. Interviews were conducted in 1997, 1998, and 1999. Subsequent data collections are scheduled for 2000 to 2002. Data are collected using a computer-assisted interviewing (CAI) instrument from a nationally representative sample of the noninstitutionalized resident population living in the U.S. for all persons, families, and households. Persons who are at least 15 years of age at the time of the interview will be eligible to be in the survey.

A small sample of households is scheduled for reinterview. The reinterview process assures that all households were properly contacted and that the data are valid.

III. Data

OMB Number: 0607–0838.

Form Number: CAI Automated Instrument.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Household Respondents: 42,000.

Estimated Number of Reinterview Respondents: 1,500.

Estimated Time Per Response: 36 minutes per respondent, 10 minutes per reinterview.

Estimated Total Annual Burden Hours: 25,150.

Estimated Total Annual Cost: No costs to the respondents other than their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, section 182, and Pub. L. 104–193, Section 414 (signed 8/22/96), Title 42, United States Code, Section 614.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice are summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 13, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–21463 Filed 8–17–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Annual Capital Expenditures Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 18, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Charles Funk, Census Bureau, Room 1285–3, Washington, DC 20233, (301) 457–3324.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans the continuing information collection for the 1999 through 2001 Annual Capital Expenditures Survey (ACES). The basic annual survey collects data on fixed assets and depreciation, sales and

receipts, and capital expenditures for new and used structures and equipment. The ACES is the sole source of detailed comprehensive statistics on actual business spending by domestic, private, nonfarm businesses operating in the United States. Employer and nonemployer businesses are included in the survey.

The Bureau of Economic Analysis (BEA), the primary Federal user of our annual program statistics, uses the information in refining and evaluating annual estimates of investment in structures and equipment in the national income and product accounts, compiling annual input-output tables, and computing gross domestic product (GDP) by industry. The Federal Reserve Board (FRB) uses the data to improve estimates of investment indicators for monetary policy. The Bureau of Labor Statistics (BLS) uses the data to improve estimates of capital stocks for productivity analysis.

Industry analysts use these data for market analysis, economic forecasting, identifying business opportunities, product development, and business planning.

Changes from the previous ACES are the elimination of detailed capital expenditures by type of structure and type of equipment, the incorporation of the North American Industry Classification System (NAICS) into the ACES, and a supplemental questionnaire requesting information on electronic business (E-business) processes used by businesses.

Detailed capital expenditures by type of structure and type of equipment data were collected last year in the 1998 ACES. These data, collected together once every five years, are not scheduled to be requested again until the 2003 ACES.

Previous year's estimates of capital expenditures were published on the Standard Industrial Classification (SIC) basis. Beginning with the 1999 ACES, we will publish data on the NAICS. Due to the major restructuring of industries that occurred under the NAICS, we will collect and publish data for approximately 132 industries. This is an increase from 97 industries under the SIC system.

We are planning a supplemental questionnaire requesting information on E-business processes used by businesses. Although questions are not yet finalized, we anticipate collecting check-box information on whether businesses use or plan to use E-business processes for activities such as procurement, production control, automated stock replenishment, marketing, electronic selling, payment processing, customer management and support, automated employee services, training, information sharing, video conferencing, and recruiting.

II. Method of Collection

The Census Bureau will use mail out/mail back survey forms to collect data. Respondent companies are permitted to respond via facsimile machine to our toll-free number. Companies will be asked to respond to the survey within 30 days of the initial mailing. Letters and/or telephone calls encouraging participation will be directed to respondents that have not responded by the designated time.

III. Data

OMB Number: 0607–0782.

Form Number: ACE–1 (Sent to employer companies reporting payroll to the Internal Revenue Service), ACE–2 (Sent to nonemployer businesses), and ACE–B (Sent to employer and nonemployer businesses for E-business information).

Type of Review: Regular Review.

Affected Public: Businesses or other for-profit organizations, non-profit institutions, small businesses or organizations, and self-employed individuals.

Estimated Number of Respondents: There are 57,000 (42,000 employer companies, and 15,000 nonemployer businesses) under NAICS for the basic annual survey. The increase of 11,000 respondents is due to the expansion of industries under the NAICS. All 57,000 businesses will receive the E-business supplement.

Estimated Time Per Response: The average for all respondents is 1.234 hours. For companies completing form ACE–1, the range is 2 to 16 hours, averaging 2.857 hours. For companies completing form ACE–2, the range is less than 1 hour to 2 hours, averaging 1 hour. For companies completing the ACE–B, the range is estimated at less than five minutes to ten minutes, averaging six minutes (.10 hours).

Estimated Total Annual Burden Hours: The total annual burden is 140,700 hours.

Estimated Total Annual Cost: The total cost to all respondents is estimated to be $1,968,393 based on the hourly salary of $13.99 for entry level accountants and auditors. (Occupational Employment Statistics—Bureau of Labor Statistics 1997 National Occupational Employment and Wage Estimates for Professional, Paraprofessional, and Technical Occupations). http://stats.bls.gov/oes/national/oes__prof.htm

Respondents' Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Sections 182, 224, and 225.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 13, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–21464 Filed 8–17–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 40–99]

Foreign-Trade Zone 8—Toledo, Ohio Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone 8, requesting authority to expand its zone in the Toledo, Ohio area, within the Toledo/Sandusky Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 5, 1999.

FTZ 8 was approved on October 11, 1960 (Board Order 51, 25 FR 9909, 10/15/60) and expanded on January 22, 1973 (Board Order 92, 38 FR 3015, 1/31/73); January 11, 1985 (Board Order 277, 50 FR 2702,1/18/85); and, August 19, 1991 (Board Order 532, 56 FR 42026, 8/26/91). The general-purpose zone currently consists of 2 sites (487 acres) in the Toledo area: *Site 1* (150 acres)—within the Port of Toledo complex at the Overseas Cargo Center, Toledo; and, *Site 2* (337 acres)—at the Toledo Express

Airport, in Swanton, Ohio, some 5 miles west of Toledo.

The applicant is now requesting authority to expand the general-purpose zone to include an additional site: *Proposed Site 3* (10 acres)—at the First Choice Packaging warehouse facility (owned by Eveready Battery Company, Inc.), 1501 West State Street, Fremont. The facility will be operated by First Choice as a public warehouse facility with packaging services.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

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

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 18, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (November 1, 1999).

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

Office of the Toledo-Lucas County, Port Authority, One Maritime Plaza, 7th Floor, Toledo, OH 43604–1866

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

Dated: August 10, 1999.

Diane Finver,

Acting Executive Secretary.

[FR Doc. 99–21459 Filed 8–17–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–807]

Certain Steel Concrete Reinforcing Bars from Turkey; Rescission of Antidumping Duty Administrative Review

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

SUMMARY: In response to a timely withdrawal of a request for a review by Colakoglu Metalurji A.S. and because the Department of Commerce has determined that there were no entries of the subject merchandise made by Icdas Celik Enerji Tersane ve Ulasim Sanayi, A.S. during the period of review, we are rescinding the 1998—1999 administrative review of certain steel concrete reinforcing bars from Turkey.

EFFECTIVE DATE: August 18, 1999.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Irina Itkin, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1776 or (202) 482–0656, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (1998).

Background

On April 30, 1999, Colakoglu Metalurji A.S. (Colakoglu) requested that the Department conduct an administrative review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey for the period April 1, 1998, through March 31, 1999. Also on April 30, 1999, ICDAS Celik Enerji Tersane ve Ulasim Sanayi A.S. (ICDAS) requested that the Department conduct an administrative review for the period August 1, 1998, through March 31, 1999. No other interested party requested that the Department conduct an administrative review.

On May 28, 1999, the Department published in the **Federal Register** a notice of initiation of administrative review with respect to Colakoglu and ICDAS. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part;* 64 FR 28973 (May 28, 1999).

On June 18, 1999, ICDAS informed the Department that it made no sales of subject merchandise to the United States during the period of review (POR). On August 9, 1999, Colakoglu withdrew its request for an administrative review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. Given that the review has not progressed substantially and there would be no undue burden on the parties or the Department, the Department has determined that it is reasonable to accept Colakoglu's withdrawal of request for review.

Pursuant to 19 CFR 351.213(d)(3), the Department will rescind an administrative review, in whole or in part, if it determines that there have been no shipments of subject merchandise during the POR. The Department has determined that no subject merchandise produced or exported by ICDAS entered into the United States for consumption during the POR and, thus, there are no entries subject to the review. Because ICDAS had no U.S. entries for consumption of covered merchandise during the POR, there is no basis for continuing this administrative review.

Therefore, the Department is rescinding this review. This rescission of the administrative review and notice are in accordance with section 751 of the Act and 19 CFR 351.213(d).

Dated: August 11, 1999.

Susan Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–21461 Filed 8–17–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Certain Welded Carbon Steel Pipes and Tubes from Thailand

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

EFFECTIVE DATE: August 18, 1999.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the 1997–1998 antidumping duty administrative review for the antidumping order on certain welded carbon steel pipes and tubes from Thailand, pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

FOR FURTHER INFORMATION CONTACT: John Totaro, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482–1374.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit. *See* Memorandum from Richard O. Weible to Robert S. LaRussa (August 11, 1999).

Because it is not practicable to complete this review within the time limits mandated by the Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the final results until September 10, 1999.

Dated: August 11, 1999.

Richard O. Weible,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–21460 Filed 8–17–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080599C]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches

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

ACTION: Notice of proposed modification to a letter of authorization; request for comments.

SUMMARY: On August 3, 1999, the 30th Space Wing, U.S. Air Force, requested a modification to the Letter of Authorization (LOA) issued to it on April 2, 1999. The letter requests that a new rocket, the Minotaur, be added to the list of rockets authorized to take harbor seals and California sea lions incidental to rocket launches from Vandenberg Air Force Base (Vandenberg) in California. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to amend the LOA issued to the 30th Space Wing to authorize this new rocket type. The U.S. Air Force has not requested, and NMFS does not propose, to increase the number of annual launches from Vandenberg that are authorized to take marine mammals under the LOA.

DATES: Comments and information must be received no later than September 2, 1999.

ADDRESSES: Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the request for modification, the LOA and the supporting documentation are available for review during regular business hours in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, and the Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, or Christina Fahy, NMFS, (562) 980–4023.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of seals and sea lions incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg were published on March 1, 1999 (64 FR 9925), and remain in effect until December 31, 2003.

In accordance with the MMPA, as amended, and implementing regulations, a 1-year LOA to take small numbers of seals and sea lions was issued on April 2, 1999, to the 30th Space Wing (64 FR 17145, April 8, 1999). On August 3, 1999, the 30th Space Wing requested NMFS to amend the LOA to include a new rocket, the Minotaur, to the list of rockets authorized to take harbor seals and California sea lions incidental to activities at Vandenberg.

Discussion and Analysis

Spaceport Systems International (SSI) wants to begin launching the OSP Space Launch Vehicle, the Minotaur rocket, from the California Commercial Spaceport (CCS) on Vandenberg. The Minotaur contains 2 segments of Minuteman II solid-fuel motors and 2 Orion upperstage motors. According to SSI, the sound emitted during the launch should be no more than what a Minuteman II would emit.

Because this is a new launch vehicle, it was not included in the LOA issued to Vandenberg on April 2, 1999. Therefore, in order for NMFS to authorize the takings by harassment incidental to this new rocket, NMFS must be assured that the takings will not exceed the level of incidental harassment considered when it made its negligible impact finding on March 1, 1999 (64 FR 9925). First, Vandenberg is authorized to harass pinnipeds incidental to 10 missile launches from North Vandenberg and 20 rocket launches annually from South Vandenberg. This authorized level of launches for incidental takes of marine mammals will not be modified by NMFS to add this additional rocket to the LOA. Second, as mentioned previously, the Minotaur rocket consists of the first two segments of Minuteman II solid-fuel motors and two Orion upperstage motors. For incidental takes of pinnipeds on the Vandenberg coastline, only the first one or two motors are important for assessing impacts along the California coast. The Minotaur, like the Minuteman II missiles launched from North Vandenberg, use Thiokol first-stage rocket motor with 202,600 pounds (lbs) of thrust and a second-stage motor made by Aerojet with 60,000 lbs of thrust. As a result, launch noises would be similar to those expected at North Vandenberg during a Minuteman II launch.

Third, Vandenberg has requested a small take of harbor seals (and possibly a few California sea lions) by incidental harassment for this rocket launched

from the CCS, an area close to Space Launch Complex (SLC)–6. While the CCS was identified in the 30th Space Wing's July 11, 1997, application for a small take authorization and in the U.S. Air Force's Programmatic Operations Environmental Assessment for small takes of marine mammals, because the CCS was under construction at the time, no rocket types were identified for launching at that time of the application to NMFS. As a result, an incidental take assessment could not be made for this location by either NMFS or the 30th Space Wing during the rulemaking. However, impacts to pinnipeds from launches at nearby SLC–6 by Lockheed Martin's family of Athena rockets was analyzed on July 21, 1998 (63 FR 39055) and previously (see 60 FR 24840, May 10, 1995).

Finally, because the Minotaur rocket's first stage solid-fuel booster is half the size of the first-stage booster of the Athena 1 launched from SLC–6, it can be expected to impact the nearby harbor seal haulouts to a lesser, but unknown, level than the Athena. NMFS estimated that the Athena rocket would, under typical conditions, result in a sound pressure level (SPL) of 127 dB (107 dBA) re 20 μPa at the harbor seal haulouts at Rocky Point, which are about 1.5 mi (2.4 km) to the south and southwest of SLC–6. This level is sufficient to cause harbor seals to leave the beach at Point Arguello, Rocky Point, and Boathouse Flats. However, because the CCS is only 1 mile (1.6 km) from the closest haulout at Rocky Point whereas SLC–6 is approximately 2.5 mi (4.0 km) away from the nearest haulout, NMFS expects that SPLs from the launch of the Minotaur will be similar to levels expected from the Athena rocket at the Rocky Point haulout.

Because the addition of the Minotaur rocket to the launch list at Vandenberg will not result in an increase in the number of launches authorized to take pinnipeds under the LOA, NMFS does not expect additional cumulative impacts to occur and therefore, NMFS has preliminarily determined that the takes will remain small and not have more than a negligible impact on seals and sea lions at Vandenberg.

Monitoring and Reporting

Under an amended LOA, if issued, the 30th Space Wing would be required to monitor the impacts of the Minotaur launches at CCS. Because this is a new launch vehicle, the 30th Space Wing would be required under the LOA to measure the noise profiles from the rocket at the time of its first launch and to monitor impacts on marine mammals at nearby active, pinniped haulouts.

Information Solicited

NMFS requests interested persons to submit comments, and information, concerning this request (see **ADDRESSES**). Issuance of a modified LOA will be based on a finding that the total takings will have no more than a negligible impact on the seal and sea lion populations off the Vandenberg coast and on the Northern Channel Islands.

Dated: August 12, 1999.

Art Jeffers,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–21469 Filed 8–17–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

Title, Associated Form, and OMB Number: Facilities Available for the Construction or Repair of Ships; SF Form 17; OMB Number 0703–0006.

Type of Request: Reinstatement.

Number of Respondents: 151.

Responses Per Respondent: 1.

Annual Response: 151.

Average Burden Per Response: 4.5 hours.

Annual Burden Hours: 680.

Needs and Uses: This collection of information provides the Naval Sea Systems Command (NAVSEASYSCOM) and the maritime Administration with a list of facilities available for construction or repair of ships, and information utilized in a data base for assessing the production capacity of the individual shipyards. Respondents are businesses involved in shipbuilding and/or repair.

Affected Public: Business or Other For-Profit.

Frequency: Annually.

Respondent's Obligation: Voluntary.

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

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

Dated: August 12, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–21349 Filed 8–17–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–26]

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 99–26 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: August 12, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

5 AUG 1999
In reply refer to:
I-99/008957

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. 99-26, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Spain for defense articles and services estimated to cost $25 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
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. 99-26

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) (C) **Prospective Purchaser**: Spain

(ii) (C) **Total Estimated Value**:

Major Defense Equipment*	$ 22 million
Other	$ 3 million
TOTAL	$ 25 million

(iii) (C) **Description of Articles or Services Offered**: Twelve JAVELIN anti-tank missile systems (consisting of 12 JAVELIN command launch units, 226 JAVELIN missile rounds, and three lot acceptance missiles), 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) (C) **Military Department**: Army (VKU)

(v) (C) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid**: none

(vi) (C) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold**: See Annex attached

(vii) (C) **Date Report Delivered to Congress**: 5 AUG 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Spain - JAVELIN Anti-tank Missile Systems

The Government of Spain (GOS) has requested a possible sale of 12 JAVELIN anti-tank missile systems (consisting of 12 JAVELIN command launch units, 226 JAVELIN missile rounds, and three lot acceptance missiles), 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 $25 million.

This proposed sale will contribute to the foreign policy and national security of the United States by improving the military capabilities of Spain and enhancing weapon system standardization and interoperability of this important NATO ally.

The GOS will use these JAVELIN anti-tank missile systems to enhance their anti-tank ground forces and to increase interoperability with U.S. forces. Spain 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 Spain for two weeks to assist in the delivery and deployment of the missiles. Two contractor representatives will be required for training courses during a two week period and two 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. 99-26

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 Spain 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. 99–21350 Filed 8–17–99; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–28]

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 99–28 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: August 12, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

5 AUG 1999
In reply refer to:
I-99/009393

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. 99-28, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services estimated to cost $42 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
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. 99-28

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser**: Japan

(ii) **Total Estimated Value**:

Major Defense Equipment*	$ 30 million
Other	$ 12 million
TOTAL	$ 42 million

(iii) **Description of Articles or Services Offered**: Sixteen SM-2 Block III STANDARD missiles, containers, canisters, spare and repair parts, supply support, and other related elements of logistics support.

(iv) **Military Department**: Navy (AOB)

(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**: 5 AUG 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Japan - SM-2 Block III STANDARD Missiles

The Government of Japan has requested a possible sale of 16 SM-2 Block III STANDARD missiles, containers, canisters, spare and repair parts, supply support, and other related elements of logistics support. The estimated cost is $42 million.

This case will contribute to the foreign policy and national security objectives of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the East Asia.

Japan will use these missiles to update older or less reliable missiles currently in the Japanese Self Defense Force fleet. Japan, which already has STANDARD missiles in its inventory, will have no difficulty absorbing these additional missiles.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractor will be Standard Missile Company, McLean, Virginia. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Japan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 99-28

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 possible sale of STANDARD SM-2 missiles will result in the transfer of sensitive technology and information as well as classified and unclassified defense equipment and technical data. The STANDARD missile guidance section, Target Detecting Device (TDD), warhead, rocket motor, steering control section, safety and arming unit, and auto-pilot battery unit are classified Secret. Certain operating frequencies and performance characteristics are classified Secret. STANDARD missile documentation to be provided will include:

a. Parametric documents (C)
b. Missile Handling Procedures (U)
c. General Performance Data (C)
d. Firing Guidance (C)
e. Dynamics Information (C)
f. Flight Analysis Procedures (C)

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 Japan 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.

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DEPARTMENT OF DEFENSE

Commander in Chief, U.S. Pacific Command Representative, Guam and the Commonwealth of the Northern Mariana Islands (USCINCPAC REP Guam/CNMI); Record of Decision for Military Training in the Marianas

Introduction

The Department of Defense (DOD) through Commander, U.S. Naval Forces Marianas (COMNAVMARIANAS), as the designated USCINCPAC REP GUAM/CNMI, pursuant to Section 102 (2) (C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C 4332 (2) (C), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 CFR Parts 1500–1508, hereby announces its decision to continue to use suitable DOD controlled lands in the Mariana Islands to support various specific military training activities to ensure the readiness of U.S. forces tasked with fulfilling regional readiness and operational contingency missions.

The Commander-in-Chief, U.S. Pacific Command (USCINCPAC) is responsible for an area comprising 105 million square miles (272 million square kilometers [km^2]). The force structure assigned to USCINCPAC is comprised of approximately 100,000 personnel in all of the military services. These military forces include active duty, national guard and reserve organizations stationed on Guam, multi-service forces assigned to the continental United States, Alaska, Hawaii, the Republic of Korea, Japan, and Okinawa. Forces permanently assigned to Guam, deployed forces in transit to the Western Pacific and Indian oceans, and forces tasked by USCINCPAC to participate in large-scale joint or combined exercises training in the Mariana Islands. The large exercises are designed for each military service to sustain its skills as part of a larger multi-service force. Primary training management responsibility is assigned to Commander, U.S. Naval Forces Marianas (COMNAVMARIANAS) as the USCINCPAC Representative. Commander, 36 Air Base Wing (36 ABW), headquartered at Andersen Air Force Base on Guam, is also responsible for training management and support, which includes the strategic and tactical movement of exercise personnel and equipment.

Record of Decision

This Record of Decision (ROD) addresses the continued use of suitable DoD-controlled lands in the Mariana Islands to support various training activities in a manner that maximizes the use of available training lands giving consideration to environment impacts. This decision ensures the military readiness of the multi-service forces by providing varying terrain for field training, amphibious landings, supporting airfields, amphibious craft and helicopter landing zones, parachute drop zones, live-fire small-arms weapons ranges, and underwater demolition sites. The lands used for specific training activities support day-to-day training requirements, as well as the more infrequent larger-scale exercises. The environmental impacts of activities have been fully evaluated in the Marianas Training Plan (MTP) Environmental Impact Statement (EIS).

The areas controlled by COMNAVMARIANAS include military bases on Guam (Waterfront Annex, Ordnance Annex, and two Communications Annexes), the Military Lease Area (MLA) on Tinian, and Farallon de Medinilla (FDM), where the leased island and a three-mile safety radius comprise Navy Training Range 7201. Commander, 36 ABW, manages training lands at Andersen Air Force Base including its Main Base, Northwest Field, and Andersen South. The EIS also evaluated a few smaller nonmilitary properties on Guam, Tinian, and Rota presently used for specific training functions or proposed for new activities with the express permission of the landowners.

The training lands available for training and applicable to this ROD include the entire island of FDM (206 acres [83 hectares] of leased land); 15,844 acres (6590 hectares) comprising the MLA on Tinian; 18,100 acres (7,341 hectares) on Navy bases on Guam, and 17,534 acres (7,100 hectares) of Air Force property on Guam.

Process

USCINCPAC REP GUAM/CNMI analyzed the potential impacts caused by multi-service military training activities in an Environmental Impact Statement (EIS) as required by NEPA. Military training and support activities were evaluated on three islands in CNMI—Farallon de Medinilla (FDM), Tinian and Rota—and the Territory of Guam.

The Notice of Intent to develop the EIS was published in the Pacific Daily News on November 18, 19 and 20, 1995, and the **Federal Register** on November 28, 1995. Public scoping meetings were conducted on Tinian, Rota, and Guam in December 1995. Two iterations of the Draft EIS (DEIS) were distributed to federal, state, and local government agencies, elected officials, community groups and business associations, and interested persons in January 1997 and June 1998. During the 45-day review period, oral and written comments were received from between 25 to 30 correspondents. After public notification was provided in the Pacific Daily News and Marianas Variety, USCINCPAC REP GUAM/CNMI conducted eight public hearings on Saipan, Tinian, Rota and Guam to receive additional comments during March 1997. The responses to all public comments were incorporated into the Final EIS (FEIS) which was distributed to the public on June 11, 1999 for a 30-day review period and written responses were provided to seven correspondents with comments regarding the preferred alternative and mitigation measures.

Alternatives Considered

Four training land use alternatives represent a spectrum of training possibilities: conducting no training; reducing existing training land uses; taking no (new) action; and increasing training activities and sites to encompass all of the training requirements that are identified in the U.S Pacific Command's ''Marianas Training Plan'' (MTP). The result of the evaluation is a fifth alternative, the Preferred Training Land Use Alternative for the Mariana Islands, which retains ongoing training activities and sites, and adds a few of the new training requirements in the MTP to maximize training land value or to eliminate training deficiencies. The alternatives were based on the need to maintain a high level of operational readiness and joint service operation capabilities among units stationed and operating in the Western Pacific and Indian Ocean.

No Training Land Use Alternative

Land areas presently in use would no longer be used for training. This alternative could be selected for a portion of a training area if it were necessary to protect biological or cultural resources or to ensure public safety by totally restricting access. The No Training Land Use Alternative is the environmentally preferred alternative but is not the preferred alternative since it fails to meet the purpose and need for the proposed action.

Reduced Training Land Use Alternative

Land areas presently in use would be used by fewer personnel or for less intensive training activities. Selection of this alternative was evaluated against ongoing training activities, which comprise about 90 percent of the evaluated training land uses. The EIS

did not determine that there were any environmental impacts of ongoing activities that require reducing training on FDM, the MLA and Guam's military bases as the preferred alternative.

No New Training Land Use Alternative

The ''No Action Alternative'' for this EIS can also be defined as a ''no new action,'' ''ongoing training'' or ''continuing action'' alternative. Training activities within existing sites, existing mitigation measures and training constraints would continue to be performed unchanged.

Maximum Training Land Use Alternative

This alternative would include all of the training activities and training sites that were identified in the MTP, as well as expand or introduce new activities and sites. This alternative proposed expanding range training on FDM by incorporating ground artillery, mortar, and anti-tank rocket firing. On Tinian, this alternative proposed additional landing beaches in the MLA and the development of live-fire weapons ranges and training structures. On Guam, this alternative proposed additional landing beaches and underwater demolition sites at Waterfront Annex, live-fire weapons training ranges modifications at Waterfront Annex, and new weapons range development at Ordnance Annex. Andersen Air Force Base training activities would remain unchanged, but a new, permanent location would be selected for ongoing rapid runway repair training.

Preferred Training Land Use Alternative

The selected alternative is the result of analyzing potential environmental impacts. This alternative encompasses a mitigated/constrained set of ongoing training activities and the adoption of a few, but not all, of the new training initiatives to offset some existing training area deficiencies. FDM (Navy Range 7201) will continue to be used for naval and aerial bombardment. Training frequency and amounts of munitions to be expended on an annual basis have been determined. Impact areas have been modified to protect migratory seabird colonies, and Micronesian megapode habitat enhancement is underway on Sarigan Island as compensatory mitigation.

The MLA on Tinian will continue to be a major field maneuver area, with two beaches suitable for landings by landing craft air-cushioned (LCAC) and additional beaches suitable for small inflatable raiding craft. North Field runways will continue to be used for airborne and airmobile exercises. The shared use of Tinian's municipal airport and harbor continue for exercise support activities planned in concert with civilian and commercial requirements. Live-fire training will be limited to Training in the Urban Environment (TRUE) scenarios using a World War II structure. Logistic activities will continue to be conducted by Naval Special Warfare (NSW) units on Rota to support its special boat team training activities that are conducted between Guam and FDM.

Full use of Navy and Air Force bases on Guam will continue. The existing live-fire ranges on Orote Peninsula will be modified as proposed in the EIS to provide a fire-and-maneuver capability and stress course. A sniper range and jungle trail range will be constructed in the Ordnance Annex. Additional sites for underwater demolition training, established offshore of Dadi Beach and at the Agat Drop Zone, will be used to ease the frequency of underwater demolition training presently conducted in and near the mouth of Apra Harbor.

Training Constraints

Limitations to training activities to avoid generating significant impacts have been established by COMNAVMARIANAS and Commander, 36 ABW within certain portions of training areas on FDM, Tinian, and Guam. These constraints will continue to be used as the primary means to protect endangered and threatened species and areas of cultural significance from impacts caused by military personnel and equipment being introduced into training areas by landing craft and amphibious vehicles, aircraft, and vehicles for subsequent maneuver, range training, and bivouacs. Constraints are also established to ensure the safety of personnel in or near active training areas. The constraints—No Wildlife Disturbance (NWD), No Cultural Resource Disturbance (NCRD), and No Training (NT)—will be published in training orders, directives, and exercise plans as maps and overlays and distributed to the units responsible for day-to-day training and larger exercises. The restrictions on military activities can be summarized as follows:

Within areas designated as NWD, to protect vegetation and nesting sites, forces are prohibited from conducting cross-country, off-road vehicle travel. During the nesting season of the threatened Tinian monarch (*Monarchus takasukasae*), field maneuvers cannot be conducted in tangantangan habitat areas. To reduce the potential for field fires and loss of vegetation habitat, the use of pyrotechnics or demolitions (except for emergency signaling) is not authorized. The use of live and blank ammunition is not allowed so that unexpected, disturbing noises are curtailed. Potential loss of habitat is also controlled by allowing no mechanized vegetation clearing and establishing the maximum size of brush suitable as camouflage material. Flight altitude restrictions have been established as necessary to protect endangered species habitat. No flights below 1,000-ft (305-m) above ground level (AGL) are authorized over known endangered Mariana crow habitat at Northwest Field. No helicopter landings are authorized except at designated landing zones.

NCRD areas are established to protect known or potential cultural resources. Sub-surface disturbances are prohibited in these areas. There will be no cross-country, off-road vehicle travel, and vehicle parking is confined to surfaced areas and cleared road shoulders only. The use of pyrotechnics and demolition charges is also restricted. No digging or excavation is permitted without prior approval of COMNAVMARIANAS or 36 ABW environmental monitors. During major exercises on Tinian, authorized traffic routes through NCRD areas are marked with engineer tape to facilitate movement between the beaches and inland maneuver areas without impact. NCRD constraints maps have been included in a recently developed Programmatic Agreement and a Memorandum of Agreement executed to protect cultural resources in the CNMI and Guam.

Areas designated as NT are off-limits, meaning that there is absolutely no training allowed in these areas. Entry to some of these areas can be authorized for administrative troop and vehicle movement on designated roads or trails only. NT areas have been established to protect both endangered species habitat and areas of particularly sensitive cultural value. NT areas are also established for safety purposes in the vicinity of the munitions storage areas on Andersen Air Force Base and the Ordnance Annex.

Environmental Impacts

USCINCPAC REP GUAM/CNMI has analyzed the direct, indirect, and cumulative impacts of proposed training in the Mariana Islands across a spectrum of alternatives ranging from no training activities to maximizing training by adopting all of the activities published in the MTP. Each alternative was evaluated for potential effects on the physical environment (climate, geology and hydrology, water quality, air quality, noise, visual setting/aesthetics, and natural hazards and

constraints), biological environment (terrestrial and marine), cultural resources (archaeological and historical), infrastructure, utilities and public services, and the socioeconomic environment on the affected islands.

The alternatives were also evaluated with respect to their consistency with policies established by Executive Orders for Federal Actions to Address Environmental Justice in Minority and Low-Income Populations, Coral Reef Protection, Protection of Wetlands, Protection of Children from Environmental Health Risks and Safety Risks, and Invasive Species.

From the outset, three training activities were identified as environmentally controversial and potentially significant. One was the potential for damage to nearshore coral caused by contact with landing craft utility (LCU) and tracked assault amphibian vehicles (AAVs) on Tinian and Guam. Beaches free of nearshore coral and suitable for landing craft and AAVs were identified at the Waterfront Annex. No suitable site for displacement hull LCUs and AAVs was found in the MLA on Tinian, and therefore, LCU/AAV landings will remain confined to Tinian Harbor. Potential impacts to coral in shallow nearshore waters and reefs by landing craft, air-cushion (LCAC) were evaluated in a marine biological survey at Unai Chulu, Tinian. No significant impacts are caused by the LCAC when operated within acceptable parameters. A similar marine biological survey will be conducted to revalidate the lack of impacts to shallow coral by LCAC landings at Unai Dankulo, Tinian and Dadi Beach, Guam. Potentially significant damage to nearshore coral has been eliminated by identifying the suitable types of craft that will be allowed to use each landing beach on Tinian and Guam.

The second issue was underwater demolition training by Explosive Ordnance Disposal (EOD) and NSW units that cause portions of Apra Harbor to be temporarily closed to other uses and may have a significant impact on marine species. Closure of the harbor, which interferes with commercial boating and diving activities, will be minimized by use of additional underwater training sites in open ocean waters to lessen the frequency of use of Apra Harbor. Training site selection will favor the ocean sites unless weather conditions dictate otherwise. USCINCPAC REP GUAM/CNMI continues to work with Guam Environmental Protection Agency (Guam EPA) and Division of Aquatic and Wildlife Resources (DAWR) to select additional sites and to continue using demolition training protocol that minimizes potential impacts to marine biota and provides advance coordination with affected commercial enterprises. Although potentially significant impacts are not anticipated, the activity may remain controversial with respect to the commercial ocean recreation sector and government agencies responsible for protection of endangered and threatened marine species.

The continued use of FDM as a naval gunfire and aerial bombardment range is the third issue. Used as a bombardment range since at least 1971, the island has been the subject of a series of biological evaluations by federal, commonwealth, and military experts. Although the bombardment of FDM may significantly impact endangered species and habitat vegetation, no alternative bombardment range sites are available to USCINCPAC forces for this training requirement. Therefore, compensatory mitigation measures have been enacted in cooperation with U.S. Department of Interior, U.S. Fish and Wildlife Service (USFWS) and CNMI Division of Fish and Wildlife (DFW) to enhance the population of the endangered Micronesian megapode on Sarigan, another uninhabited island in the CNMI. Mitigation measures include controlling the types and amounts of ordnance to be dropped and confining the impact areas to minimize impacts on biological resources. The Navy will conduct aerial evaluations of vegetation habitat and birds in conjunction with major bombardment activities. The condition of nearshore coral and the effects of bombardment on the marine environment will be surveyed annually for the next three years by USCINCPAC REP GUAM/CNMI in cooperation with National Marine Fisheries Service (NMFS), USFWS, and CNMI DFW.

Environmental Mitigation

COMNAVMARIANAS analyzed the potential impacts of the selected action on the following: natural or biological resources, cultural resources, environmental quality, infrastructure deficiencies on Tinian, public safety, and socioeconomic quality.

Natural Resources

In addition to identifying areas subject to NWD or NT constraints, mitigation measures to reduce training impacts to nonsignificant levels include adhering to operational requirements for beach landing craft to minimize impacts to shallow reefs and nearshore coral, requiring qualified biologists to conduct pre-training surveys to ensure that training will not impact sea turtle nesting, and adhering to updated brown tree snake (*Boigus irregularis*) control and interdiction methods to prevent the introduction and proliferation of the BTS from Guam to other locations. These and other mitigation measures identified in the FEIS are now in effect and will be published in Navy and Air Force training orders, directives, and plans. The BTS Control and Interdiction Plan will be updated and published as a COMNAVMARIANAS directive to regulate routine as well as training material/cargo movement from Guam.

With the exception of the continued use of FDM as a naval gunfire and aerial bombardment range, the Preferred Training Land Use Alternative does not significantly impact listed threatened or endangered species. Impacts are reduced to nonsignificant levels by establishing training area boundaries, implementing mitigation measures and training constraints, and conducting environmental monitoring and evaluation. Particular attention has focused on enhancing endangered Micronesian megapode (*Megapodius laperous*) habitat in the CNMI, protecting the threatened Tinian monarch (*Monarcha takasukasae*) during nesting seasons, restricting maneuver in areas of Mariana common moorhen (*Gallinula chloropus guami*) habitat, causing little or no disturbance to the island swiflet (*Aerodramus vanikorensis bartschi*) and three species of federal and Guam endangered fruit bats, and restricting maneuver in areas of Ordnance Annex recently identified as habitat of tree snails being considered for federal listing. Mariana crow (*Corvus kubaryi*) nests at Northwest Field will continue to be monitored by Guam Division of Aquatics and Wildlife Resources (DAWR). As nesting activities are found, this information will be made known to Flight Operations to ensure no overflights at unauthorized altitudes. Protective measures for hawksbill turtles (*Eretmochelys imbricata*) and green sea turtles (*Chelonia mydas*) are in place to minimize or avoid impacts on these species that may enter training beaches and open waters during amphibious training and underwater demolitions.

On FDM, migratory seabirds, federally endangered Micronesian megapodes and Mariana fruit bats may be killed by ordnance or displaced by a loss of habitat. These impacts are mitigated by avoiding certain munitions and by relocating targets so that the majority of ordnance delivered will avoid the most sensitive areas for nesting and roosting birds. Formal consultation in accordance with Section 7 of the

Endangered Species Act has been completed and the protective measures recommended in the biological opinions of USFWS and NMFS have been adopted.

Due to the increased danger of field fires being caused by training during periods of drought and high winds, fire prevention and response plans will be enforced at all ranges and maneuver areas. During periods of high risk, training activities with potential fire-causing effects will be suspended as necessary. Crash-fire-rescue (CFR) vehicles will be available during flight operations in case of a crash and resulting fire.

Cultural Resources

The Preferred Training Land Use Alternative would not significantly impact sites listed or eligible for listing in the National Register of Historic Places (NRHP). Such sites located on land and off-shore could be damaged by off-road vehicles, construction, rapid runway repair, excavation, vandalism, small arms and mortar fire, and shock waves generated by deepwater explosives. These impacts will be mitigated to nonsignificant levels by designating areas with listed or eligible NRHP sites as ''No Training'' or ''No Cultural Resources Disturbance'' areas, which would prohibit digging within three feet of historic structures with concrete walls or in any cave, require pre-training archaeological surveys in historic structures used for urban warfare scenarios, and require post-training evaluation for evidence of impacts that would require additional mitigation. The consultation process with the CNMI and Guam Historic Preservation Offices has been completed in accordance with Section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f (1994). A Programmatic Agreement has been signed by the USCINCPAC REP GUAM/CNMI, CNMI Historic Preservation Officer, and the Advisory Council on Historic Preservation (ACHP) regarding the conduct of military training on Tinian. The agreement (signed in June 1999), provides direction in the identification of historic properties, establishment of constrained areas, instructions to training participants, field mitigation and monitoring, coordination of training program revisions, response to public objections, reporting requirements and proposed long-term site protection at Unai Chulu, Tinian. A Memorandum of Agreement (MOA) signed in June 1999 by the USCINCPACREP GUAM/CNMI, COMNAVMARIANAS, 36th ABW, Guam Historic Preservation Officer, and the ACHP identifies protective measures to be carried out while developing live-fire weapons ranges in the Ordnance Annex and activities on Northwest Field. The MOA also addresses the continued use of constraints maps as one means to protect cultural resources from training impacts.

Environmental Quality

The Preferred Training Land Use Alternative would not have a significant impact on air quality, climate, geology, surface water quality, flooding, or groundwater. Existing military standing operating procedures (SOPs) and regulations prevent significant impacts on these resources. Major construction projects once proposed on Tinian that could have impacted groundwater quality will not be conducted at this time. If any construction is proposed in the future, appropriate environmental evaluations would be conducted. The concern that live-fire ranges could cause lead contamination in groundwater has been eliminated since there will be no small arms range development. The military is also developing lead-free small-arms ordnance for all range training.

Tinian Infrastructure

Wastewater disposal has been a major logistic issue for all large-scale exercises. Tinian presently has no large-scale municipal wastewater treatment facility and there has been concern that temporary overuse of the systems would impact groundwater resources, air quality, and public health. Leasing portable toilets, contracting pumping services and disposing wastes in municipal systems was the standard practice to handle large quantities of black-water wastes. The shared use of municipal septic tanks during major exercises is no longer necessary. Navy Public Works constructed a septic tank and leach field based on the requirement to support up to 2,500 exercise personnel. This tank was first available during Tandem Thrust 99 (March–April 1999). Its availability has eliminated concerns about cumulative impacts on the island's municipal system capacity.

Tinian has no EPA-approved solid waste landfill and no hazardous waste or hazardous material handling facility. Training activities routinely generate varying amounts of solid waste (primarily cardboard and paper) and may generate very small amounts of hazardous materials and used oil. Collecting, compacting, and transporting solid wastes off Tinian will continue as a requirement for any military exercise on Tinian. The Tinian municipal landfill will not be used. Hazardous materials, used oils and expended lithium batteries will be handled as stipulated in exercise plans for removal from the island of Tinian to authorized waste streams. Maintenance activities that could generate hazardous materials will be minimized while on Tinian, with scheduled maintenance conducted on military bases or while aboard ship.

Public Safety

The Preferred Training Land Use Alternative would not have a significant impact on public health and safety. The COMNAVMARIANAS policy limiting access to FDM remains in effect, allowing only active duty, DoD-trained explosive-qualified personnel responsible for range operations and maintenance. The proposal to expand the range for firing ground weapons such as artillery, mortars, and anti-tank missiles is not approved due to the existence of unexploded ordnance throughout the island. Biological surveys will continue to be conducted from the air by helicopter.

Range safety and control measures are presently in place on Guam at Orote Peninsula, the Communications Annex at Finegayan, and Andersen Air Force Base. Risks to public safety from projectiles from small arms and rifle ranges will be avoided by adhering to range regulations, conducting required range area sweeps and surveillance during training on affected land and water areas, installing and maintaining coastal warning devices of the presence of ranges, and temporarily restricting range access when necessary. Prior to the activation of new and modified live-fire training ranges on Guam, the ranges will be evaluated and certified by the Naval Facilities Engineering Command. At the Ordnance Annex, the design will also be reviewed and approved by the Naval Ordnance Command. The orientation of the sniper firing range at Ordnance Annex has been modified to avoid intersection of the range's Surface Danger Zone and a public hiking trail that infringes Navy property.

The proposed small arms fire and maneuver range will not be constructed on Tinian at this time. An alternative fire-and-maneuver range site is being developed on a former small arms range at Orote Point on Guam. This decision eliminates potential safety impacts to civilians or non-training personnel who could encroach on the range training area.

The proposed 60mm mortar range will not be developed on Tinian. This eliminates potential safety risks due to unexploded ordnance remaining in

areas that could be encroached by the public and difficult to control access restrictions to 100 percent certainty.

Proposed construction of a permanent shooting house or breacher trainer will not be undertaken on Tinian at this time. Whenever the former World War Two Japanese Command Center is in use as a shooting house, area access will be restricted. Alternative urban training facilities are also available on Guam.

Notice to Airmen (NOTAMS) and Notice to Mariners (NOTMARS) will be published and broadcast to forewarn of naval gunfire and aerial bombardment at FDM. The island range and its three-mile radius surface danger zone will be surveyed prior to commencing training to ensure that the area is clear of all non-training related activity.

Potential impacts between civilian and military aircraft will be avoided through the coordinated efforts of military and FAA air traffic controllers in accordance with military SOPs and FAA regulations. NOTAMS will be published in advance of training that involves the use of airspace over FDM, Tinian and Guam.

There will be no hazards to ordnance, fuel storage, and personnel from electromagnetic radiation during training. Required clearance distances are maintained between field emitter sites and ordnance, fuel, and personnel. There would be no risk to public health caused by transmissions from the International Broadcasting Bureau's site recently constructed in the MLA on Tinian. The acreage has been removed from the areas in the MLA used for training.

Impacts to boaters and divers from shallow and deepwater mines will be avoided by continuing to clear and patrol demolition sites and exclusion zones prior to all exercises. To avoid potential sympathetic detonation of depth charges located on the Tokai Maru, a sunken Japanese World War II vessel in Outer Apra Harbor, the present demolition site will remain unchanged and the size of the explosive charge limited to ten pounds.

Civilian ports of entry will not be significantly impacted. On Tinian and Rota, approval from civilian authorities will be obtained 30 days prior to any exercise. To avoid significant impacts on customs and immigration services, local authorities will be notified 30 days prior to large exercises. Noise impacts from training at Tipalao and Dadi beaches will be temporary. To eliminate potentially significant impacts, training will be conducted during the day.

The Preferred Training Land Use Alternative will not have a significant impact on roadways and traffic. Military traffic control will be used as necessary to move military convoys through Tinian town. AAVs using public roads will have track pads installed to avoid damaging road surfaces.

Socioeconomic Environment

Tinian's relatively small population is isolated from many economic opportunities that are available to Saipan residents. Training activities offer potential economic benefits through the purchase of local goods and services. Temporary exclusion of tours from active training sites in the EMUA could have a negative effect. One casino hotel has opened and another is planned, and cumulative socioeconomic impacts may result from the combination of military training and increased tourism.

USCINCPAC REP GUAM/CNMI will continue to provide advance information to CNMI agencies and affected commercial enterprises whenever military training safety considerations require temporary restrictions to areas on Tinian normally open to the public. Affected agencies and firms have requested at least a 30-day notice, which in almost all instances can be accommodated. This interaction will include the CNMI and Tinian municipal governments, the Commonwealth Port Authority, and tourist agencies in advance of all training on Tinian that may interfere with tourist activities in the MLA, nearshore waters or the harbor. Whenever active training is not taking place in portions of the MLA, these areas will be opened to visitors.

Underwater demolition by EOD and NSW units in Guam's Outer Apra Harbor requires certain areas of the harbor (including a number of popular dive sites) to be closed to civilian activities once a month for approximately four hours. This public safety measure may cause loss of income to commercial boat and dive operators. SOPs practiced by EOD and NSW units will continue to provide advance information to affected commercial firms so that they can seek alternative dive, boating and fishing sites during the temporary closures. This process will continue along with the use of NOTMARs and coordination with GEPA and DAWR to actively observe and monitor training.

Executive Orders

The FEIS considered federal policies under Executive Orders pertaining to Environmental Justice, Protection of Children from Environmental Health and Safety Risks, Protection of Wetlands, Coral Reef Protection, and Invasive Species, to ensure that training will be conducted in compliance with said policies and that appropriate mitigation actions will be taken to eliminate or reduce potentially significant impacts.

Preventive practices to address the potentially significant impacts that could be caused by brown tree snakes have been addressed and remain a subject of periodic review and updates to ensure that the latest proven methods have been incorporated. Appendix E of the FEIS compiles the measures taken to prevent BTS impacts to date. An updated order defining BTS control/interdiction protocols will be published by COMNAVMARIANAS.

The prevention of coral damage or destruction was a primary criterion in selecting beaches for landings by displacement hull landing craft and tracked amphibious assault vehicles. The lack of impact to shallow coral by LCACs was demonstrated at Unai Chulu, Tinian, and similar studies will be conducted at Unai Dankulo, Tinian, and Dadi Beach, Guam, prior to final approval as LCAC landing sites.

Marianas Training Management Regulations

Implementation of the Preferred Training Land Use Alternative requires the COMNAVMARIANAS and 36th ABW to implement mitigation measures and training constraints for their respective areas of responsibility and to cooperate in monitoring and corrective measures. The mitigation and constraints identified in the FEIS will be incorporated into training orders and directives. Compliance with these directives is the responsibility of each military organization involved in Marianas training. The military will conduct advance coordination as needed with agencies of the territorial and commonwealth governments and affected commercial enterprises to avoid training area use conflicts.

Comments Received on FEIS

The CNMI Historic Preservation Officer (HPO) identified an additional cultural resource site in the vicinity of Unai Dankulo, Tinian. The training constraints map for Tinian training will be modified to incorporate an additional NCRD area south of the landing beach site. The HPO also expressed concern regarding the lack of an archaeological survey on FDM. Conducting such a survey is not feasible due to potential danger to the surveyors since the island is an impact area and replete with unexploded ordnance.

CNMI Department of Lands and Natural Resources (DLNR) commented

on the need to follow LCAC operational protocols to protect the beach environment. The lessons learned during LCAC operations at Unai Chulu, Tinian during Tandem Thrust 99 will be incorporated into COMNAVMARIANAS training orders. The department's Division of Fish and Wildlife (DFW) suggested a change in the timing for setting up portable BTS barriers at cargo points on Guam and Tinian. When updating the BTS Control/Interdiction protocols, the process for using portable snake barriers at ports of entry and shipment will be defined by military representatives and CNMI, Guam, and federal regulators.

U.S. Environmental Protection Agency, Region IX commented on the BTS Control/Interdiction Plan update requirement, compensatory mitigation measures for impacted biological resources, and prevention of impacts by amphibious landings during coral spawning. COMNAVMARIANAS will continue to monitor and mitigate these concerns as necessary.

Guam Environmental Protection Agency has concerns regarding training at the Waterfront Annex's Dadi Beach and instead, favors the use of the beach and waters at Tipalao for amphibious landings and underwater demolition training. Site surveys and evaluations between the Navy and GEPA will continue in regard to any activities at either beach.

U.S. Department of Agriculture, APHIS, Wildlife Services provided a list of lessons learned from Tandem Thrust 99 that will be incorporated in the updated BTS Control/Interdiction directive.

U.S. Department of Interior, U.S. Fish and Wildlife also identified the need to update the COMNAVMARIANAS BTS Control/Interdiction Plan, initiate compensatory mitigation for impacts to migratory seabirds on FDM, and to initiate a Section 7 Endangered Species Act consultation for target placement on FDM. This agency participated in the development of the 1996 BTS Control/Interdiction Plan and will be asked to participate in the process to update the plan as a COMNAVMARIANAS BTS Control/Interdiction directive. Compensatory mitigation measures will continue for endangered and threatened species. Target material selection and placement is an ongoing action, which will be incorporated in the update of the BTS Control/Interdiction directive.

Conclusion

USCINCPACREP GUAM/CNMI, in cooperation with federal, territorial and commonwealth regulatory agencies, will conduct all necessary steps to avoid or minimize environmental harm that could be caused by military training.

The Preferred Training Land Use meets the purpose and need to train in the Mariana Islands while avoiding or minimizing impacts on the existing environment. The preferred alternative and its mitigation and constraints are fully responsive to the concerns expressed by regulatory agencies and members of the public, local economic conditions, and required levels of public safety. Although the ''No Training Alternative'' may be perceived as causing no significant environmental impacts, it does not necessarily foster continued stewardship in areas that will remain free of development, and does not meet the stated purpose and need for maintaining the operational readiness of USCINCPAC forces.

The EIS evaluated a mix of activities with variable schedules of activities at each site, training event duration, and numbers and types of participating units. The findings of the EIS reflect this dynamic training environment and potential changes to military training missions that require continuous environmental monitoring and evaluation of direct, indirect, and cumulative impacts. Training management measures will be modified whenever (1) it is discovered that the environmental effects of ongoing activities are significantly and qualitatively different or more severe than predicted, and (2) a new training activity represents a substantial change from existing activities and has the potential for generating significant environmental impacts. Under these circumstances, USCINCPAC REP GUAM/CNMI will review the issues with appropriate regulatory agency representatives to determine and implement appropriate mitigation measures.

Accordingly, training in the Mariana Islands will be conducted in a manner that is consistent with the Preferred Training Land Use Alternative as identified in the Marianas Training Environmental Impact Statement.

Dated: July 28, 1999.

Rear Admiral J.W. Greenert,

USCINCPAC REP GUAM/CNMI.

[FR Doc. 99–21375 Filed 8–17–99; 8:45 am]

BILLING CODE 5001–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 18, 1999.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 12, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: Evaluation of Effective Adult Basic Education Programs and Practices.

Frequency: Three times total for each respondent: 1st month, 9th month, 21st month.

Affected Public: Individuals or households; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,385.

Burden Hours: 3,923.

Abstract: This study will investigate the following research questions: (1) How much do first-level adult learners who participate in adult basic education programs improve their reading skills and increase the frequency of their reading-related behaviors?; (2) What characteristics of first-level learners affect the amount of improvement that they make in their reading skills or reading-related behaviors after participating in adult basic education programs?; (3) How are the operational and instructional characteristics of adult basic education programs related to the amount of improvement in reading skills or reading-related behaviors among first-level learners?

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. 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 *Vivian__Reese@ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Jacqueline Montague at 202–708–5359 or electronically contact her at her internet address Jackie__Montague@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.

Office of Student Financial Assistance Programs.

Type of Review: Extension.

Title: Income Contingent Repayment Plan Consent to Disclosure of Tax Information.

Frequency: Once every five years.

Affected Public: Individuals or households.

Reporting and Recordkeeping Burden:

Responses: 114,000.

Burden Hours: 22,800.

Abstract: This form is the means by which a William D. Ford Federal Direct Loan Program borrower (and, if married, the borrower's spouse) who chooses to repay under the Income Contingent Repayment Plan provides written consent for the Internal Revenue Service to disclose certain tax return information to the Department of Education and its agents for the purpose of calculating the borrower's monthly repayment amount.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. 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 *Vivian__Reese@ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or electronically contact him at his internet address Joe__Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Student Financial Assistance Programs

Type of Review: Reinstatement.

Title: Income Contingent Repayment Plan Alternative Documentation of Income.

Frequency: Annually.

Affected Public: Individuals or households.

Reporting and Recordkeeping Burden:

Responses: 25,000.

Burden Hours: 8,250.

Abstract: A William D. Ford Federal Direct Loan Program borrower (and, if married, the borrower's spouse) who chooses to repay under the Income Contingent Repayment Plan uses this form to submit alternative documentation of income if the borrower's adjusted gross income is not available or does not accurately reflect the borrower's current income.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. 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 *Vivian__Reese@ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or electronically contact him at his internet address Joe__Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Student Financial Assistance Programs

Type of Review: Reinstatement.

Title: William D. Ford Federal Direct Loan Program Statutory Forbearance Forms.

Frequency: On occasion.

Affected Public: Individuals or households.

Reporting and Recordkeeping Burden:

Responses: 2,400.

Burden Hours: 480.

Abstract: Borrowers who receive loans through the William D. Ford Federal Direct Loan Program will use this form to request statutory forbearance on their loans..

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. 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 *Vivian__Reese@ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or electronically contact him at his internet address Joe__Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: Designation of Exemplary and Promising Programs.

Frequency: Only required when submitting program for review.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs

Reporting and Recordkeeping Hour Burden:

Responses: 200.

Burden Hours: 1,200.

Abstract: The purpose of the expert panel system is to oversee a valid and viable process for identifying and designating promising and exemplary educational programs so that practitioners can make better-informed decisions in their ongoing efforts to improve the quality of student learning. The Office of Educational Research and Improvement (OERI) requires that each program submit descriptive information and an abstract in order to be considered for review. The information submitted by the entity will serve as the basis upon which the expert panel will

judge the program according to the selection criteria for promising and exemplary.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Vivian*__Reese@ed.gov or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Kathy Axt at 703–426–9692. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–21382 Filed 8–17–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 17, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 12, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Program Evaluation of the European Community/United States of America Joint Consortia for Cooperation in Higher Education and Vocational Education.

Frequency: One time.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Burden:

Responses: 680.

Burden Hours: 422.

Abstract: Program evaluation of the 1996, 1997, and 1998 fiscal year projects in the EC/US Joint Consortia Program. The evaluation will gauge the educational quality and cost effectiveness of the student exchanges and curriculum development programs and inform future grant competitions.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the Internet address *Vivian—Reese@ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or by e-mail at joe____schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–21383 Filed 8–17–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science; Fusion Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Fusion Energy Sciences Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, September 8, 1999, 9:00 a.m. to 5:30 p.m.; Thursday, September 9, 8:30 a.m. to 12:30 p.m.

ADDRESSES: Holiday Inn/Goshen Hall; 2 Montgomery Village Avenue; Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Albert L. Opdenaker, Office of Fusion Energy Sciences; U.S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: 301–903–4927.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* To finalize the Committee's report to the Department of Energy providing an assessment of the restructured Fusion Energy Sciences Program, including recommendations for further redirection given projected flat budgets in the future. The report will also include recommendations on the ongoing proof-of-principle experiments and the balance between tokamak and non-tokamak physics and between magnetic and inertial fusion energy.

Tentative Agenda

Wednesday, September 8, 1999

9:00 a.m. Discussion of Report to DOE on October 9, 1998 Charge
1:30 p.m. Public Comment
3:15 p.m. Finalize Report to DOE
5:30 p.m. Adjourn

Thursday, September 9, 1999

8:30 a.m. DOE Perspective
10:00 a.m. Presentation of Findings to DOE
11:00 a.m. Other Business
12:30 p.m. Adjourn

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Albert L. Opdenaker at 301–903–8584 (fax) or albert.opdenaker@science.doe.gov (email). You must make your request for an oral statement at least 5 business

days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; IE–190; Forrestal Building; 1000 Independence Avenue, S.W.; Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on August 13, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–21419 Filed 8–17–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: September 30, 1999 from 9:00 am to 5:00 pm, and October 1, 1999 from 9:00 am to 12:00 pm.

ADDRESSES: Shell Island Beach Resort Hotel, Wrightsville Beach, North Carolina. Phone: 800/689–6765 or 910/256–8696.

FOR FURTHER INFORMATION CONTACT: William J. Raup, Office of Building Technology, State, and Community Programs, Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE), Washington, DC 20585, Telephone 202/586–2214.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* To make recommendations to the Assistant Secretary for Energy Efficiency and Renewable Energy regarding goals, objectives, programmatic, and administrative policies; and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Briefings on, and discussions of:

- Review of the release of the STEAB Seventh Annual Report titled ''Making Markets Work in Energy Efficiency and Renewable Energy''
- Deploying technology from DOE laboratories to the States;
- Status of Weatherization Assistance Program and future funding
- Federal efforts to market energy efficiency and renewable energy technologies.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William J. Raup at the address or telephone number listed above. Requests to make oral presentations must be received five days prior to the meeting; reasonable provision will be made to include the statements in the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 13, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–21421 Filed 8–17–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Federal Energy Management Program

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE is releasing an updated draft of the Federal Energy Management Program (FEMP) Measurement and Verification (M&V) Guidelines for Federal Energy Projects for public comment. DOE will consider comments and recommendations for the new version of the Guidelines.

DATES: Submit comments on or before September 17, 1999.

ADDRESSES: Mail comments to Tanya Sadler, Office of Federal Energy Management Programs, EE–90, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0121, or by e-mail to tanya.sadler@ee.doe.gov. Electronic copies of the draft Guidelines are available from the following Internet web address: http://eande.lbl.gov/CBS/femp/MVdoc.html. Printed copies will be sent upon request.

FOR FURTHER INFORMATION CONTACT: Tanya Sadler, Program Manager for Energy Savings Performance Contracting, (202) 586–7755 by phone or (202) 586–3000 by fax.

SUPPLEMENTARY INFORMATION: The Energy Policy Act of 1992 (EPACT) and the resulting energy savings performance contracting regulation, 10 CFR Part 436, authorize Federal agencies to enter into contracts where the contractor incurs project costs and is paid from the energy cost savings resulting from the project. Energy cost savings are defined in 10 CFR Part 436 as ''reductions in cost * * * from a base cost * * * established through a methodology set forth in a contract * * *'' Further, 10 CFR 436.37 requires an annual energy audit that ''shall verify the achievement of annual energy cost savings.'' FEMP provided detailed guidance on performing these procedures when it released the FEMP M&V Guidelines for Federal Energy Projects in 1996. The FEMP M&V Guidelines were designed to provide specific instructions to Federal users on how to apply energy savings determination procedures that are defined in the industry-wide document, the International Performance Measurement and Verification Protocol (IPMVP). In the past three years, the IPMVP has been updated to reflect lessons learned. In order to maintain consistency with the IPMVP, respond to recommendations for improvements, and add new features for Federal agency users, FEMP will release an update of the M&V Guidelines called FEMP M&V Guidelines for Federal Energy Projects, Version 2.1. The new version contains the following updates to the 1996 version: new M&V methods for cogeneration, new construction, operations and maintenance, renewables, and water conservation projects. FEMP plans to update the Guidelines on an as needed basis.

Issued in Washington, DC, on August 11, 1999.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 99–21420 Filed 8–17–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–348–001]

Arkansas Western Pipeline, L.L.C.; Notice of Compliance Filing

August 12, 1999.

Take notice that on August 9, 1999, Arkansas Western Pipeline, L.L.C. (AWP L.L.C.) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date of August 1, 1999:

Substitute First Revised Sheet No. 81
Substitute First Revised Sheet No. 84
Substitute First Revised Sheet No. 109

AWP L.L.C. asserts that the purpose of this filing is to comply with the Commission's Letter Order in this proceeding dated July 23, 1999.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21408 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–379–001]

Dynegy Midstream Pipeline, Inc.; Notice of Compliance Filing

August 12, 1999.

Take notice that on August 6, 1999, Dynegy Midstream Pipeline, Inc. (DMP), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Substitute Second Revised Sheet Nos. 32 and 34

DMP states that it is submitting these revised tariff sheets to comply with the Commission's July 23 Order in the above-captioned proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 first Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21410 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–466–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

August 12, 1999

Take notice that on August 10, 1999, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A of the filing.

Great Lakes states that these tariff sheets are being filed to comply with the Commission's Order No. 587–I issued on September 29, 1998, in docket No. RM96–1–009. 84 FERC ¶ 61,328 (1998). In addition, Great Lakes requested a one-month extension, until October 1, 1999 to implement Internet nominations and scheduling as required by Order No. 587–I and the implementation schedule established by the Gas Industry Standards Board (GISB).

In Order No. 587–I, the Commission extended the deadline for the complete transition to Internet communications to June 1, 2000, but required pipelines to implement the transition according to the schedule established by the Gas Industry Standards Board (GISB). Under GISB's implementation schedule, each pipeline must offer the nomination and scheduling process through its Internet web site by September 1, 1999.

Great Lakes states that it is proposing the necessary revisions to its tariff to provide such capabilities. However, due to severe difficulties encountered in the last phases of Great Lakes' programming process, Great Lakes has determined that it will require an additional month for the implementation of Internet nominations and scheduling.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21412 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–468–000]

High Island Offshore System, L.L.C.; Notice of Tariff Sheet Filing

August 12, 1999.

Take notice that on August 10, 1999, High Island Offshore System, L.L.C. (HIOS), tendered for filing a part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to be effective September 1, 1999.

First Revised Sheet No. 175

HIOS states that the purpose of this tariff filing is to revise the Monthly Imbalance provision of section 8.2 of the General Terms and Conditions of HIOS' FERC Gas Tariff to reflect the OBAs that the Commission recently required HIOS to implement to its system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to invervene. 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. 99–21414 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–597–000]

Northeren Natural Gas Company; Notice of Application

August 12, 1999.

Take notice that on August 4, 1999, Northern Natural Gas Company (Northern), 111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP99–597–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA), for permission and approval to abandon, by transfer to Sonat Exploration GOM, Inc. (Sonat), certain non-contiguous pipeline facilities, with appurtenances, located in the Grand Isle Area, Offshore Louisiana. The subject facility is known as the Grand Isle Block 80 Lateral (GI 80 Lateral). Northern also requests approval, concurrent with the conveyance of the facilities, to abandon, certain services rendered through the subject facilities, all as more fully set forth in the application on file with the Commission and open to 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).

Communications concerning this filing should be addressed to: Michele Winckowsk, Senior Regulatory Analyst @ 402–398–7082 or Keith L. Petersen, Director of Certificates and Reporting, Northern Natural Gas Company, Post Office Box 3330, Omaha, Nebraska 68103–0330, Telephone: 402–398–7421, Fax: 402–398–7592.

The GI 80 Lateral consists of approximately 5.4 miles of 8-inch pipeline, with appurtenances, and extends from Grand Isle Block 80 to an underwater tap valve on Trunkline Gas Company's facilities located in Grand Isle Block 82. The subject facilities are located on the Outer Continental Shelf (OCS) and are subject to Sections 5(e) and 5(f) of the OCS Lands Act (OCSLA).

It is stated that the GI 80 Lateral was initially installed to connect new gas supplies required for Northern's merchant sales obligation, but that the subject facilities are no longer needed by Northern as its role in the marketplace has changed from a merchant to a transponder of natural gas. Northern further states that the subject facilities are non-contiguous to it's traditional transmission pipeline system, and that the Grand Isle 80 facilities were declared non-jurisdictional gathering pursuant to the Commission's Order issued February 13, 1995 in Docket No. CP92–498–005.

Northern avers that on or about November 4, 1998, a gas leak was discovered in the vicinity of the GI 80 Lateral. It was subsequently determined that damage to the GI 80 Lateral had caused the gas leak. After considering the repair cost for the GI 80 Lateral, Northern negotiated to convey the subject facilities to Sonat. It is stated that Sonat intends to repair the lateral when it completes the drilling of its new production wells which will ultimately be connected to the GI 80 Lateral.

Northern indicates that it currently provides interruptible transportation service on the subject facilities, on a month-to-month basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1999, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in any subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21406 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–430–001]

Petal Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff]

August 12, 1999.

Take notice that on August 9, 1999, Petal Gas Storage Company (Petal)

tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Fourth Revised Sheet No. 129, with a proposed effective date of August 1, 1999.

Petal states that its filing is made in compliance with a July 26, 1999, letter order of the Office of Pipeline Regulation (OPR), which directed Petal to revise Sheet No. 129 to reference the GISB standards which it has incorporated by reference as Version 1.3 standards.

Petal states that Substitute Fourth Revised Sheet No. 129 has been revised to make it clear that the standards and data sets incorporated by reference are Version 1.3 standards and data sets.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21411 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Puget Sound Energy, Inc.; Notice of Filing

[Docket No. ER99–3967–000]

August 10, 1999.

Take notice that on August 3, 1999, Puget Sound Energy, Inc. (Puget), tendered for filing the Agreement Regarding Canadian Entitlement between Puget and Public Utility District No. 2 of Grant County (Grant).

A copy of the filing was served upon Grant.

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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 23, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21404 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–4055–000]

Southern Company Services, Inc.; Notice of Filing

August 12, 1999.

Take notice that on July 27, 1999, Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively Southern Companies) tendered for filing an Offer of Settlement.

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 and protests should be filed on or before August 23, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21405 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–467–000]

U–T Offshore System; Notice of Proposed Change in FERC Gas Tariff

August 12, 1999.

Take notice that on August 10, 1999 U–T Offshore System (U–TOS) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective September 1, 1999:

First Revised Sheet No. 49A

UTOS states that the purpose of this tariff filing is to revise the Monthly Imbalance provision of section 8.2 of the General Terms and Conditions of UTOS' FERC Gas Tariff to reflect the OBAs that the Commission recently required UTOS to implement on its systems.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests should 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21413 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP 99–376–011]

Venice Gathering System, L.L.C.; Notice of Compliance Filing

August 12, 1999.

Take notice that on August 6, 1999, Venice Gathering System, L.L.C. (VGS), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the

following tariff sheets, with an effective date of August 1. 1999:

Second Revised Sheet No. 47
Substitue Second Revised Sheet No. 50

VGS states that it is submitting these tariff sheets to comply with the Commission's July 23, 1999 Order in the above-captioned 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. 99–21409 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–103–000, et al.]

K N Energy, Inc. and Kinder Morgan, Inc., et al.; Electric Rate and Corporate Regulation Filings.

August 10, 1999.

Take notice that the following filings have been made with the Commission:

1. K N Energy, Inc., and Kinder Morgan, Inc.

[Docket No. EC99–103–000]

Take notice that on August 3, 1999, pursuant to Section 203 of the Federal Power Act and Part 33 of the Commission's Regulations, K N Energy, Inc., and Kinder Morgan, Inc., filed a joint application for approval of the disposition of K N Energy's indirect 50-percent interest in Front Range Energy Associates, L.L.C. (Front Range) as a result of a proposed merger of K N Energy and Kinder Morgan. Front Range is developing an independent power production facility located in Colorado, and has been granted market-based rate authority by the Commission.

This application has been served upon the Colorado Public Utilities Commission, the California Public Utilities Commission and the Wyoming Public Service Commission.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Duke Energy Trading and Marketing L.L.C. and NP Energy, Inc.

[Docket No. ER96–2921–016 and ER97–1315–011]

Take notice that on July 30, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in above-referenced proceedings for information only. These filings are available for public inspection and copying in the Public Referenced Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

3. Geysers Power Company, LLC

[Docket No. ER99–3863–000]

Take notice that on July 30, 1999, Geysers Power Company, LLC, tendered for filing a transaction report for quarter ended June 30, 1999. Also take notice that on August 4, 1999, Geysers Power Company, LLC tendered for filing a revised transaction report.

Comment date: August 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Central Illinois Light Company

[Docket No. ER99–3950–000].

Take notice that on August 3, 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 four service agreements with four new customers, Aquila Energy Marketing Corp., Constellation Power Source, Inc., Koch Energy Trading Inc., and TransAlta Energy Marketing (U.S.).

CILCO requested an effective date of July 30, 1999, for the Index.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Central Illinois Light Company

[Docket No. ER99–3951–000]

Take notice that on August 3, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and one service agreement with one new customer, TransAlta Energy Marketing (U.S.).

CILCO requested an effective date of July 30, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Oklahoma Gas and Electric Company

[Docket No. ER99–3952–000]

Take notice that on August 3, 1999, Oklahoma Gas and Electric Company (OG&E), tendered for filing a service agreement for Central Illinois Light Company (CILCO) to take service under its short-term power sales agreement.

Copies of this filing have been served on each of the affected parties, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Duquesne Light Company

[Docket No. ER99–3953–000]

Take notice that on August 3, 1999, Duquesne Light Company (DLC), tendered for filing a Service Agreement dated August 2, 1999 with FPL Energy Power Marketing, Inc., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds FPL Energy Power Marketing, Inc., as a customer under the Tariff.

DLC requests an effective date of August 2, 1999, for the Service Agreement.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Duquesne Light Company

[Docket No. ER99–3954–000]

Take notice that on August 3, 1999, Duquesne Light Company (DLC), tendered for filing a Service Agreement dated August 2, 1999 with FPL Energy Power Marketing, Inc., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds FPL Energy Power Marketing, Inc., as a customer under the Tariff.

DLC requests an effective date of August 2, 1999, for the Service Agreement.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Public Service Company of New Mexico

[Docket No. ER99–3956–000]

Take notice that on August 3, 1999, Public Service Company of New Mexico (PNM), tendered for filing executed

service agreements, for point-to-point transmission service under the terms of PNM's Open Access Transmission Service Tariff, with TXU Energy Trading Company (2 agreements, for Non-Firm and Short-Term Firm Service, dated July 29, 1999 and July 27, 1999, respectively); and with Los Angeles Department of Water and Power Wholesale Marketing (2 agreements dated July 16, 1999, for Non-Firm and Short-Term Firm Service).

PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Rochester Gas and Electric Corporation

[Docket No. ER99–3957–000]

Take notice that on July 14, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Market Based Service Agreement between RG&E and Monroe County (Customer). This Service Agreement specifies that the Customer has agreed to the rates, term and conditions of RG&E's FERC Electric Rate Schedule, Original Volume No. 3 (Power Sales Tariff) accepted by the Commission.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of July 14, 1999 for TransAlta Energy Marketing (U.S.) Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER99–3955–000]

Take notice that on August 3, 1999, Cinergy Services, Inc., collectively as agent for and on behalf of its utility operating company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Market-Based Power Sales Standard Tariff-MB (the Tariff) entered into between Cinergy and TransAlta Energy Marketing (U.S.) Inc. (TEMUS).

Cinergy and TEMUS are requesting an effective date of July 5, 1999.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Services, Inc.

[Docket No. ER99–3959–000]

Take notice that on August 3, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Gulf States, Inc. (Entergy Gulf States), tendered for filing an Interconnection and Operating Agreement between Entergy Gulf States and Air Liquide America Corporation (Air Liquide).

Entergy Services requests waiver of the notice provisions necessary to permit the interconnection agreement to be made effective as of June 17, 1999.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER99–3960–000]

Take notice that on August 3, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Gulf States, Inc. (EGSI), tendered for filing a Generator Imbalance Agreement with Sabine Cogen L.P.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Entergy Services, Inc.

[Docket No. ER99–3961–000]

Take notice that on August 3, 1999, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing an amendment to the Interconnection Agreement between Entergy Gulf States, Inc. and Sabine Cogen L.P.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

[Docket No. ER99–3962–000]

Take notice that on August 3, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Gulf States, Inc. (Entergy Gulf States), tendered for filing an Interconnection and Operating Agreement between Entergy Gulf States and Sabine Cogen L.P., (Sabine Cogen).

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Allegheny Power Service Corporation, on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, (Allegheny Power)

[Docket No. ER99–3963–000]

Take notice that on August 3, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 59 to add FPL Energy Services, Inc., to Allegheny Power Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreement is August 2, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Duquesne Light Company

[Docket No. ER99–3966–000]

Take notice that on August 3, 1999, Duquesne Light Company (Duquesne), tendered for filing under Duquesne's pending Market-Based Rate Tariff, (Docket No. ER98–4159–000) executed Service Agreement at Market-Based Rates with Cargill-Alliant, LLC (Customer).

Duquesne has requested the Commission waive its notice requirements to allow the Service Agreement to become effective as of August 2, 1999.

Copies of this filing were served upon Customer.

Comment date: August 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Puget Sound Energy, Inc.

[Docket No. ER99–3968–000]

Take notice that on August 3, 1999, Puget Sound Energy, Inc. (Puget), tendered for filing the Agreement Regarding Canadian Entitlement between Puget and Public Utility District No. 2 of Grant County (Grant).

A copy of the filing was served upon Grant.

Comment date: August 23, 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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21381 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application

August 12, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Proposal To Lower Holter Lake.

b. *Project No.:* 2188–043.

c. *Date Filed:* August 2, 1999.

d. *Applicant:* Montana Power Company.

e. *Name of Project:* Missouri-Madison Project.

f. *Location:* The Holter hydroelectric dam which creates Holter Lake is on the Missouri River at river mile 2,211 about 43 miles northeast of Helena in Lewis and Clark County, Montana.

g. *Applicant Contact:* Mr. John C. Van Daveer, Montana Power Company, 40 East Broadway, Butte, MT 59701.

h. *FERC Contact:* Any questions on this notice should be addressed to Steve Hocking, e-mail address: *steve.hocking@ferc.fed.us,* or telephone (202) 219–2656.

i. *Deadline for filing comments and recommendations, motions to intervene, and protests:* September 8, 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.

j. *Description of the Application:* Montana Power Company (MPC) proposes to drawdown Holter Lake, part of the Missouri-Madison Hydroelectric Project. The lake would be lowered from its normal operating level of elevation 3,564 feet msl to the crest of the dam at elevation 3,548 feet msl—a total of about 16 feet. The drawdown would begin September 20, 1999. Water levels would be reduced over a two week period of time; the lake would be maintained at its minimum elevation of 3,548 feet msl for two days; then the lake would be refilled over the next nineteen days. The drawdown would enable MPC to replace the dam's deteriorating flashboards and support stanchions.

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance).

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTEST,'' ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21407 Filed 8–17–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6424–5]

Agency Information Collection Activities: Submission for OMB review; Comment Request; 1999 EPCRA Implementation Status Questionnaire for State Emergency Response Commissions (SERCs), Local Emergency Planning Committees (LEPCs) and California Certified Unified Program Agencies (CUPAs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: 1999 EPCRA Implementation Status Questionnaire for State Emergency Response Commissions (SERCs), Local Emergency Planning Committees (LEPCs), and California Certified Unified Program Agencies (CUPAs), EPA ICR No. 1905.01. 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 September 17, 1999.

FOR FURTHER INFORMATION: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No.1905.01.

SUPPLEMENTARY INFORMATION: *Title:* 1999 EPCRA Implementation Status Questionnaire for State Emergency Response Commissions (SERCs), Local Emergency Planning Committees (LEPCs) and California Certified Unified Program Agencies (CUPAs), EPA ICR No. 1905.01. This is a new collection.

Abstract: The Environmental Protection Agency, Region IX, proposes to conduct a Regional survey of State

Emergency Response Commissions (SERCs), Local Emergency Planning Committees (LEPCs) and California Certified Unified Program Agencies (CUPAs). The information collected in this survey will be used to assess the general progress, status, and activity level of SERCs, LEPCs and CUPAs. The information will also be used by Region IX staff to have a better understanding of their Region's actual implementation of EPCRA.

The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) introduced a fundamental change in the regulation of chemical facilities and the prevention of and preparedness for chemical accidents. This law seeks to improve emergency preparedness and reduce the risk of chemical accidents by providing information to citizens about the chemicals in their community. EPCRA is premised on the concept that the more informed local citizens are about chemical hazards in their communities the more involved they will be in prevention and preparedness activities. For this ''informational regulation'' to be effective, the public must receive accurate and reliable information, which is easy to understand and practical to use. EPCRA sought to create partnerships between all levels of government, the public and the regulated community to identify, prevent, plan, prepare and respond to hazardous material risks in our communities, and the purpose of this survey is to obtain input from these organizations to improve Region IX's EPCRA program.

The primary goals of this research are to: (1) track the progress of SERCs, LEPCs and CUPAs by updating baseline data on a series of key performance indicators; and (2) probe current SERC, LEPC and CUPA practices and preferences regarding several important sets of issues—particularly including communications with local citizens, proactive accident prevention efforts, and the effectiveness of selected Region IX products and services. Region IX wants to improve customer service and meet the changing needs of hazardous material prevention and emergency response planning, which are influenced by new electronic capabilities and a rapidly expanding knowledge base of environmental issues.

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** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on 5/14/99 (FRL–6341–7). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average one and a half hour per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: SERCs, LEPCs, CUPAs.

Estimated Number of Respondents: 190.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 285 hours.

Estimated Total Annualized Capital and Operating and Maintenance 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 addresses: (please refer to EPA ICR No.1905.01 in any correspondence):

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: August 12, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–21426 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6424–8]

Availability of FY 98 Grant Performance Reports for Alabama, Florida, Georgia, Mississippi, North Carolina, Tennessee and South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA recently performed end-of-year evaluations of seven state air pollution control programs [Alabama Department of Environmental Management, Florida Department of Environmental Protection, Georgia Department of Natural Resources, Mississippi Bureau of Pollution Control, North Carolina Department of Environment and Natural Resources, South Carolina Department of Health and Environmental Control] and 16 local programs [Knox County Department of Air Pollution Control, TN; Chattanooga-Hamilton County Air Pollution Control Bureau, TN; Memphis-Shelby County Health Department, TN; Nashville-Davidson County Metropolitan Health Department, TN; Jefferson County Air Pollution Control District, KY; Western North Carolina Regional Air Pollution Control Agency, NC; Mecklenburg County Department of Environmental Protection, NC; Forsyth County Environmental Affairs Department, NC; Palm Beach County Public Health Unit, FL; Hillsborough County Environmental Protection Commission, FL; Dade County Environmental Resources Management, FL; Jacksonville Air Quality Division, FL; Broward County Environmental Quality Control Board, FL; Pinellas County Department of Environmental Management, FL; City of Huntsville Department of Natural Resources, AL; Jefferson County Department of Health, AL]. The 23 evaluations were conducted to assess the agencies' performance under the grants awarded by EPA under authority of section 105 of the Clean Air Act. EPA Region 4 has prepared reports for each agency identified above and these reports are now available for public inspection. The Commonwealth of Kentucky's evaluation will be made

available for public review at a later date.

ADDRESSES: The reports may be examined at the EPA's Region 4 office, 61 Forsyth Street, SW, Atlanta, Georgia 30303, in the Air, Pesticides, and Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Linda Thomas, (404) 562–9064, at the above Region 4 address, for information concerning the state agencies in Alabama, Florida, Mississippi, Georgia, and the local agencies in those states. Vera Bowers, (404) 562–9053, at the above Region 4 address, for information concerning the state agencies in Kentucky, North Carolina, South Carolina, Tennessee, and the local agencies in those states.

Dated: August 6, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–21425 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34194; FRL–6099–5]

Ethoprop, Fenamiphos, Phorate, and Terbufos, Revised Organophosphate Pesticide Risk Assessments; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a public meeting to present to interested stakeholders the revised risk assessments for four organophosphate pesticides: Ethoprop, fenamiphos, phorate, and terbufos. This public meeting, called a ''Technical Briefing,'' will provide an opportunity for stakeholders to learn about the data, information, and methodologies that the Agency used in revising its risk assessments for the four organophosphates mentioned in this notice. In addition, representatives of the U.S. Department of Agriculture (USDA) will provide ideas on possible risk management for ethoprop, fenamiphos, phorate, and terbufos.

DATES: The technical briefing will be held on Thursday, September 2, 1999.

ADDRESSES: The technical briefing will be held at the Ramada Plaza-Old Town, 901 North Fairfax St., Alexandria, VA, (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphates, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of This Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

A brief summary of the ethoprop, fenamiphos, phorate, and terbufos revised risk assessments are now available at: http://www.epa.gov/pesticides/op/status.htm/, as well as in paper as part of the public version of the official record as described in Unit I.B.2. of this document. To access information about the revised risk assessments, which are scheduled for release on the day of the technical briefing, for the four organophosphates mentioned in this notice, go directly to the Home Page for the Office of Pesticide Programs at http://www.epa.gov/pesticides/op/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34194. However, a docket control number was established for each of the chemicals in this document by previous **Federal Register** documents. A sequential alphabet designation is added to the docket control number each time a new **Federal Register** document in this subject category is published. Use the table in this unit to determine the docket control number you need.

Chemical name	Docket control number
Ethoprop	34144B
Fenamiphos	34134A
Phorate	34137A
Terbufos	34139B

The official record consists of the documents specifically referenced in this action, any public comments received during the applicable comment period, and other information related to this action, including information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during the applicable comment period, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305–5805.

II. What Action Has EPA Taken?

This document announces the Agency's intention to hold a technical briefing for the organophosphate pesticides ethoprop, fenamiphos, phorate, and terbufos. The Agency is presenting the revised risk assessments for the chemicals listed in this notice to interested stakeholders. Technical briefings are designed to provide stakeholders with an opportunity to become even more informed about an organophosphate's risk assessment. EPA will describe in detail the revised risk assessments, including: The major points (e.g., contributors to risk estimates); how public comment on the preliminary risk assessments affected the revised risk assessments; and the pesticide use information/data that was used in developing the revised risk assessments. Stakeholders will have an opportunity to ask clarifying questions. In addition, representatives of the USDA will provide ideas on possible risk management for ethoprop, fenamiphos, phorate, and terbufos.

Technical briefings are part of the pilot public participation process that

EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998 as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998 in response to Vice President Gore's directive to increase transparency and opportunities for stakeholder consultation.

On the day of the technical briefing, the Agency will also release for public viewing the ethoprop, fenamiphos, phorate, and terbufos revised risk assessments and related documents to the Public Information and Records Integrity Branch and the OPP Internet web site that are described in Unit I.B.1. of this document. In addition, the Agency will issue a **Federal Register** notice to provide an opportunity for a 60-day public participation period during which the public may submit recommendations and proposals for transition.

III. Technical Briefing Schedule

8:30 a.m. to 10:00 a.m.	Ethoprop
10:30 a.m. to 12:00 noon	Fenamiphos
12:00 noon to 1:00 p.m.	Lunch
1:00 p.m. to 2:30 p.m.	Terbufos
3:00 p.m. to 4:30 p.m.	Phorate

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: August 12, 1999.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–21429 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34170A; FRL–6095–3]

Chlorethoxyfos; Availability of Organophosphate Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notices announces the availability of the revised risk assessment and related documents for one organophosphate pesticide, chlorethoxyfos. In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management ideas or proposals. These actions are in response to a joint initiative between EPA and the Department of Agriculture to increase transparency in the tolerance reassessment process for organophosphate pesticides.

DATES: Comments, identified by docket control number OPP–34170A, must be received by EPA on or before October 18, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34170A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessment and submitting risk management comments on chlorethoxyfos, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

A. Electronically

You may obtain electronic copies of this document and other related documents from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides and obtain electronic copies of the revised risk assessment and related documents mentioned in this notice, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/.

B. In Person

The Agency has established an official record for this action under docket control number OPP–34170A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch (PIRIB) telephone number is (703) 305–5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, you must identify docket control number OPP–34170A in the subject line on the first page of your response.

1. *By mail.* Submit comments to: Public Information and Records

Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. PIRIB is open 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. Submit electronic comments by e-mail to: ''opp-docket@epa.gov,'' or you may mail or deliver your standard computer disk using the addresses in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP–34170A. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

IV. What Action Is EPA Taking in This Notice?

EPA is making available for public viewing the revised risk assessment and related documents for one organophosphate, chlorethoxyfos. These documents have been developed as part of the pilot public participation process that EPA and the U.S. Department of Agriculture (USDA) are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation. The documents being released to the public through this notice provide information on the revisions that were made to the chlorethoxyfos preliminary risk assessment, which where released to the public on January 15, 1999 (64 FR 2644) (FRL–6056–9), through a notice in the **Federal Register**.

As part of the pilot public participation process, EPA and USDA may hold public meetings (called Technical Briefings) to provide interested stakeholders with opportunities to become more informed about revised organophosphate risk assessment. During the Technical Briefings, EPA describes the major points (e.g. risk contributors), use data that were used (e.g. data from USDA's Pesticide Data Program (PDP)), and discusses how public comments impacted the assessment. USDA provides ideas on possible risk management. Stakeholders have an opportunity to ask clarifying questions, and all meeting minutes are placed in the OPP public docket. Technical Briefings may not be held for chemicals that have limited use patterns or low levels of risk concern. The use pattern of chlorethoxyfos is limited to corn. Therefore, no Technical Briefing is planned. In cases where no Technical Briefing is held, the Agency will make a special effort to communicate with interested stakeholders in order to better ensure their understanding of the revised assessment and how they can participate in the organophosphate pilot public participation process. EPA has a good familiarity with the stakeholder groups associated with the use of chlorethoxyfos who may be interested in participating in the risk assessment/risk management process, and will contact them individually to inform them that no Technical Briefing will be held. EPA is willing to meet with stakeholders to discuss the chlorethoxyfos revised risk assessment. Minutes of all meetings will be docketed.

In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management proposals or otherwise comment on risk management for chlorethoxyfos. The Agency is providing an opportunity, through this notice, for interested parties to provide written risk management proposals or ideas to the Agency on the chemical specified in this notice. EPA will provide other opportunities for public participation and comment on issues associated with the organophosphate tolerance reassessment program. Failure to participate or comment as part of this opportunity will in no way prejudice or limit a commentor's opportunity to participate fully in later notice and comment processes. All comments and proposals must be received by EPA on or before October 18, 1999 at the addresses given under the **ADDRESSES** section. Comments and proposals will become part of the Agency record for the organophosphate specified in this notice.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: August 10, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–21244 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34192A; FRL–6099–2]

Neurotoxic Pesticides, Availability of Data Call-In Notice; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA is correcting the availability date of the Data Call-In

Notice requiring registrants of neurotoxic pesticides to conduct acute, subchronic, and developmental neurotoxicity studies and submit the results to EPA.

DATES: The Data Call-In Notice is available August 6, 1999.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460; telephone numbers: (703) 308–8004 and fax number: (703) 308–8005; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Action Apply to Me?

You may be potentially affected by this notice if you manufacture or formulate pesticides. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Pesticide producers	32532	Pesticide manufacturers Pesticide formulators

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed could also be affected. If available, the North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this notice affects certain entities. If you have any questions regarding the applicability of this announcement to you, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information, Including Copies of This Document or Other Related Documents?

A. Electronically

You may obtain electronic copies of this document and other related documents from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To obtain electronic copies of the Neurotoxicity Data Call-In Notice mentioned in this notice, you can go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/.

B. In Person

The Agency has established an official record for this action under docket control number OPP–34192A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as CBI. This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. What Action Is EPA Taking in This Notice?

On August 6, 1999, EPA published a document (FRL–6097–9) in the **Federal Register** on page 42945, announcing the availability of a Data Call-In Notice for cholinesterase-inhibiting organophosphates. Through an administrative error, the wrong date was inserted in the document under the caption ''DATES.''

On page 42945, in the third column under the caption ''DATES'' the date is corrected to read: ''August 6, 1999.''

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: August 6, 1999.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–21428 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–1520]

Common Carrier Bureau Announces Release of September Version of Telecommunications Reporting Worksheet (FCC Form 499–S) for Contributions to the Universal Service Support Mechanisms

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On July 30, 1999, the Common Carrier Bureau released a public notice announcing the release of the September version of the Telecommunications Reporting Worksheet (FCC Form 499–S) and its accompanying instructions. The intended effect of this action is to make the public aware of the new worksheet and to remind contributors to the universal service support mechanisms of the need to file the worksheet on September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Scott K. Bergmann, Industry Analysis Division, Common Carrier Bureau, at (202) 418–7102; or Jim Lande, Industry Analysis Division, Common Carrier Bureau at (202) 418–0948.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released July 30, 1999 (DA 99–1520). The September version of the Telecommunications Reporting Worksheet (FCC Form 499–S) and its accompanying instructions are attached to the Public Notice. The full text of the Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, S.W., Washington, D.C. 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Federal Communications Commission.

Alan Feldman,

Deputy Chief, Industry Analysis Division, Common Carrier Bureau.

[FR Doc. 99–21401 Filed 8–17–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–98; DA 99–1555]

Connecticut Department of Public Utility Control's Petition Requesting Additional Authority To Implement Area Code Conservation Measures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On August 5, 1999, the Commission released a public notice requesting public comment on a petition from the Connecticut Department of Public Utility Control (''Petition'') requesting additional authority to implement measures related to conservation of area codes. The intended effect of this action is to make the public aware of, and to seek public comment on, this request.

DATES: Comments are due by September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Jared Carlson at (202) 418–2320 or jcarlson@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals, 445 12th Street, S.W., Suite 6-A320, Washington, D.C. 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On September 28, 1998, the Federal Communications Commission (''Commission'') released an order in the matter of a Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Memorandum Opinion and Order and Order on Reconsideration,* FCC 98–224, CC Docket No. 96–98, 63 FR 63613, NSD File No. L–97–42 (rel. September 28, 1998) (''Pennsylvania Numbering Order''). The Pennsylvania Numbering Order delegated additional authority to state public utility commissions to order NXX code rationing, under certain circumstances, in jeopardy situations and encouraged state commissions to seek further limited delegations of authority to implement other innovative number conservation methods.

The Connecticut Department of Public Utility Control (''CTDPUC'') has filed a request for additional delegation of authority to implement area code conservation methods in their state. *See* Common Carrier Bureau Seeks Comment on the Connecticut Department of Public Utility Control's Petition for Delegation of Additional Authority to Implement Area Code Conservation Measures, *Public Notice,* NSD File No. L–99–62, DA 99–1555 (rel. August 5, 1999).

The additional authority measures sought by the CTDPUC relate to issues under consideration in the *Numbering Resource Optimization Notice.* Numbering Resource Optimization, *Notice of Proposed Rulemaking,* CC Docket No. 99–200, FCC 99–122 (rel. June 2, 1999), 64 FR 32471. Because the CTDPUC faces immediate concerns regarding the administration of area code resources in Connecticut, we find it to be in the public interest to address this petition as expeditiously as possible, prior to completing the rulemaking proceeding.

We hereby seek comment on the issues raised in the CTDPUC's petition for delegated authority to implement various area code conservation measures. A copy of this petition will be available during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, S.W., Suite CY–A257, Washington, D.C. 20554, (202) 418–0267.

Interested parties may file comments concerning these matters on or before September 6, 1999. All filings must reference NSD File Number L–99–62 and CC Docket 96–98. Send an original and four copies to the Commission Secretary, Magalie Roman Salas, Portals II, 445 12th Street, S.W., Suite TW–A325, Washington, D.C. 20554 and two copies to Al McCloud, Network Services Division, Portals II, 445 12th Street, S.W., Suite 6A–320, Washington, D.C. 20554.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. 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 to ecfs@fcc.gov, including ''get form <your e-mail address>'' in the body of the message. A sample form and directions will be sent in reply. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

This is a ''permit but disclose'' proceeding for purposes of the Commission's *ex parte* rules. *See generally* 47 CFR 1.1200–1.1216. As a ''permit but disclose'' proceeding, *ex parte* presentations will be governed by the procedures set forth in 1.1206 of the Commission's rules applicable to non-restricted proceedings. 47 CFR 1.1206.

Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation 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). Other rules pertaining to oral and written presentations are set forth in 1.1206(b) as well. For further information contact Jared Carlson of the Common Carrier Bureau, Network Services Division, at (202) 418–2320 or jcarlson@fcc.gov. The TTY number is (202) 418–0484.

Federal Communications Commission.

Blaise A. Scinto,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 99–21356 Filed 8–17–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2351]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

August 12, 1999.

Petitions for reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, SW, Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by September 2, 1999. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to an opposition must be filed within 10 days after the time for filing options has expired.

Subject: Assessment and Collection of Regulatory Fees for Fiscal Year 1999 (MD Docket No. 98–200).

Number of Petitions Filed: 1.

Subject: Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996 (CS Docket No. 96–85).

Number of Petitions Filed: 3.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–21400 Filed 8–17–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, August 19, 1999, 10:00 a.m., meeting Open to the Public.

The following item was added to the agenda: Audit Report on the San Diego Convention and Visitors Bureau, Inc.

DATE & TIME: Tuesday, August 24, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, August 26, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth floor)

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Title 26 Final Rules and Explanation and Justification covering several issues in 11 CFR Parts 9001–9039. (Tentative)

Status of PricewaterhouseCoopers (PwC) Recommendations.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 99–21577 Filed 8–16–99; 3:25 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives 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.: 203–011516–003

Title: Voluntary Intermodal Sealift Discussion Agreement

Parties:

American President Lines, Ltd.
Crowley American Transport, Inc.
Crowley Marine Services, Inc.
Farrell Lines Inc.
Lykes Lines Limited, L.L.C.
Maersk Lines, Limited
Matson Navigation Company
Sea-Land Service, Inc.
Totem Ocean Trailer Express, Inc.

Synopsis: The proposed modification extends the term of the agreement from October 1, 1999, to an indefinite term.

Agreement No.: 217–011548–003

Title: Hanjin/Sinotrans Slot Charter Agreement

Parties:

China National Foreign Trade Transportation Corp.
Hanjin Shipping Co., Ltd.

Synopsis: The proposed Amendment modifies Article 5.4.1 of the Agreement to increase the number of slots made available to Sinotrans under Hanjin's CAX–I service.

Agreement No.: 203–011668

Title: Columbus Line/Hapag-Lloyd Cooperative Service Contract Agreement

Parties:

Hapag-Lloyd Container Linie GmbH
Columbus Line

Synopsis: The proposed Agreement would permit the parties to jointly negotiate, enter into, or amend service contracts with shippers for the transportation of cargo between all United States ports and points and all foreign ports and points. The parties would also be permitted to discuss and agree upon rates, rules, and terms and conditions of service applicable to service contracts and would permit the parties to reconcile revenues earned under a particular agreement to the extent necessary to maximize efficiencies in the service.

Agreement No.: 203–011669

Title: ATL/CMT Cooperative Working Agreement

Parties:

Associated Transport Line, L.L.C.
Crowley Marine Tansport

Synopsis: The proposed agreement would authorize the parties to charger space to each other, coordinate sailings, utilize common port facilities, exchange equipment and information, and discuss and reach nonbinding agreement on rates in the trade between U.S. Gulf ports, and U.S. inland points via those ports, and ports and points in Colombia, Mexico, Trinidad, and Venezuela. The parties have requested expedited review.

Agreement No.: 217–011670

Title: Libra/FMC Agreement No. 232–011642 (ECUA/ECSA) Space Charter Agreement

Parties:

Companhia Libra de Navegacao (''Libra'') East Coast United States/East Coast South America (''ECUA/ECSA'') Vessel Sharing Agreement FMC Agreement No. 232–011642

Synopsis: The proposed Agreement permits the ECUA/ECSA Vessel Sharing Agreement to charter space to Libra in the trade between ports on the East Coast of the United States (Eastport, ME to Key West, FL) and ports in Argentina, Brazil, Paraguay, Uruguay and Venezuela.

Agreement No.: 232–011671

Title: Med-Pacific Express/Contship Space Charter and Sailing Agreement

Parties:

d'Amico Societa di Navigazione S.p.A. and Italia di Navigazione, S.p.A. d/b/a Med-Pacific Express (''Med-Pacific'')
Contship Containerlines Limited (''Contship'')

Synopsis: The proposed Agreement would permit Med-Pacific to charter space to Contship on vessels it operates in the trade between United States Pacific Coast ports and ports in countries bordering on the Mediterranean Sea. It would also permit them to agree on certain aspects of sailings in the trade and on other cooperative activities related to the chartering of space.

Agreement No.: 203–011672

Title: CSAV Group Cooperative Working Agreement

Parties:

Compania Sud Americana de Vapores S.A.
Euroatlantic Container Line S.A.

Braztrans Transportes Maritimos Limitada
Montemar Maritima S.A.
Companhia Libra de Navegacao

Synopsis: The proposed agreement would authorize any two or more parties to coordinate and rationalize all aspects of their operations, including the chartering of vessels and vessel space, coordinate sailings, interchange equipment, and share facilities in the trade between ports and inland points in the United States and ports and inland points worldwide.

By Order of the Federal Maritime Commission.

Dated: August 13, 1999.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 99–21436 Filed 8–17–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

American Classic Voyages Company, 1380 Port of New Orleans Place, New Orleans, LA 70130–1890

Vessel: Columbia Queen

American West Steamboat Company LLC, 2 Union Square, 601 Union Street, Suite 4343, Seattle, WA 98101

Vessel: Queen of the West

Carnival Corporation, 3655 NW 87th Avenue, Miami, FL 33178–2193

Vessels: Carnival Spirit and Carnival Victory

Celebrity Cruises Inc. (d/b/a Celebrity Cruises), 1050 Caribbean Way, Miami, FL 33132

Vessels: Millennium, Millennium II, Millennium III and Millennium IV

New Commodore Cruise Lines Limited (d/b/a Crown Cruise Line), 4000 Hollywood Blvd., Suite 385 South, Hollywood, FL 33021

Vessel: Crown Dynasty

New Commodore Cruise Lines Limited (d/b/a Capri Cruises), 4000 Hollywood Blvd., Suite 385 South, Hollywood, FL 33021

Vessel: Enchanted Capri

New Commodore Cruise Lines Limited (d/b/a Commodore Cruise Line), 4000 Hollywood Blvd., Suite 385 South, Hollywood, FL 33021

Vessel: Enchanted Isle

New Commodore Cruise Lines Limited (d/b/a Commodore Day Cruises), 4000 Hollywood Blvd., Suite 385 South, Hollywood, FL 33021

Vessel: Enchanted Sun

New Commodore Cruise Lines Limited (d/b/a World Explorer Cruises), 4000 Hollywood Blvd., Suite 385 South, Hollywood, FL 33021

Vessel: Universe Explorer

Norwegian Cruise Line Limited (d/b/a Norwegian Cruise Line and Orient Lines), 7665 Corporate Center Drive, Miami, FL 33126

Vessel: Crown Odyssey

Dated: August 13, 1999.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 99–21438 Filed 8–17–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

American West Steamboat Company LLC and QW Boat Company LLC, 2 Union Square, 601 Union Street, Suite 4343, Seattle, WA 98101

Vessel: Queen of the West

Carnival Corporation and Utopia Cruises, Inc., 3655 NW 87th Avenue, Miami, FL 33178–2193

Vessel: Carnival Triumph

Disney Cruise Vacations, Inc., Magical Cruise Company, Limited (d/b/a Disney Cruise Line) and DCL Services Ltd., 210 Celebration Place, Suite 400, Celebration, FL 34747–4600

Vessel: Disney Wonder

Holland America Line Westour Inc., Holland America Line N.V. and HAL Nederland N.V., 300 Elliot Avenue West, Seattle, WA 98119

Vessels: Volendam and Zaandam

Norwegian Cruise Line Limited (d/b/a Norwegian Cruise Line and Orient Lines) and Orient Lines Ltd., 7665 Corporate Center Drive, Miami, FL 33126

Vessel: Crown Odyssey

Norwegian Cruise Line Limited (d/b/a Norwegian Cruise Line), 7665 Corporate Center Drive, Miami, FL 33126

Vessel: Norwegian Sky

Dated: August 13, 1999.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 21437 Filed 8–17–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 99–16]

Carolina Marine Handling, Inc. v. South Carolina State Ports Authority, Charleston Naval Complex Redevelopment Authority, Charleston International Projects Inc., and Charleston International Ports, LLC; Notice of Filing of Complaint and Assignment

Notice is given that a complaint was filed by Carolina Marine Handling, Inc. (''Complainant''), against South Carolina State Ports Authority (''SPA''), Charleston Naval Complex Redevelopment Authority (''RDA''), Charleston International Projects, Inc. (''CIP''), and Charleston International Ports, LLC (''CIP''), herein collectively referred to as (''Respondents''). The complaint was served on August 13, 1999. Complainant alleges that Respondents violated sections 10(d)(1) and, pursuant to provisions of section 20(e)(3), sections 10(b)(11), 10(b)(12), 10(d)(3) and 10(d)(4) of the Shipping Act of 1984, 46 U.S.C. app. 1709(d)(1) and, pursuant to the provisions of § 1719(e)(3), §§ 1709(b)(11), (b)(12, (d)(3) and (d)(4), by refusal to negotiate with or to make available to Complainant adequate and suitable terminal, pier, dock, and storage facilities; interference with Complainants right to use of such facilities; and by granting terminal space and concessions to Respondent CIP and others while unreasonably denying comparable terminal space and concessions to Complainant.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held,

shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature off the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by August 14, 2000, and the final decision of the Commission shall be issued by December 12, 2000.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 99–21446 Filed 8–17–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding revocation dates shown below:

License No.: 3581
Name: Aleta W. Vernon d/b/a Danco Freight Forwarding Co.
Address: 163 Deertract Loop, Stoneville, NC 27048
Date Revoked: June 9, 1999
Reason: Failed to maintain a valid bond.

License No.: 3408
Name: Atlanta Customs Brokers and Freight Forwarders, Inc.
Address: 650 Atlanta South Parkway, Ste. 250, Atlanta, GA 30349
Date Revoked: June 15, 1999
Reason: Surrendered license voluntarily.

License No.: 4056
Name: Brian Min d/b/a B & A Express
Address: 18747 Laurel Park Road, Rancho Dominquez, CA 90220
Date Revoked: July 12, 1999
Reason: Surrendered license voluntarily.

License No.: 2947
Name: Kintetsu Intermodal (U.S.A.), Inc.
Address: 1035 Watson Center Road, Carson, CA 90745
Date Revoked: May 1, 1999
Reason: Surrendered license voluntarily.

License No.: 1234
Name: Margarita T. Kuyoomjian d/b/a California International Forwarders
Address: 502 S. Irving Blvd., Los Angeles, CA 90020
Date Revoked: April 29, 1999
Reason: Surrendered license voluntarily.

License No.: 3138
Name: Multi-Modal International, Inc.
Address: 3531 Casa Real Way, P.O. Box 81873, Las Vegas, NV 89180–1873
Date Revoked: May 6, 1999
Reason: Surrendered license voluntarily.

License No.: 4565
Name: Mundial Forwarding, Inc.
Address: 918 Dunwood Drive, Houston, TX 77076
Date Revoked: June 8, 1999
Reason: Surrendered license voluntarily.

License No.: 2806
Name: Oceanflight, Inc.
Address: 3199 Kinross Court, Herndon, VA 20171
Date Revoked: May 1, 1999
Reason: Surrendered license voluntarily.

License No.: 2755
Name: Pasco Associates Limited Partnership
Address: 1050 17th Street, N.W., Ste. 450, Washington, DC 20036
Date Revoked: April 29, 1999
Reason: Surrendered license voluntarily.

License No.: 2742
Name: Pegasus (N.Y.) Inc.
Address: 175–01 Rockaway Blvd., Ste. 203, Jamaica, NY 11434
Date Revoked: March 27, 1999
Reason: Failed to maintain a valid surety bond.

License No.: 2101
Name: Cosdel International Company, Inc.
Address: 55 New Montgomery Street, San Francisco, CA 94105
Date Revoked: April 21, 1999
Reason: Surrendered license voluntarily.

License No.: 4053
Name: Exincargo, Inc.
Address: 7855 NW 29th Street, Suite 150, Miami, FL 33122
Date Revoked: May 14, 1999
Reason: Surrendered license voluntarily.

License No.: 3352
Name: Fairway Express, Inc.
Address: 5250 W. Century Blvd., Ste. 415, Los Angeles, CA 90045–5941
Date Revoked: May 1, 1999
Reason: Surrendered license voluntarily.

License No.: 1896
Name: Fernando Rogus/Smith & Johnson (Warehouse) Inc.
Address: c/o Wilson UTC, Inc., 750 Walnut Avenue, Cranford, NJ 07016
Date Revoked: May 5, 1999
Reason: Surrendered license voluntarily.

License No.: 4047
Name: Heywal Soo Kahng d/b/a Maturity International Transport
Address: 2039 W. Artesia Blvd., St. 144, Torrance, CA 90504
Date Revoked: April 30, 1999
Reason: Surrendered license voluntarily.

License No.: 4155
Name: King Senderax, Inc. d/b/a King Senderax Cargo
Address: 17310 Crenshaw Blvd., Torrance, CA 90504
Date Revoked: June 8, 1999
Reason: Surrendered license voluntarily.

License No.: 2039
Name: Seven Seas Brokers Inc.
Address: 5453 N.W. 72nd Avenue, P.O. Box 661109, Miami Springs, FL 33266–1109
Date Revoked: May 27, 1999
Reason: Surrendered license voluntarily.

License No.: 3848
Name: Suanna Widjaja Rossi and Robert William Rossi d/b/a Neptune Forwarding Co.
Address: 2127 Kendall Way, Acworth, GA 30102
Date Revoked: June 7, 1999
Reason: Surrendered license voluntarily.

License No.: 795
Name: The Svensson Shipping Agency, Inc.
Address: 802 Garfield Avenue, Duluth, MN 55802
Date Revoked: June 17, 1999
Reason: Faled to maintain a valid bond.

License No.: 4325
Name: Trico American Air Freight & Forwarding Co.
Address: 5433 Eagle Industrial Court, Hazelwood, MO 63042
Date Revoked: June 23, 1999
Reason: Surrendered license voluntarily.

License No.: 732
Name: Universal Transport (N.J.) Corporation
Address: One Parker Plaza, Fort Lee, NJ 07024–2941
Date Revoked: June 29, 1999

Reason: Surrendered license voluntarily.

T. A. Zook,

Deputy Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 99–21439 Filed 8–17–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 99–15]

Notice of Investigation

Notice is given that the Commission, on August 13, 1999, served an Order of Investigation and Hearing on respondents David P. Kelly and West Indies Shipping and Trading, Inc. The Order institutes a formal investigation to determine whether respondents violated sections 8(a)(1), 10(a)(1), 19(a) and 19(b)(1) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1707(a)(1), 1709(a)(1), 1718(a) and 1718(b)(1), by operating as a non-vessel-operating common carrier without a tariff on file with the Commission prior to May 1, 1999, and thereafter without a license, a publicly available tariff, a bond or other form of surety; and by providing inaccurate descriptions of cargo to ocean common carriers in order to obtain lower rates. Moreover, should violations be found, the proceeding will determine whether to impose civil penalties and, if so, in what amount, and whether to issue an appropriate cease and desist order. The full text of the Order may be viewed on the Commission's home page at www.fmc.gov, or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW, Washington, DC. Any person may file a petition for leave to intervene in accordance with 46 CFR 502.72.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 99–21440 Filed 8–17–99; 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 (12 U.S.C. 1843). 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 September 13, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Community National Bancorporation, Ashburn, Georgia; to acquire 100 percent of the voting shares of Cumberland National Bank, St. Marys, Georgia, (in organization).

2. Equitex, Inc., Englewood, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of First TeleBanc Corporation, Boca Raton, Florida, and thereby indirectly acquire Net First National Bank, Boca Raton, Florida.

3. Florida Business Bancgroup, Inc., Tampa, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Bay Cities Bank, Tampa, Florida, (in organization).

Board of Governors of the Federal Reserve System, August 13, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–21432 Filed 8–17–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0374]

International Conference on Harmonisation; Guidance on Specifications: Test Procedures and Acceptance Criteria for Biotechnological/Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a guidance entitled ''Q6B Specifications: Test Procedures and Acceptance Criteria for Biotechnological/Biological Products.'' The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance provides guidance on general principles for the selection of test procedures and the setting and justification of acceptance criteria for biotechnological and biological products. The guidance is intended to assist in the establishment of a uniform set of international specifications for biotechnological and biological products to support new marketing applications.

DATES: Effective August 18, 1999. Submit written comments at any time.

ADDRESSES: Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Copies of the guidance are available from the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573. Single copies of the guidance may be obtained by mail from the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852, or by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. Copies may be obtained from CBER's FAX Information System at 1–888–CBER–FAX or 301–827–3844.

FOR FURTHER INFORMATION CONTACT: Neil D. Goldman, Center for Biologics Evaluation and Research (HFM–20), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0377.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In the **Federal Register** of June 9, 1998 (63 FR 31506), FDA published a draft tripartite guidance entitled ''Q6B Specifications: Test Procedures and Acceptance Criteria for Biotechnological/Biological Products.'' The notice gave interested persons an opportunity to submit comments by July 24, 1998.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies on March 11, 1999.

In accordance with FDA's good guidance practices (62 FR 8961, February 27, 1997), this document has been designated a guidance, rather than a guideline.

The guidance provides guidance on general principles for the selection of test procedures and the setting and justification of acceptance criteria for biotechnological and biological products. The guidance is intended to assist in the establishment of a uniform set of international specifications for biotechnological and biological products to support new marketing applications.

This guidance represents the agency's current thinking on the selection of test procedures and the setting and justification of acceptance criteria for biotechnological and biological products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. The comments in the docket will be periodically reviewed, and, where appropriate, the guidance will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this guidance is available on the Internet at ''http://www.fda.gov/cder/guidance/index.htm'' or at CBER's World Wide Web site at ''http://www.fda.gov/cber/publications.htm''.

The text of the guidance follows:

Q6B Specifications: Test Procedures and Acceptance Criteria for Biotechnological/Biological Products[1]

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1.0 Introduction

1.1 Objective

This guidance document provides guidance on general principles for the setting and justification, to the extent possible, of a uniform set of international specifications for biotechnological and biological products to support new marketing applications.

1.2 Background

A specification is defined as a list of tests, references to analytical procedures, and appropriate acceptance criteria which are numerical limits, ranges, or other criteria for the tests described. It establishes the set of

[1]This guidance represents the agency's current thinking on the selection of test procedures and the setting and justification of acceptance criteria for biotechnological and biological products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

criteria to which a drug substance, drug product, or materials at other stages of its manufacture should conform to be considered acceptable for its intended use. ''Conformance to specification'' means that the drug substance and drug product, when tested according to the listed analytical procedures, will meet the acceptance criteria. Specifications are critical quality standards that are proposed and justified by the manufacturer and approved by regulatory authorities as conditions of approval.

Specifications are one part of a total control strategy designed to ensure product quality and consistency. Other parts of this strategy include thorough product characterization during development, upon which many of the specifications are based, adherence to good manufacturing practices, a validated manufacturing process, raw materials testing, in-process testing, stability testing, etc.

Specifications are chosen to confirm the quality of the drug substance and drug product rather than to establish full characterization and should focus on those molecular and biological characteristics found to be useful in ensuring the safety and efficacy of the product.

1.3 Scope

The principles adopted and explained in this document apply to proteins and polypeptides, their derivatives, and products of which they are components (e.g., conjugates). These proteins and polypeptides are produced from recombinant or nonrecombinant cell-culture expression systems and can be highly purified and characterized using an appropriate set of analytical procedures.

The principles outlined in this document may also apply to other product types, such as proteins and polypeptides isolated from tissues and body fluids. To determine applicability, manufacturers should consult with the appropriate regulatory authorities.

This document does not cover antibiotics, synthetic peptides and polypeptides, heparins, vitamins, cell metabolites, deoxyribonucleic acid (DNA) products, allergenic extracts, conventional vaccines, cells, whole blood, and cellular blood components. A separate ICH draft guidance, ''Q6A Specifications: Test Procedures and Acceptance Criteria for New Drug Substances and New Drug Products: Chemical Substances'' addresses specifications and other criteria for chemical substances.

This document does not recommend specific test procedures or specific acceptance criteria, nor does it apply to the regulation of preclinical and/or clinical research material.

2.0 Principles for Consideration in Setting Specifications

2.1 Characterization

Characterization of a biotechnological or biological product (which includes the determination of physicochemical properties, biological activity, immunochemical properties, purity, and impurities) by appropriate techniques is necessary to allow relevant specifications to be established. Acceptance criteria should be established and justified based on data obtained from lots used in preclinical and/or clinical studies, data from lots used for demonstration of manufacturing consistency, data from stability studies, and relevant development data.

Extensive characterization is performed in the development phase and, where necessary, following significant process changes. At the time of submission, the product should have been compared with an appropriate reference standard, if available. When feasible and relevant, it should be compared with its natural counterpart. Also, at the time of submission, the manufacturer should have established appropriately characterized in-house reference materials which will serve for biological and physicochemical testing of production lots. New analytical technology and modifications to existing technology are continually being developed and should be utilized when appropriate.

2.1.1 Physicochemical properties

A physicochemical characterization program will generally include a determination of the composition, physical properties, and primary structure of the desired product. In some cases, information regarding higher-order structure of the desired product (the fidelity of which is generally inferred by its biological activity) may be obtained by appropriate physicochemical methodologies.

An inherent degree of structural heterogeneity occurs in proteins due to the biosynthetic processes used by living organisms to produce them; therefore, the desired product can be a mixture of anticipated post-translationally modified forms (e.g., glycoforms). These forms may be active and their presence may have no deleterious effect on the safety and efficacy of the product (section 2.1.4). The manufacturer should define the pattern of heterogeneity of the desired product and demonstrate consistency with that of the lots used in preclinical and clinical studies. If a consistent pattern of product heterogeneity is demonstrated, an evaluation of the activity, efficacy, and safety (including immunogenicity) of individual forms may not be necessary.

Heterogeneity can also be produced during manufacture and/or storage of the drug substance or drug product. Since the heterogeneity of these products defines their quality, the degree and profile of this heterogeneity should be characterized to ensure lot-to-lot consistency. When these variants of the desired product have properties comparable to those of the desired product with respect to activity, efficacy, and safety, they are considered product-related substances. When process changes and degradation products result in heterogeneity patterns that differ from those observed in the material used during preclinical and clinical development, the significance of these alterations should be evaluated.

Analytical methods to elucidate physicochemical properties are listed in appendix 6.1. New analytical technology and modifications to existing technology are continually being developed and should be utilized when appropriate.

For the purpose of lot release (section 4), an appropriate subset of these methods should be selected and justified.

2.1.2 Biological activity

Assessment of the biological properties constitutes an equally essential step in establishing a complete characterization profile. An important property is the biological activity that describes the specific ability or capacity of a product to achieve a defined biological effect.

A valid biological assay to measure the biological activity should be provided by the manufacturer. Examples of procedures used to measure biological activity include:

- Animal-based biological assays, which measure an organism's biological response to the product;
- Cell culture-based biological assays, which measure biochemical or physiological response at the cellular level; and
- Biochemical assays, which measure biological activities such as enzymatic reaction rates or biological responses induced by immunological interactions.

Other procedures, such as ligand and receptor binding assays, may be acceptable.

Potency (expressed in units) is the quantitative measure of biological activity based on the attribute of the product that is linked to the relevant biological properties, whereas quantity (expressed in mass) is a physicochemical measure of protein content. Mimicking the biological activity in the clinical situation is not always necessary. A correlation between the expected clinical response and the activity in the biological assay should be established in pharmacodynamic or clinical studies.

The results of biological assays should be expressed in units of activity calibrated against an international or national reference standard, when available and appropriate for the assay utilized. Where no such reference standard exists, a characterized in-house reference material should be established and assay results of production lots reported as in-house units.

Often, for complex molecules, the physicochemical information may be extensive but unable to confirm the higher-order structure which, however, can be inferred from the biological activity. In such cases, a biological assay, with wider confidence limits, may be acceptable when combined with a specific quantitative measure. Importantly, a biological assay to measure the biological activity of the product may be replaced by physicochemical tests only in those instances where:

- Sufficient physicochemical information about the drug, including higher-order structure, can be thoroughly established by such physicochemical methods, and relevant correlation to biologic activity demonstrated; and
- There exists a well-established manufacturing history.

Where physicochemical tests alone are used to quantitate the biological activity (based on appropriate correlation), results should be expressed in mass.

For the purpose of lot release (section 4), the choice of relevant quantitative assay (biological and/or physicochemical) should be justified by the manufacturer.

2.1.3 Immunochemical properties

When an antibody is the desired product, its immunological properties should be fully characterized. Binding assays of the antibody to purified antigens and defined regions of antigens should be performed, as feasible, to determine affinity, avidity and immunoreactivity (including cross-reactivity). In addition, the target molecule bearing the relevant epitope should be biochemically defined and the epitope itself defined, when feasible.

For some drug substances or drug products, the protein molecule may need to be examined using immunochemical procedures (e.g., enzyme linked immunosorbent assay (ELISA), Western-blot) utilizing antibodies that recognize different epitopes of the protein molecule. Immunochemical properties of a protein may serve to establish its identity, homogeneity, or purity, or serve to quantify it.

If immunochemical properties constitute lot release criteria, all relevant information pertaining to the antibody should be made available.

2.1.4 Purity, impurities, and contaminants

- *Purity*

The determination of absolute, as well as relative, purity presents considerable analytical challenges, and the results are highly method dependent. Historically, the relative purity of a biological product has been expressed in terms of specific activity (units of biological activity per milligram of product), which is also highly method dependent. Consequently, the purity of the drug substance and drug product is assessed by a combination of analytical procedures.

Due to the unique biosynthetic production process and molecular characteristics of biotechnological and biological products, the drug substance can include several molecular entities or variants. When these molecular entities are derived from anticipated post-translational modification, they are part of the desired product. When variants of the desired product are formed during the manufacturing process and/or storage and have properties comparable to the desired product, they are considered product-related substances and not impurities (section 2.1.1).

Individual and/or collective acceptance criteria for product-related substances should be set, as appropriate.

For the purpose of lot release (section 4), an appropriate subset of methods should be selected and justified for determination of purity.

- *Impurities*

In addition to evaluating the purity of the drug substance and drug product, which may be composed of the desired product and multiple product-related substances, the manufacturer should also assess impurities which may be present. Impurities may be either process- or product-related. They can be of known structure, partially characterized, or unidentified. When adequate quantities of impurities can be generated, these materials should be characterized to the extent possible and, where possible, their biological activities should be evaluated.

Process-related impurities encompass those that are derived from the manufacturing process, i.e., cell substrates (e.g., host cell proteins, host cell DNA), cell culture (e.g., inducers, antibiotics, or media components), or downstream processing (see appendix, section 6.2.1). Product-related impurities (e.g., precursors, certain degradation products) are molecular variants arising during manufacture and/or storage that do not have properties comparable to those of the desired product with respect to activity, efficacy, and safety.

Further, the acceptance criteria for impurities should be based on data obtained from lots used in preclinical and clinical studies and manufacturing consistency lots.

Individual and/or collective acceptance criteria for impurities (product-related and process-related) should be set, as appropriate. Under certain circumstances, acceptance criteria for selected impurities may not be necessary (section 2.3).

Examples of analytical procedures that may be employed to test for the presence of impurities are listed in appendix 6.2. New analytical technology and modifications to existing technology are continually being developed and should be utilized when appropriate.

For the purpose of lot release (section 4), an appropriate subset of these methods should be selected and justified.

- *Contaminants*

Contaminants in a product include all adventitiously introduced materials not intended to be part of the manufacturing process, such as chemical and biochemical materials (e.g., microbial proteases) and/or microbial species. Contaminants should be strictly avoided and/or suitably controlled with appropriate in-process acceptance criteria or action limits for drug substance or drug product specifications (section 2.3). For the special case of adventitious viral or mycoplasma contamination, the concept of action limits is not applicable, and the strategies proposed in ICH guidances ''Q5A Quality of Biotechnological/Biological Products: Viral Safety Evaluation of Biotechnology Products Derived from Cell Lines of Human or Animal Origin'' and ''Q5D Quality of Biotechnological/Biological Products: Derivation and Characterization of Cell Substrates Used for Production of Biotechnological/Biological Products'' should be considered.

2.1.5 Quantity

Quantity, usually measured as protein content, is critical for a biotechnological and biological product and should be determined using an appropriate assay, usually physicochemical in nature. In some cases, it may be demonstrated that the quantity values obtained may be directly related to those found using the biological assay. When this correlation exists, it may be appropriate to use measurement of quantity rather than the measurement of biological activity in manufacturing processes, such as filling.

2.2 Analytical Considerations

2.2.1 Reference standards and reference materials

For drug applications for new molecular entities, it is unlikely that an international or national standard will be available. At the time of submission, the manufacturer should have established an appropriately characterized in-house primary reference material, prepared from lot(s) representative of production and clinical materials. In-house working reference material(s) used in the testing of production lots should be calibrated against this primary reference material. Where an international or national standard is available and appropriate, reference materials should be calibrated against it. While it is desirable to use the same reference material for both biological assays and physicochemical testing, in some cases, a separate reference material may be necessary. Also, distinct reference materials for product-related substances, product-related impurities, and process-related impurities may need to be established. When appropriate, a description of the manufacture and/or purification of reference materials should be included in the application. Documentation of the characterization, storage conditions, and formulation supportive of reference material(s) stability should also be provided.

2.2.2 Validation of analytical procedures

At the time the application is submitted to the regulatory authorities, applicants should have validated the analytical procedures used in the specifications in accordance with the ICH guidances ''Q2A Validation of Analytical Procedures: Definitions and Terminology'' and ''Q2B Validation of Analytical Procedures: Methodology,'' except where there are specific issues for unique tests used for analyzing biotechnological and biological products.

2.3 Process Controls

2.3.1 Process-related considerations

Adequate design of a process and knowledge of its capability are part of the strategy used to develop a manufacturing process that is controlled and reproducible, yielding a drug substance or drug product that meets specifications. In this respect, limits are justified based on critical information gained from the entire process spanning the period from early development through commercial-scale production.

For certain impurities, testing of either the drug substance or the drug product may not be necessary and may not need to be included in the specifications if efficient control or removal to acceptable levels is demonstrated by suitable studies. This testing can include verification at commercial scale in accordance with regional regulations. It is recognized that only limited data may be available at the time of submission of an application. This concept may, therefore, sometimes be implemented after marketing authorization, in accordance with regional regulations.

2.3.2 In-process acceptance criteria and action limits

In-process tests are performed at critical decision-making steps and at other steps where data serve to confirm consistency of the process during the production of either the drug substance or the drug product. The results of in-process testing may be recorded as action limits or reported as acceptance criteria. Performing such testing may

eliminate the need for testing of the drug substance or drug product (section 2.3.1). In-process testing for adventitious agents at the end of cell culture is an example of testing for which acceptance criteria should be established.

The use of internal action limits by the manufacturer to assess the consistency of the process at less critical steps is also important. Data obtained during development and validation runs should provide the basis for provisional action limits to be set for the manufacturing process. These limits, which are the responsibility of the manufacturer, may be used to initiate investigation or further action. They should be further refined as additional manufacturing experience and data are obtained after product approval.

2.3.3 Raw materials and excipient specifications

The quality of the raw materials used in the production of the drug substance (or drug product) should meet standards appropriate for their intended use. Biological raw materials or reagents may require careful evaluation to establish the presence or absence of deleterious endogenous or adventitious agents. Procedures that make use of affinity chromatography (for example, employing monoclonal antibodies) should be accompanied by appropriate measures to ensure that such process-related impurities or potential contaminants arising from their production and use do not compromise the quality and safety of the drug substance or drug product. Appropriate information pertaining to the antibody should be made available.

The quality of the excipients used in the drug product formulation (and in some cases, in the drug substance), as well as the container/closure systems, should meet pharmacopoeial standards, where available and appropriate. Otherwise, suitable acceptance criteria should be established for the nonpharmacopoeial excipients.

2.4 Pharmacopoeial Specifications

Pharmacopoeias contain important requirements pertaining to certain analytical procedures and acceptance criteria which, where relevant, are part of the evaluation of either the drug substance or drug product. Such monographs, applicable to biotechnological and biological products, generally include, but are not limited to, tests for sterility, endotoxins, microbial limits, volume in container, uniformity of dosage units, and particulate matter. With respect to the use of pharmacopoeial methods and acceptance criteria, the value of this guidance is linked to the extent of harmonization of the analytical procedures of the pharmacopoeias. The pharmacopoeias are committed to developing identical or methodologically equivalent test procedures and acceptance criteria.

2.5 Release Limits Versus Shelf-Life Limits

The concept of release limits versus shelf-life limits may be applied where justified. This concept pertains to the establishment of limits which are tighter for the release than for the shelf-life of the drug substance or drug product. Examples where this may be applicable include potency and degradation products. In some regions, the concept of release limits may only be applicable to in-house limits and not to the regulatory shelf-life limits.

2.6 Statistical Concepts

Appropriate statistical analysis should be applied, when necessary, to quantitative data reported. The methods of analysis, including justification and rationale, should be described fully. These descriptions should be sufficiently clear to permit independent calculation of the results presented.

3.0 Justification of the Specification

The setting of specifications for drug substance and drug product is part of an overall control strategy which includes control of raw materials and excipients, in-process testing, process evaluation or validation, adherence to good manufacturing practices, stability testing, and testing for consistency of lots. When combined in total, these elements provide assurance that the appropriate quality of the product will be maintained. Since specifications are chosen to confirm the quality rather than to characterize the product, the manufacturer should provide the rationale and justification for including and/or excluding testing for specific quality attributes. The following points should be taken into consideration when establishing scientifically justifiable specifications.

- Specifications are linked to a manufacturing process.

Specifications should be based on data obtained from lots used to demonstrate manufacturing consistency. Linking specifications to a manufacturing process is important, especially for product-related substances, product-related impurities, and process-related impurities. Process changes and degradation products produced during storage may result in heterogeneity patterns which differ from those observed in the material used during preclinical and clinical development. The significance of these alterations should be evaluated.

- Specifications should account for the stability of drug substance and drug product.

Degradation of drug substance and drug product, which may occur during storage, should be considered when establishing specifications. Due to the inherent complexity of these products, there is no single stability-indicating assay or parameter that profiles the stability characteristics. Consequently, the manufacturer should propose a stability-indicating profile. The result of this stability-indicating profile will then provide assurance that changes in the quality of the product will be detected. The determination of which tests should be included will be product specific. The manufacturer is referred to the ICH guidance ''Q5C Stability Testing of Biotechnological/Biological Products.''

- Specifications are linked to preclinical and clinical studies.

Specifications should be based on data obtained for lots used in preclinical and clinical studies. The quality of the material made at commercial scale should be representative of the lots used in preclinical and clinical studies.

- Specifications are linked to analytical procedures.

Critical quality attributes may include items such as potency, the nature and quantity of product-related substances, product-related impurities, and process-related impurities. Such attributes can be assessed by multiple analytical procedures, each yielding different results. In the course of product development, it is not unusual for the analytical technology to evolve in parallel with the product. Therefore, it is important to confirm that data generated during development correlate with those generated at the time the marketing application is filed.

4.0 Specifications

Selection of tests to be included in the specifications is product specific. The rationale used to establish the acceptable range of acceptance criteria should be described. Acceptance criteria should be established and justified based on data obtained from lots used in preclinical and/or clinical studies, data from lots used for demonstration of manufacturing consistency, data from stability studies, and relevant development data.

In some cases, testing at production stages rather than testing at the finished drug substance or drug product stages may be appropriate and acceptable. In such circumstances, test results should be considered as in-process acceptance criteria and included in the specification of drug substance or drug product in accordance with the requirements of the regional regulatory authorities.

4.1 Drug Substance Specification

Generally, the following tests and acceptance criteria are considered applicable to all drug substances (for analytical procedures, see section 2.2.2). Pharmacopoeial tests (e.g., endotoxin detection) should be performed on the drug substance, where appropriate. Additional drug substance specific acceptance criteria may also be necessary.

4.1.1 Appearance and description

A qualitative statement describing the physical state (e.g., solid, liquid) and color of a drug substance should be provided.

4.1.2 Identity

The identity test(s) should be highly specific for the drug substance and should be based on unique aspects of its molecular structure and/or other specific properties. More than one test (physicochemical, biological, and/or immunochemical) may be necessary to establish identity. The identity test(s) can be qualitative in nature. Some of the methods typically used for characterization of the product as described in section 2.1 and in appendix 6.1 may be employed and/or modified as appropriate for the purpose of establishing identity.

4.1.3 Purity and impurities

The absolute purity of biotechnological and biological products is difficult to determine and the results are method dependent (section 2.1.4). Consequently, the purity of the drug substance is usually estimated by a combination of methods. The

choice and optimization of analytical procedures should focus on the separation of the desired product from product-related substances and from impurities.

The impurities observed in these products are classified as process-related and product-related:

- Process-related impurities (section 2.1.4) in the drug substance may include cell culture media, host cell proteins, DNA, monoclonal antibodies or chromatographic media used in purification, solvents, and buffer components. These impurities should be minimized by the use of appropriate, well-controlled manufacturing processes.
- Product-related impurities (section 2.1.4) in the drug substance are molecular variants with properties different from those of the desired product formed during manufacture and/or storage.

For the impurities, the choice and optimization of analytical procedures should focus on the separation of the desired product and product-related substances from impurities. Individual and/or collective acceptance criteria for impurities should be set, as appropriate. Under certain circumstances, acceptance criteria for selected impurities may not be necessary (section 2.3).

4.1.4 Potency

A relevant, validated potency assay (section 2.1.2) should be part of the specifications for a biotechnological or biological drug substance and/or drug product. When an appropriate potency assay is used for the drug product (section 4.2.4), an alternative method (physicochemical and/or biological) may suffice for quantitative assessment at the drug substance stage. In some cases, the measurement of specific activity may provide additional useful information.

4.1.5 Quantity

The quantity of the drug substance, usually based on protein content (mass), should be determined using an appropriate assay. The quantity determination may be independent of a reference standard or material. In cases where product manufacture is based upon potency, there may be no need for an alternate determination of quantity.

4.2 Drug Product Specification

Generally, the following tests and acceptance criteria are considered applicable to all drug products. Each section (4.2.1–4.2.5) is cross-referenced to respective sections (4.1.1–4.1.5) under Drug Substance Specification. Pharmacopoeial requirements apply to the relevant dosage forms. Typical tests found in the pharmacopoeia include, but are not limited to, sterility, endotoxin, microbial limits, volume in container, particulate matter, uniformity of dosage units, and moisture content for lyophilized drug products. If appropriate, testing for uniformity of dosage units may be performed as in-process controls, and corresponding acceptance criteria are set.

4.2.1 Appearance and description

A qualitative statement describing the physical state (e.g., solid, liquid), color, and clarity of the drug product should be provided.

4.2.2 Identity

The identity test(s) should be highly specific for the drug product and should be based on unique aspects of its molecular structure and other specific properties. The identity test(s) can be qualitative in nature. While it is recognized that in most cases a single test is adequate, more than one test (physicochemical, biological, and/or immunochemical) may be necessary to establish identity for some products. Some of the methods typically used for characterization of the product as described in section 2.1 and in appendix 6.1 may be employed and/or modified as appropriate for the purpose of establishing identity.

4.2.3 Purity and impurities

Impurities may be generated or increased during manufacture and/or storage of the drug product. These may be either the same as those occurring in the drug substance itself, process-related, or degradation products which form specifically in the drug product during formulation or during storage. If impurities are qualitatively and quantitatively (i.e., relative amounts and/or concentrations) the same as in the drug substance, testing is not considered necessary. If impurities are known to be introduced or formed during the production and/or storage of the drug product, the levels of these impurities should be determined and acceptance criteria established.

Acceptance criteria and analytical procedures should be developed and justified, based upon previous experience with the drug product, to measure changes in the drug substance during the manufacture and/or storage of the drug product.

The choice and optimization of analytical procedures should focus on the separation of the desired product and product-related substances from impurities including degradation products, and from excipients.

4.2.4 Potency

A relevant, validated potency assay (section 2.1.2) should be part of the specifications for a biotechnological and biological drug substance and/or drug product. When an appropriate potency assay is used for the drug substance, an alternative method (physicochemical and/or biological) may suffice for quantitative assessment of the drug product. However, the rationale for such a choice should be provided.

4.2.5 Quantity

The quantity of the drug substance in the drug product, usually based on protein content (mass), should be determined using an appropriate assay. In cases where product manufacture is based upon potency, there may be no need for an alternate determination of quantity.

4.2.6 General tests

Physical description and the measurement of other quality attributes are often important for the evaluation of the drug product functions. Examples of such tests include pH and osmolarity.

4.2.7 Additional testing for unique dosage forms

It should be recognized that certain unique dosage forms may need additional tests other than those mentioned above.

5.0 Glossary

Acceptance criteria: Numerical limits, ranges, or other suitable measures for acceptance of the results of analytical procedures which the drug substance or drug product or materials at other stages of manufacture should meet.

Action limit: An internal (in-house) value used to assess the consistency of the process at less critical steps.

Biological activity: The specific ability or capacity of the product to achieve a defined biological effect. Potency is the quantitative measure of the biological activity.

Contaminants: Any adventitiously introduced materials (e.g., chemical, biochemical, or microbial species) not intended to be part of the manufacturing process of the drug substance or drug product.

Degradation products: Molecular variants resulting from changes in the desired product or product-related substances brought about over time and/or by the action of, e.g., light, temperature, pH, water, or by reaction with an excipient and/or the immediate container/closure system. Such changes may occur as a result of manufacture and/or storage (e.g., deamidation, oxidation, aggregation, proteolysis). Degradation products may be either product-related substances or product-related impurities.

Desired Product: (1) The protein that has the expected structure, or (2) the protein that is expected from the DNA sequence and anticipated post-translational modification (including glycoforms), and from the intended downstream modification to produce an active biological molecule.

Drug product (Dosage form; Finished product): A pharmaceutical product type that contains a drug substance, generally in association with excipients.

Drug substance (Bulk material): The material that is subsequently formulated with excipients to produce the drug product. It can be composed of the desired product, product-related substances, and product- and process-related impurities. It may also contain excipients including other components, such as buffers.

Excipient: An ingredient added intentionally to the drug substance which should not have pharmacological properties in the quantity used.

Impurity: Any component present in the drug substance or drug product that is not the desired product, a product-related substance, or an excipient including buffer components. It may be either process- or product-related.

In-house primary reference material: An appropriately characterized material prepared by the manufacturer from a representative lot(s) for the purpose of biological assay and physicochemical testing of subsequent lots, and against which in-house working reference material is calibrated.

In-house working reference material: A material prepared similarly to the primary

reference material that is established solely to assess and control subsequent lots for the individual attribute in question. It is always calibrated against the in-house primary reference material.

Potency: The measure of the biological activity using a suitably quantitative biological assay (also called potency assay or bioassay), based on the attribute of the product which is linked to the relevant biological properties.

Process-related impurities: Impurities that are derived from the manufacturing process. They may be derived from cell substrates (e.g., host cell proteins, host cell DNA), cell culture (e.g., inducers, antibiotics, or media components), or downstream processing (e.g., processing reagents or column leachables).

Product-related impurities: Molecular variants of the desired product (e.g., precursors, certain degradation products arising during manufacture and/or storage) which do not have properties comparable to those of the desired product with respect to activity, efficacy, and safety.

Product-related substances: Molecular variants of the desired product formed during manufacture and/or storage which are active and have no deleterious effect on the safety and efficacy of the drug product. These variants possess properties comparable to the desired product and are not considered impurities.

Reference standards: International or national standards.

Specification: A list of tests, references to analytical procedures, and appropriate acceptance criteria which are numerical limits, ranges, or other criteria for the tests described. It establishes the set of criteria to which a drug substance, drug product, or materials at other stages of its manufacture should conform to be considered acceptable for its intended use. ''Conformance to specification'' means that the drug substance and drug product, when tested according to the listed analytical procedures, will meet the acceptance criteria. Specifications are critical quality standards that are proposed and justified by the manufacturer and approved by regulatory authorities as conditions of approval.

6.0 Appendices

6.1 Appendix for Physiochemical Characterization

This appendix provides examples of technical approaches that might be considered for structural characterization and confirmation, and evaluation of physicochemical properties of the desired product, drug substance, and/or drug product. The specific technical approach employed will vary from product to product, and alternative approaches, other than those included in this appendix, will be appropriate in many cases. New analytical technology and modifications to existing technology are continuously being developed and should be utilized when appropriate.

6.1.1 Structural characterization and confirmation

(a) Amino acid sequence

The amino acid sequence of the desired product should be determined to the extent possible using approaches such as those described in items (b) through (e) and then compared with the sequence of the amino acids deduced from the gene sequence of the desired product.

(b) Amino acid composition

The overall amino acid composition is determined using various hydrolytic and analytical procedures and compared with the amino acid composition deduced from the gene sequence for the desired product, or the natural counterpart, if considered necessary. In many cases, amino acid composition analysis provides some useful structural information for peptides and small proteins, but such data are generally less definitive for large proteins. Quantitative amino acid analysis data can also be used to determine protein content in many cases.

(c) Terminal amino acid sequence

Terminal amino acid analysis is performed to identify the nature and homogeneity of the amino- and carboxy-terminal amino acids. If the desired product is found to be heterogeneous with respect to the terminal amino acids, the relative amounts of the variant forms should be determined using an appropriate analytical procedure. The sequence of these terminal amino acids should be compared with the terminal amino acid sequence deduced from the gene sequence of the desired product.

(d) Peptide map

Selective fragmentation of the product into discrete peptides is performed using suitable enzymes or chemicals, and the resulting peptide fragments are analyzed by high pressure liquid chromatography (HPLC) or other appropriate analytical procedures. The peptide fragments should be identified to the extent possible using techniques such as amino acid compositional analysis, N-terminal sequencing, or mass spectrometry. Peptide mapping of the drug substance or drug product using an appropriately validated procedure is a method that is frequently used to confirm desired product structure for lot release purposes.

(e) Sulfhydryl group(s) and disulfide bridges

If, based on the gene sequence for the desired product, cysteine residues are expected, the number and positions of any free sulfhydryl groups and/or disulfide bridges should be determined, to the extent possible. Peptide mapping (under reducing and nonreducing conditions), mass spectrometry, or other appropriate techniques may be useful for this evaluation.

(f) Carbohydrate structure

For glycoproteins, the carbohydrate content (neutral sugars, amino sugars, and sialic acids) is determined. In addition, the structure of the carbohydrate chains, the oligosaccharide pattern (antennary profile), and the glycosylation site(s) of the polypeptide chain are analyzed, to the extent possible.

6.1.2 Physicochemical properties

(a) Molecular weight or size

Molecular weight (or size) is determined using size exclusion chromatography, sodium dodecyl sulfate (SDS)-polyacrylamide gel electrophoresis (under reducing and/or nonreducing conditions), mass spectrometry, and other appropriate techniques.

(b) Isoform pattern

This is determined by isoelectric focusing or other appropriate techniques.

(c) Extinction coefficient (or molar absorptivity)

In many cases, it will be desirable to determine the extinction coefficient (or molar absorptivity) for the desired product at a particular ultraviolet (UV)/visible wavelength (e.g., 280 nanometers). The extinction coefficient is determined using UV/visible spectrophotometry on a solution of the product having a known protein content as determined by techniques such as amino acid compositional analysis or nitrogen determination. If UV absorption is used to measure protein content, the extinction coefficient for the particular product should be used.

(d) Electrophoretic patterns

Electrophoretic patterns and data on identity, homogeneity, and purity can be obtained by polyacrylamide gel electrophoresis, isoelectric focusing, SDS-polyacrylamide gel electrophoresis, Western-blot, capillary electrophoresis, or other suitable procedures.

(e) Liquid chromatographic patterns

Chromatographic patterns and data on the identity, homogeneity, and purity can be obtained by size exclusion chromatography, reverse-phase liquid chromatography, ion-exchange liquid chromatography, affinity chromatography, or other suitable procedures.

(f) Spectroscopic profiles

The UV and visible absorption spectra are determined as appropriate. The higher-order structure of the product is examined using procedures such as circular dichroism, nuclear magnetic resonance (NMR), or other suitable techniques as appropriate.

6.2 Appendix for Impurities

This appendix lists potential impurities, their sources, and examples of relevant analytical approaches for detection. Specific impurities and technical approaches employed, as in the case of physicochemical characterization, will vary from product to product, and alternative approaches other than those listed in this appendix will be appropriate in many cases. New analytical technology and modifications to existing technology are continuously being developed and should be applied when appropriate.

6.2.1 Process-related impurities and contaminants

These are derived from the manufacturing process (section 2.1.4) and are classified into three major categories: Cell substrate-derived, cell culture-derived and downstream-derived.

(a) Cell substrate-derived impurities include, but are not limited to, proteins derived from the host organism and nucleic acid (host cell genomic, vector, or total DNA). For host cell proteins, a sensitive assay, e.g., immunoassay, capable of detecting a wide range of protein impurities is generally utilized. In the case of an immunoassay, a polyclonal antibody used in the test is generated by immunization with a preparation of a production cell minus the

product-coding gene, fusion partners, or other appropriate cell lines. The level of DNA from the host cells can be detected by direct analysis on the product (such as hybridization techniques). Clearance studies, which could include spiking experiments at the laboratory scale, to demonstrate the removal of cell substrate-derived impurities such as nucleic acids and host cell proteins may sometimes be used to eliminate the need for establishing acceptance criteria for these impurities.

(b) Cell culture-derived impurities include, but are not limited to, inducers, antibiotics, serum, and other media components.

(c) Downstream-derived impurities include, but are not limited to, enzymes, chemical and biochemical processing reagents (e.g., cyanogen bromide, guanidine, oxidizing and reducing agents), inorganic salts (e.g., heavy metals, arsenic, nonmetallic ion), solvents, carriers, ligands (e.g., monoclonal antibodies), and other leachables.

For intentionally introduced, endogenous, and adventitious viruses, the ability of the manufacturing process to remove and/or inactivate viruses should be demonstrated as described in ICH guidance ''Q5A Viral Safety Evaluation of Biotechnology Products Derived From Cell Lines of Human or Animal Origin.''

6.2.2 Product-related impurities including degradation products

The following represents the most frequently encountered molecular variants of the desired product and lists relevant technology for their assessment. Such variants may need considerable effort in isolation and characterization in order to identify the type of modification(s). Degradation products arising in significant amounts during manufacture and/or storage should be tested for and monitored against appropriately established acceptance criteria.

(a) Truncated forms. Hydrolytic enzymes or chemicals may catalyze the cleavage of peptide bonds. These may be detected by HPLC or SDS–PAGE. Peptide mapping may be useful, depending on the property of the variant.

(b) Other modified forms. Deamidated, isomerized, mismatched S–S linked, oxidized, or altered conjugated forms (e.g., glycosylation, phosphorylation) may be detected and characterized by chromatographic, electrophoretic, and/or other relevant analytical methods (e.g., HPLC, capillary electrophoresis, mass spectroscopy, circular dichroism).

(c) Aggregates. The category of aggregates includes dimers and higher multiples of the desired product. These are generally resolved from the desired product and product-related substances and quantitated by appropriate analytical procedures (e.g., size exclusion chromatography, capillary electrophoresis).

Dated: August 11, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2636]

Draft Guidance for Industry on Levothyroxine Sodium; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Levothyroxine Sodium.'' The draft guidance is intended to answer questions concerning applications for orally administered levothyroxine sodium drug products.

DATES: Written comments on the draft guidance may be submitted by October 18, 1999. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance are available on the Internet at ''http://www.fda.gov/cder/guidance/index.htm''. Submit written requests for single copies of the draft guidance for industry to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFD–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Christine F. Rogers, Center for Drug Evaluation and Research (HFD–7), 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled ''Levothyroxine Sodium.'' In the **Federal Register** of August 14, 1997 (62 FR 43535), FDA announced that orally administered levothyroxine sodium drug products are new drugs. The notice stated that manufacturers who wish to continue to market these products must submit applications as required by section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) and 21 CFR part 314. The notice stated that FDA is prepared to accept new drug applications for these products, including applications under section 505(b)(2) of the act. A number of questions have arisen with respect to applications for levothyroxine sodium. This draft guidance is intended to answer questions about submitting applications for orally administered levothyroxine sodium drug products.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The draft guidance represents the agency's current thinking on issues concerning applications, including applications under section 505(b)(2) of the act, for levothyroxine sodium. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–21353 Filed 8–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Human Genome Research.

Date: September 13–14, 1999.

Open: September 13, 1999, 8:30 AM to 2:00 PM.

Agenda: The meeting will be open to the public on Monday, September 13, 8:30 am to approximately 2:00 pm to discuss administrative details or other issues relating to Council activities.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Closed: September 13, 1999, 2:00 PM to Adjournment on September 14, 1999.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Elke Jordan, PhD, Deputy Director, National Human Genome Research Institute, National Institutes of Health, PHS, DHHS, 31 Center Drive, Building 31, Room 4B09, Bethesda, MD 20892, 301 496–0844.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 11, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–21386 Filed 8–17–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; 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 Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: September 9, 1999.

Time: 1:00 PM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd. Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Craig A. Jordan, PHD, Acting Director, NIH/NIDCD/DEA, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8693.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: August 11, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–21384 Filed 8–17–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(5), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel

Date: August 27, 1999.

Time: 10:00 AM to 11:00 AM.

Agenda: To review and evaluate grant applications.

Place: Wilco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892, (Telephone Conference Call)

Contact Person: Elsie D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–70003, 301–443–97878, etaylor@niaaa.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: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: September 1, 1999.

Time: 10:00 AM to 12:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852, (Telephone Conference Call)

Contact Person: Ronald Suddendorf, PhD, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2926.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: October 14–15, 1999.

Time: 8:30 AM to 5:00 PM

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Bethesda, MD 20814

Contact Person: Elsie D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaaa.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: August 11, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–21385 Filed 8–17–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given for a meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Neurological Disorders and Stroke, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

Date: September 26–28, 1999.

Closed: September 26, 1999, 7:00 PM to 10:00 PM.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 31 Center Drive, Bethesda, MD 20892.

Open: September 27, 1999, 9:00 AM to 10:55 AM.

Agenda: To discuss program planning and program accomplishments.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 31 Center Drive, Bethesda, MD 20892.

Closed: September 27, 1999, 11:10 AM to 11:40 AM.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 31 Center Drive, Bethesda, MD 20892.

Open: September 27, 1999, 1:00 PM to 3:25 PM.

Agenda: To discuss program planning and program accomplishments.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 31 Center Drive, Bethesda, MD 20892.

Closed: September 27, 1999, 3:25 PM to 5:00 PM.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 31 Center Drive, Bethesda, MD 20892.

Closed: September 28, 1999, 8:30 AM to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Story C. Landis, PhD, Director, Division of Intramural Activities, NINDS, National Institutes of Health, Building 36, Room 5A05, Bethesda, MD 20892, 301–435–2232.

(Catalogue of Federal Domestic Assistance Program Nos. 92.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: August 12, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–21387 Filed 8–17–99; 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; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Child Health and Human Development Council.

Dates: September 16–17, 1999.

Open: September 16, 1999, 10 AM to 5:00 PM.

Agenda: The agenda includes: Report of the Director, NICHD, a presentation by the Contraception and Reproductive Health Branch, and other business of the Council.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Closed: September 17, 1999, 8:00 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Open: September 17, 1999, 1:00 PM to Adjournment.

Agenda: The meeting will reopen to discuss any policy issues that were raised.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: Mary Plummer, Committee Management Officer, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: August 12, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–21388 Filed 8–17–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Performance Review Board Appointments

AGENCY: Department of the Interior.

ACTION: Notice of Performance Review Board Appointments.

SUMMARY: This notice provides the names of individuals who have been appointed to serve as members of the Department of the Interior Performance Review Board. The publication of these appointments is required by section 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95–454, 5 U.S.C. 4314(c)(4).

DATES: These appointments are effective August 18, 1999.

FOR FURTHER INFORMATION CONTACT: Carolyn Cohen, Director of Personnel Policy, Office of the Secretary, Department of the Interior, 1849 C Street, NW, Washington, DC 20240, Telephone Number: (202) 208–6761.

1999 SES PERFORMANCE REVIEW BOARD

The following Senior Executive Service members have been appointed to serve on the Department of the Interior 1999 Performance Review Board:

Charles E. Breece, Office of Policy, Management and Budget (Career Appointee)

Carolyn Cohen, Office of Policy, Management and Budget (Career Appointee)

E. Melodee Stith, Office of Policy, Management and Budget (Career Appointee)

Daryl W. White, Office of Policy, Management and Budget (Career Appointee)
Barbara J. Griffin, National Park Service (Career Appointee)
Robert L. Arnberger, National Park Service (Career Appointee)
Martha B. Aikens, National Park Service (Career Appointee)
Gary T. Cummins, National Park Service (Career Appointee)
Denise E. Sheehan, Fish and Wildlife Service (Career Appointee)
Elaine Y. Zielinski, Bureau of Land Management (Career Appointee)
Mary Josie Blanchard, Office of Surface Mining (Career Appointee)
Richard J. Seibel, Office of Surface Mining (Career Appointee)
Robert E. Brown, Minerals Management Service (Career Appointee)
Margaret W. Sibley, Bureau of Reclamation (Career Appointee)
Carmen R. Maymi, Bureau of Reclamation (Career Appointee)
Larry J. Ludke, U.S. Geological Survey (Career Appointee)
David P. Russ, U.S. Geological Survey (Career Appointee)
Barbara J. Ryan, U.S. Geological Survey (Career Appointee)
Deborah Maddox, Bureau of Indian Affairs (Career Appointee)
Terrance L. Virden, Bureau of Indian Affairs (Career Appointee)
Linda Richardson, Bureau of Indian Affairs (Career Appointee)

Dated: August 11, 1999.

Carolyn Cohen,

Director of Personnel Policy.

[FR Doc. 99–21465 Filed 8–17–99; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Acceptance of Contribution for Geologic Mapping

AGENCY: Geological Survey, Interior.

ACTION: Notice of acceptance of contributed funds.

SUMMARY: The U.S. Geological Survey (USGS) announces that it has accepted a contribution of $13,000 from the Weyerhaeuser Corporation towards the completion of a geologic map of the Silver Lake Quadrangle in southwestern Washington. The USGS would be pleased to consider contributions from other sources for similar purposes.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Gautier, Chief Scientist, USGS Western Geologic Mapping Team, 345 Middlefield Road, Mail Stop 975, Menlo Park, CA 94023, phone (650) 329–4909

SUPPLEMENTARY INFORMATION: None.

Dated: August 4, 1999.

Linda C. Gundersen,

Associate Chief Geologist For Operations.

[FR Doc. 99–21467 Filed 8–17–99; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–096–09–6332–02: GP99–0289]

Emergency Closure of Public Lands; Lane County, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of public lands and access roads in Lane County, Oregon.

SUMMARY: Notice is hereby given that certain public lands in Lane County, Oregon are temporarily closed to all public use, including vehicle operation, camping, open fires, shooting, hiking and sightseeing, erecting structures and storing personal property, from August 15, 1999 through December 31, 1999 at 6 p.m. The closure is made under the authority of 43 CFR 8364.1.

The public lands affected by this closure are specifically identified as follows:

Willamette Meridian, Oregon

T. 18 S., R. 1 E.
Sec. 25: A tract of land located in the N½;
Sec. 24: A tract of land located in the SW¼SW¼;
Sec. 26: Road No. 18–1E–26.

The area described contains approximately 360 acres.

SUPPLEMENTARY INFORMATION: The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; the holders of BLM road use permits that include roads within the closure area; the purchaser of BLM timber within the closure area and its employees and subcontractors. Access by additional parties may be allowed, but must be approved in advance in writing by the Authorized Officer.

Any person who fails to comply with the provisions of this closure order may be subject to, but not limited to, the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months, as well as the penalties provided under Oregon State law.

The public lands temporarily closed to public use under this order will be posted with signs at points of public access.

The purpose of this temporary closure is to protect persons from potential harm from logging operations, to protect valuable public timber resources from unauthorized damage, to facilitate authorized timber harvest operations, and to protect natural resources from fire, unauthorized uses, unsanitary conditions, degradation and to provide for public and employee safety.

DATES: This closure is effective from August 15, 1999 through December 31, 1999 at 6 p.m.

ADDRESSES: Copies of the closure order and maps showing the location of the closed lands are available during business hours (7:45 a.m. to 4:15 p.m.) from the Eugene District Office, P.O. Box 10226 (2890 Chad Drive), Eugene, OR 97440.

FOR FURTHER INFORMATION CONTACT: Doug Huntington, Public Information Officer, Eugene District Office, at (541) 683–6600.

Dated: August 12, 1999.

Denis Williamson,

District Manager, Eugene District.

[FR Doc. 99–21393 Filed 8–17–99; 8:45 am]

BILLING CODE 4310–33–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–08–1020–00]

New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of New Member Orientation Meeting and Council Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix 1, The Department of the Interior, Bureau of Land Management (BLM), announces an orientation meeting of the New Mexico Resource Advisory Council (RAC). This meeting is focused toward the new RAC members. Existing RAC members may also attend.

The one-day orientation meeting will be held on Wednesday October 6, 1999 at the Holiday Inn, 600 E. Broadway, Farmington, NM 87401. This meeting starts at 8 a.m. The draft agenda for the orientation meeting includes presentation and discussion on the

regulations and laws under which the RAC functions, the RAC Charter, travel voucher procedures, summaries of recent RAC recommendations, the BLM/New Mexico Strategic Plan and minutes from previous RAC meetings. The agenda items may be changed depending on the needs of the new RAC members. This orientation RAC meeting is open to the public. The end time of 4:30 p.m. for the orientation meeting may be changed depending on the needs of the new RAC members.

Also being announced is the regular RAC meeting which will be held on Thursday October 7 and Friday October 8, 1999 at the Holiday Inn, 600 Broadway, Farmington, NM 87401. The meeting on October 7 and 8, 1999 starts at 8 a.m. both days. The draft agenda for the RAC meeting includes getting acquainted and welcome, agreement on the meeting agenda, any RAC comments on the draft summary minutes of the last RAC meeting on June 17 and 18, 1999 in Albuquerque, NM, check in with RAC members, an update on the New Mexico Standards for Public Land Health and Guidelines for Livestock Grazing Management project, Oil and Gas presentations, public comment to the RAC, a field trip looking at Navajo land uses on BLM, Clean Water Action Plan presentation, BLM road closure policy and transportation planning presentation, future of RAC and priorities, BLM Field Managers presentations, RAC selection of draft agenda items and location for next RAC meeting, and RAC assessment of this meeting. Specific agenda items, dates, times and locations may be adjusted with approval of the RAC. The time for the public to address the RAC is 10 a.m. to 12 noon, Thursday, October 7, 1999. The RAC may reduce or extend the end time of 12 noon depending on the number of people wishing to address the RAC.

The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people there are that wish to address the RAC. At the completion of the public comments the RAC may continue discussion on its agenda items. The meeting on October 7, 1999, is planned to end at the conclusion of the field trip. Transportation on the field trip will be provided for RAC members and supporting BLM staff. Others who wish to participate on the field trip will need to provide their own transportation. The meeting on October 8, 1999 is planned to end at 4:30 p.m.; however this time may be changed depending on the work remaining for the RAC.

FOR FURTHER INFORMATION CONTACT: Bob Armstrong, New Mexico State Office, Planning and Policy Team, Bureau of Land Management, 1474 Rodeo Road, PO Box 27115, Santa Fe, NM 87502–0115, telephone (505) 438–7436.

SUPPLEMENTARY INFORMATION: The purpose of the Resource Advisory Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for public land health and guidelines for livestock grazing management.

Dated: August 12, 1999.

M.J. Chávez,

State Director.

[FR Doc. 99–21449 Filed 8–17–99; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 7, 1999. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by September 2, 1999.

Carol D. Shull,

Keeper of the National Register.

ARIZONA

Coconino County

Two Spot Logging Train (Logging Railroad Resources of the Coconino and Kaibab National Forests MPS), Jct. of San Francisco St. and US 66, Flagstaff, 99001066

Pinal County

Cox, William, Building, 501 N. Marshall St., Casa Grande, 99001068

Paramount Theatre, 420 N. Florence St., Casa Grande, 99001067

Yavapai County

Mile High Park Historic District, Roughly along Oregon Ave., and Josephine St., from Gail Gardner Way and Lindberg Dr., Prescott, 99001069

ARKANSAS

Pope County

Old South Restaurant, (Arkansas Highway History and Architecture MPS), 1330 E. Main St., Russellville vicinity, 99001064

Maricopa County

Ellis, George, House (Residential Properties Designed by George Ellis MPS), 105 Cattle Track, Scottsdale, 99001065

DISTRICT OF COLUMBIA

District of Columbia State Equivalent

Mount Vernon Square Historic District, Roughly bounded by New York Ave., 7th St., N St., and 1st St. NW, Washington, 99001071

ILLINOIS

Cook County

Raymond M. Hilliard Center Historic District, Jct. of Cermak Rd. and S. State St., Chicago, 99001072

INDIANA

Clay County

Tide Water Pumping Station, SW corner of 900S and 300E, Coal City vicinity, 99001076

Floyd County

New Albany Downtown Historic District, Roughly between W. First St., and E. Fifth St., W. Main St. to E. Spring St., New Albany, 99001074

Marion County

Fairbanks, Charles W., House, 2960 N. Meridian St., Indianapolis, 99001073

Owen County

Osgood, Dr. H. G., House, 11 E. North St., Gosport, 99001075

Wabash County

North Wabash Historic District, Roughly bounded by W. Maple, N. Carroll, Ferry, Miami, Pawling, N. Wabash, and Union Sts., Wabash, 99001077

MARYLAND

Baltimore Independent City

Hotel Kernan, 306–312 W. Franklin St., Baltimore, 99001079

Stewart's Department Store, 226–232 W. Lexington St., Baltimore, 99001078

MASSACHUSETTS

Hampden County

Palmer Memorial Hall, 1029 Central St., Palmer, 99001082

Hampshire County

Huntington Village Historic District, Roughly along E. Main, Main, Russell, Upper Russell and Basket Sts., Huntington, 99001080

Plymouth County

Paragon Park Carousel, 1 Wharf Ave., Hull, 99001081

NEVADA

Clark County

Spirit Mountain, Address Restricted, Laughlin vicinity, 99001083

OHIO

Summit County

Point, Nathaniel, Farm (Agricultural Resources of the Cuyahoga Valley MPS), 4606 Akron-Peninsula Rd., 4631 Akron-Peninsula Rd., Penisula vicinity, 99001084

OKLAHOMA

Beaver County

Gate School, Jct. of 4th and Texas, Gate, 99001087

Rogers County

Beck, I.W.W., Building, 146 W. Cooweescoowee Ave., Oologah, 99001086

Tulsa County

Ambassador Hotel, 1314 S. Main, Tulsa, 99001085

OREGON

Clackamas County

Bagsby Guard Station, Bagby Trail #544, Forest Service Rd. 70, Estacada vicinity, 99001088

UTAH

Garfield County

Oak Creek Dam (Capitol Reef National Park MPS), Oak Creek, N of N. Coleman Canyon, Torrey vicinity, 99001091

Wayne County

Behunin, Elijah Cutler, Cabin (Capitol Reef National Park MPS), UT 24, 1.5 mi. SE of tip of Horse Mesa, Torrey vicinity, 99001094

Cathedral Valley Corral (Capitol Reef National Park MPS), Middle Desert, SE of Confluence of Cathedral Mountain and Cathedral Valley, Torrey vicinity, 99001093

Civilian Conservation Corps Powder Magazine (Capitol Reef National Park MPS), S of Fremont R., N of Cuts Canyon, Torrey vicinity, 99001090

Hanks' Dugouts (Capitol Reef National Park MPS), Confluence of Pleasant Creek and South Draw, Torrey vicinity, 99001095

Morrell, Lesley, Line Cabin and Corral (Capitol Reef National Park MPS), Confluence of Middle Desert Wash and Cathedral Valley, Torrey vicinity, 99001096

Oyler Mine (Capitol Reef National Park MPS), Confluence of Grand Wash and Cohab Canyon, Torrey vicinity, 99001092

Pioneer Register (Capitol Reef National Park MPS), SW of confluence of Capitol Wash and Waterpocket Canyon, Torrey vicinity, 99001097

A request for REMOVAL has been made for the following resources:

ARKANSAS

Columbia County

Bank of Waldo (Thompson, Charles L., Design Collection TR), Locust and Main Sts., Waldo, 82000801

Conway County

Morrilton Male and Female College, E. Church St., Morrilton, 79000436

Cross County

Missouri—Pacific Depot—Wynne (Historic Railroad Depots of Arkansas MPS), SW of jct. of N. Front St. and E. Hamilton Ave., Wynne, 82000623

Hempstead County

McRae House (Thompson, Charles L., Design Collection TR), 113 E. 3rd. St., Hope, 82000826

Ozan Methodist Church, Mulberry St., Ozan, 82000827

Howard County

Missouri—Pacific Railroad Depot—Nashville (Historic Railroad Depots of Arkansas MPS), S. of E. Hempstead, between S. Front and S. Ansley Sts., Nashville, 92000618

Nevada County

Bemis Florist Shop (Thompson, Charles L., Design Collection TR), 117 E. Second, Prescott, 82000868

Phillips County

Barlow—Coolidge House, 917 Ohio St., Helena, 75000402

Prairie County

DeValls Bluff First Baptist Church, Jct. of Prairie and Mason Sts., SE corner, Prairie, 92001616

Pulaski County

George, Alexander, House, 1007 E. 2nd St., Little Rock, 76000454

Saline County

Missouri—Pacific Railroad Depot—Benton (Historic Railroad Depots of Arkansas MPS), Benton, 92000602

Washington County

Kantz House, E of Fayetteville at 2650 Mission St., Fayetteville, 80000788

[FR Doc. 99–21357 Filed 8–17–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council Meeting; Bay-Delta Advisory Council's Ecosystem Restoration Program FY 2000 Priority Public Workshop

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meetings.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet to discuss key issues in addressing CALFED critical issues, focusing on Finance, Governance, the Draft Preferred Alternative and Restoration Coordination. There will also be a site tour of Battle Creek leaving from and returning to Wild Bill's Restaurant in Red Bluff. A reception and meeting at the Red Bluff Community/Senior Center will follow the tour.

CALFED's Ecosystem Restoration Program will sponsor a FY 2000 Priority Setting Workshop on August 31, 1999, to discuss priorities for FY 2000. This meeting is open to the public. Interested persons may make oral statements or may file written statements for consideration.

DATES: BDAC will tour Battle Creek in Red Bluff on Thursday, September 16, 1999. The tour will run from 12:30 p.m. to 5:30 p.m., leaving from and returning to, Wild Bill's Restaurant in Red Bluff. The evening reception will be on September 16, 1999 at the Red Bluff Community/Senior Center from 6:30 p.m. to 8 p.m.

BDAC will meet from 8:30 a.m. to 5 p.m. on Friday, September 17, 1999 at the Red Bluff Community/Senior Center.

The Bay-Delta Advisory Council's Ecosystem Restoration Program FY 2000 Priority Public Workshop will be held from 9 a.m. to 1 p.m. on Tuesday, August 31, 1999 in the Auditorium at 714 P Street in Sacramento.

ADDRESSES: BDAC will rendezvous from Wild Bill's Restaurant, 500 Riverside, Red Bluff, CA 96080. The BDAC evening reception and meeting will be held at the Red Bluff Community/Senior Center, 1500 South Jackson Street, Red Bluff, CA 96080.

The Bay-Delta Advisory Council's Ecosystem Restoration Program FY 2000 Priority Public Workshop will be held in the auditorium at 714 P Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: For information on the BDAC tour, reception and meeting contact Eugenia Laychak, CALFED Bay-Delta Program at (916) 657–2666.

For information on the Bay-Delta Advisory Council's Ecosystem Restoration Program FY 2000 Priority Public Workshop, contact Wendy Halverson Martin, CALFED Bay-Delta Program at (916) 657–2666.

If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that

must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems to the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring the developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as Advisory Council BDAC to advise CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: August 13, 1999.

Kirk Rodgers,

Acting Regional Director, Mid-Pacific Region.

[FR Doc. 99–21394 Filed 8–17–99; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–409]

Certain CD–ROM Controllers and Products Containing the Same—II; Notice of Decision To Extend by 45 Days the Target Date for Completing the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend by 45 days, or until September 27, 1999, the target date for completing the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205–3152. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 13, 1998, based on a complaint filed by Oak Technology, Inc. 63 FR 26625 (1998). The complaint named four respondents: MediaTek, Inc., United Microelectronics Corporation (UMC), Lite-On Technology Corp., and AOpen, Inc. Actima Technology Corporation, ASUSTek Computer, Incorporated, Behavior Tech Computer Corporation, Data Electronics, Inc., Momitsu Multi Media Technologies, Inc., Pan-International Industrial Corporation, and Ultima Electronics Corporation were permitted to intervene in the investigation.

In its complaint, Oak alleged that respondents violated section 337 by importing into the United States, selling for importation, and/or selling in the United States after importation electronic products and/or components that infringe claims of U.S. Letters Patent 5,581,715. The presiding administrative law judge (ALJ) held an evidentiary hearing from January 11, 1999, to January 28, 1999.

On May 10, 1999, the ALJ issued an initial determination (ID) (Order No. 15) granting the motion of respondent UMC for a summary determination terminating UMC from the investigation on the basis of a license agreement. On May 12, 1999, the ALJ issued his final ID in which he found that there was no violation of section 337.

Complainant Oak filed a petition for review of Order No. 15 and respondent UMC and the Commission investigative attorneys (IAs) filed responses to Oak's petition for review of Order No. 15. Oak, respondents UMC, MediaTek, Lite-On Technology, and AOpen, and the IAs filed petitions for review of the final ID, and all parties subsequently responded to each other's petitions for review of the final ID.

On June 28, 1999, the Commission determined not to review the ALJ's findings with respect to the preamble of claim 1 and its digital signal processor (DSP) element, and determined to review the remainder of the final ID and Order No. 15.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in § 210.51 of the Commission's rules of practice and procedure (19 CFR § 210.51).

Copies of the public version of the ALJ's IDs and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000.

Issued: August 13, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–21470 Filed 8–17–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting; Emergency Notice of Commission Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: August 20, 1999 at 10:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Outstanding action jacket:

(1) Document No. EC–99–012: Approval of final report in Inv. No. 332–403 (Assessment of the Economic Effects on the United States of China's Accession to the WTO).

In a meeting held on Friday, August 13, 1999, the Commission determined to

delay consideration of the above referenced document until Friday, August 20, 1999 at 10:00 a.m. No earlier announcement of this emergency meeting was possible.

Issued: August 13, 1999.

By order of the Commission:

Donna R. Koehnke,

Secretary.

[FR Doc. 99–21528 Filed 8–16–99; 12:58 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Solicitation for the Development of Tools and Products for Policing Agencies To Enhance Community Policing and Problem Solving

AGENCY: Office of Community Oriented Policing Services, Department of Justice.

ACTION: Notice of availability.

SUMMARY: The Office of Community Oriented Policing Services (COPS) is seeking proposals to fund the development and dissemination of information, guidelines, tools, and products to facilitate the implementation of community policing and problem solving. This solicitation provides background on the COPS Office and its grant programs. It also outlines the purpose of the solicitation and the needs it seeks to address, and identifies issues to be discussed by applicants seeking to provide services under grants or cooperative agreements. Areas of interest to the COPS Office include community policing and collaborative problem solving, organizational transitions, and uses of technology to advance community policing.

This solicitation is being announced as an open competition and requires a three-week turnaround. Awardees will be expected to begin work immediately upon selection.

DATES: Applications are due on September 15, 1999, by 5:00 p.m. EST. Please fax a short letter notifying the COPS Office of your intent to apply. The letter should be faxed to the attention of COPS/PPSE c/o Stacy Curtis Bushée at (202) 633–1386 no later than September 3, 1999. The selected awardees will be notified by phone and letter and should plan to begin meeting with the COPS Office in Washington, D.C. as early as mid October 1999 to begin work on the project.

REQUIREMENTS/LIMITATIONS: Package should include the original application and three copies. Applications should not exceed 15 double-spaced, 12-point typed pages. Budget materials, letters of support/cooperation, and time lines are considered acceptable appendices and do not count toward the narrative page limit.

ADDRESSES: Please send application package to: Office of Community Oriented Policing Services; Program/Policy Support and Evaluation Division, c/o Stacy Curtis Bushée, 1100 Vermont Ave, NW, Washington, DC 20530 (20005 for express services).

FOR FURTHER INFORMATION CONTACT: Please contact Stacy Curtis Bushée at (202) 633–1297 or Karin Schmerler at (202) 633–1321 to obtain additional information about this solicitation. Application forms and materials on the COPS Office and its grant programs are also available by calling the U.S. Department of Justice Response Center at 1–800–421–6770 or by visiting the COPS Office Internet web site at www.usdoj.gov/cops.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1994, President Clinton signed into law the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103–322). Title I of the ''crime bill,'' the Public Safety Partnership and Community Policing Act of 1994, authorizes the Attorney General to make grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia thereof to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community, to address crime and disorder problems, to support innovative community policing projects, and to otherwise enhance public safety.

Since 1994, the COPS Office has awarded grants to more than 11,000 policing agencies across the country. The COPS Office has funded the hiring of officers, the redeployment of officers through the purchase of technology and the hiring of civilians, and a variety of innovative policing grants to combat crime and enhance public safety. Innovative grants include, for example, funding to foster collaborative problem solving between policing agencies and community-based agencies or schools, and partnerships between policing agencies and domestic violence programs. The COPS Office has also funded the creation of Regional Community Policing Institutes (RCPIs) to foster training in community policing at the regional level. The goal of programs developed and funded by the COPS Office is to provide resources to enhance community policing efforts throughout the country. The purpose of this solicitation is to fund the development and dissemination of informative, easy-to-understand, and easy-to-use products and tools that will continue to facilitate the adoption and implementation of community policing and collaborative problem solving.

Funding Availability

The COPS Office anticipates providing a total of up to $600,000 from FY99 funds to award projects in the areas described below. Depending on the fundability of proposals received by the COPS Office, funding amounts may be increased or decreased within categories. In addition, all categories/parts may not receive funding based upon the quality and utility of proposed projects. Awards under this solicitation are not dependent on FY00 appropriations to the COPS Office. Additional projects may be funded from this solicitation with FY00 appropriations if such appropriations are forthcoming. Grants or cooperative agreements are awarded for a one year period.

Category I. Collaborative Problem Solving ($150,000)

Since 1997, the COPS Office has awarded over 450 Problem Solving Partnerships (PSP) grants and 150 School-Based Partnerships (SBP) grants. The purpose of these grants is to provide policing agencies and their community partners with resources that will enhance their ability to use the collaborative problem solving approach to address their focus crime or disorder problems. PSP and SBP grantees are addressing a wide variety of problems, including:

PSP Program

Assault
Street-Level Drug Dealing
Loitering and Disorder
Residential Burglary
Auto Theft/Theft from Auto
Domestic Violence
Commercial Burglary
Underage Drinking
Vandalism/Graffiti
Larceny/Theft
Driving While Intoxicated
Disputes

SBP Program

Assault
Loitering and Disorder
Bullying, Threat and Intimidation
Disputes
Drug Dealing/Alcohol Consumption on School Grounds

Larceny/Theft

Vandalism/Graffiti

To continue to enhance the ability of policing agencies and communities to effectively address specific crime or disorder problems the COPS Office seeks proposals to:

Category I—Part A. Develop tools to address specific crime or disorder problems.

Problem-specific tools include, but are not limited to: analytical instruments (such as environmental surveys, business and residential surveys, victim and offender interviews, incident report addendums), that will help agencies collect information on particular crime or disorder problems; practical, user-friendly information guides outlining the state of knowledge on particular crime or disorder problems; and/or blueprints on how to apply a problem-solving approach to specific crime and disorder problems. Tools and guidelines on how to implement and sustain problem-solving collaborations between policing agencies and communities/schools that focus on particular crime and disorder problems are also welcome. Applicants may suggest additional tools that would assist policing agencies and community partners attempting to address specific crime and disorder problems.

Category I—Part B. Develop problem-solving software.

Implementing a problem-solving approach—for example, one that includes phases such as scanning, analyzing, responding, and assessing—to reduce crime and disorder requires knowledge of the basic strategy and structure of such an approach. Problem-solving software that can help guide police practitioners and community members through the model to address specific problems and help users develop effective, tailored responses would help meet the need for individualized assistance in applying the problem-solving approach to target problems. Although such software could be used in a training settling, the primary purpose of this type of software would be to serve as a blueprint for taking a problem-solving approach to addressing crime or disorder problems.

Applicants interested in proposing projects in the Collaborative Problem Solving category should propose tools or products that will enhance the ability of policing agencies and community organizations to collect, analyze and understand different types of information that will aid in collaborative problem-solving efforts.

Category II. Organizational Transitions ($250,000)

As a policing agency transitions ideologically from conducting traditional policing activities to operating under the philosophies that guide community policing, organizational transformations typically occur that will support the new approach. Such transformations include altering the structure of a department to enable the community policing philosophy and associated functions to be incorporated into the responsibilities of department personnel. To assist COPS grantees in making such transitions, the COPS Offices seek proposals to do the following:

Category II—Part A. Review and describe the major variations in the implementation of community policing among select COPS grantees and compile lessons learned from the ways these agencies are implementing community policing.

Policing agencies have implemented community policing in a variety of ways. Approaches to implementing community policing include the use of specialized units or officers primarily responsible for community policing activities; specialized officers within a particular district with community policing responsibilities; a split-force approach wherein community policing, traditional patrol, and other functions are split between major police divisions; a department-wide orientation; and combinations of the above. Some agencies begin implementing community policing through one approach, and subsequently go on to implement one or more different approaches for a variety of reasons. A compilation of the experiences of selected COPS grantees that have undertaken differing approaches to implementing community policing would help inform other policing agencies that are in the process of developing and implementing strategies to fit their particular needs.

This compilation should review the topology described above and examine the successes, pitfalls, lessons learned, and resulting benefits and drawbacks of each approach.

Category II—Part B. Develop a practical, easy-to-understand guidebook for policing practitioners on designing and implementing call management strategies to support community policing.

The COPS Office is also seeking proposals on the topic of call management strategies. An important aspect of organizational transition for many policing agencies is the development and implementation of call management strategies that support an agency's community policing goals. Policing agencies have approached call management in a variety of ways, including: managing calls for service through telephone and mail-in reporting systems, delaying police response, scheduling appointments, and tasking non-sworn personnel to respond to lower priority calls. The short-term goal of these strategies has been to free-up officer time for collaborative problem-solving efforts; the long-term goal has been to increase the effectiveness of the police response to community problems.

The COPS Office seeks proposals to develop a call management guidebook that draws upon the promising work and lessons learned by policing agencies in the United States and abroad. The guidebook should serve as a resource for a wide variety of agencies seeking step-by-step assistance in designing and implementing basic call management strategies to support community policing efforts. In addition to providing information on basic call management strategies, the guidebook should include information on cutting-edge experiments with call management initiatives that fully integrate problem-oriented policing concepts into call receipt, dispatch and resolution.

Category III. Technology ($200,000)

Through the COPS MORE grant program (Making Officer Redeployment Effective), the COPS Office has provided information technology resources to support community policing operations. Policing agencies nationwide have received and implemented a variety of technology applications, including records management, mapping, and computer-aided dispatch systems. However, the market for law enforcement technology development is largely vendor-driven. There is limited information about the universe of applications available for police, and many agencies have not had the opportunity to take full advantage of advanced information technology tools due to constraints in both design and utilization. As such, the COPS Office is seeking proposals to:

Category III—Part A. Develop guidelines for information technology acquisition and utilization to support community policing.

The transition to community policing has placed additional information demands on state and local police agencies. These demands include the need for real-time data accessibility for problem analysis at the beat/sector level, the capacity for data sharing

among multiple components of local government (i.e., public works, sanitation, police, fire), and enhanced mechanisms for the distribution of non-sensitive police records to the public. In order to respond to these evolving needs, COPS grantees have informally requested assistance in the way of minimum-threshold functional requirements for information systems that they can use in strategic and organizational planning.

In response to this growing demand, the COPS Office is seeking proposals for the development of guidelines to meet the evolving information technology needs of policing agencies transitioning to community policing. Applicants interested in submitting proposals under this section should identify the critical elements that an information technology (IT) platform must contain in order to facilitate the successful implementation to community policing and meet these corresponding information demands.

Proposals should include an examination of the necessary functional elements for a community-oriented IT platform, the necessary IT components, and the steps to take to ensure successful interface with other local government counterparts. The development of specific technical requirements for IT components (i.e., database architecture, wireless communications infrastructure) are not sought under this solicitation.

Category III—Part B. Examine applications of information technology among policing agencies.

The ways in which leading law enforcement agencies use data to support management decisions, allocate personnel resources, and implement community policing/problem solving vary considerably. Some agencies have provided information technology (IT) tools to officers for crime analysis at the beat level, whereas others have placed greater emphasis on making real-time information available to command staff. Given these variations, applicants could propose to compare and contrast various applications of technology in policing agencies, and to assess the subsequent impact on departmental operations, community policing, and ultimately, public safety. For example, applicants could propose to conduct a critical examination of a top-down accountability-based policing model in comparison to a decentralized or problem-oriented policing model, leading to the development of a new IT paradigm for policing structured around the most successful elements of each strategy. Proposed products could include site-specific case studies or comparative documents that include process/impact assessment findings.

Applicant Criteria

Successful applicants must demonstrate a clear understanding of community policing and problem solving principles and processes. Applicants should have extensive backgrounds in the implementation of community policing, including the impact and importance of community participation, and the ways in which the implementation of community policing can bring about organizational changes within policing agencies. Applicants should also be familiar with the uses of technology to enhance the delivery of police services and effectiveness of community policing efforts. Applicants must state clearly the goals and methods of the project, project deliverables, and include a task time line for the life of the grant.

Applicants may submit multiple applications within or across categories and parts. For example, an applicant could propose to develop deliverables under Part B of the Organizational Transitional category, and Parts A and B of the Technology category. However, each distinct project must be described in detail in a narrative as discussed below and separate budget worksheets and narratives must be provided for each project. Supporting documentation such as the SF 424, Assurances, Certifications, and Disclosures need not be submitted more than once. Applicants are encouraged to be innovative in their proposals and should collaborate with policing agencies or personnel in the development of applications and in the testing of tools and products to assure their usefullness.

Applicants should meet the following criteria:

1. Possess relevant expertise in the areas of community policing, collaborative problem-solving, police management, and organizational change.
2. Possess significant understanding of and experience working with policing agencies operating under the guiding philosophies of community policing in rural, suburban, and urban jurisdictions ranging from 15,000 to over 1,000,000 persons.
3. Possess significant experience developing tools or products aimed at policing audiences.
4. Possess experience administering federal grants or cooperative agreements of more than $100,000.
5. Have a proven record of working collaboratively on projects with other organizations.

How to Apply

Those interested in submitting proposals in response to this solicitation must complete the required application forms and submit related required documents. Applicants must include the following information/forms to qualify for consideration:

- Standard Form (SF) 424—application for Federal assistance
- Table of Contents
- Proposal Abstract (include the category and part under which you are applying)
- Project Narrative (see additional detail in Items #1–6 below)
- Project Time Line (Item #7)
- Budget Detail Worksheet (see additional detail in Item #8)
- Budget Narrative (see additional detail in Item #8)
- Names and affiliations of all key project staff, including subcontractor(s), advisors, and consultants
- Resumes of key project staff (relevant experience for proposed project should be highlighted)
- Assurances
- Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (one form)
- Disclosure of Lobbying Activities

The project narrative should not exceed 15 pages and should detail the proposed project and the deliverables that will result, including planes to pilot test deliverables with policing agencies to assure the ease of use and utility of such deliverables. The required forms, resumes, time line and budget information do not count toward the page length. Each proposed project must be described in a separate narrative and must be accompanied by a separate budget narrative and worksheets.

Capabilities

Project narratives should address the following issues. If you or your organization is proposing more than one distinct project under this solicitation, include a discussion of all items except for Item #4 in each of the project narratives.

1. Describe in detail the project you would undertake. Be specific with regard to the kinds of deliverables that would result and how those deliverables would assist policing agencies implementing community policing and problem solving. Be sure to describe how the deliverables would be pilot tested within policing agencies to assure the ease of use and utility of such deliverables.
2. Discuss your management plan for implementing this project with respect

to internal and external management of personnel and resources.

3. Discuss how information collected or products/tools developed under this project could be disseminated to promote the implementation of community policing and problem-solving approaches in the future. Discuss how police practitioners, community members, and others with an interest in crime prevention could access the products developed under this project.

4. Describe your understanding of and experience with community policing and problem solving. Describe your background and experience in developing tools or other products aimed at facilitating the use of new approaches to crime reduction by policing agencies.

5. Describe your understanding of policing agencies and their culture, as it applies to the focus area addressed in your proposal.

6. Based on your experience with the evolution of community policing and problem solving, please describe the primary organizational obstacles to the implementation of community policing, and how your proposed deliverables would assist COPS grantees and other agencies in institutionalizing community policing and problem solving.

Timeline

7. Provide a detailed one-year task time line to describe the activities included in your project plan.

Budget

8. Prepare a detailed budget and budget narrative for a one-year agreement. Awards are expected to range from $50,000 to $350,000, depending on the scope of the initiative and proposed deliverables. The budget may include travel and per diem costs related to collaborating with policing agencies, mailing or telephone costs for information collection, and production, pilot testing, and dissemination costs for all deliverables.

The Catalog of Federal Domestic Assistance (CFDA) reference for this program is 16.710.

Dated: August 6, 1999.

Mary Lou Leary,

Acting Director, Office of Community Oriented Policing Services, U.S. Department of Justice.

[FR Doc. 99–21452 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Executive Office for U.S. Attorneys

[Docket No. 97592]

Waiver of the Data Encryption Standard; Federal Information Processing Standards Publication (FIPS) 46–2; ''Data Encryption Standard (DES)''

AGENCY: Executive Office for U.S. Attorneys, Department of Justice.

ACTION: Notice.

SUMMARY: The Federal Information Processing Standards Publication (FIPS) 46–2 entitled ''Data Encryption Standard (DES)'' requires that a notice be published in the **Federal Register** whenever a waiver to the DES standard is approved.

DATES: The waiver was approved on June 9, 1999.

ADDRESSES: U.S. Department of Justice, Executive Office for U.S. Attorneys, 600 E Street N.W., Suite 6004, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Harvey Press (202) 616–6442.

SUPPLEMENTARY INFORMATION: FIPS 46–2 ''Data Encryption Standards (DES)'' requires a notice be published in the **Federal Register** whenever a waiver is granted. The Executive Office for U.S. Attorneys (EOUSA) of the Department of Justice (DOJ), because of our concerns that single DES has been shown vulnerable to attack, we intend to utilize Triple DES. Therefore, the EOUSA, to provide stronger security, will utilize Triple DES as its encryption algorithms for its Virtual Private Network (VPN)/ firewall implementation.

Harvey Press,

Assistant Director for Telecommunication and Technical Development Staff.

[FR Doc. 99–21367 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–07–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Degree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a consent decree in *United States* v. *A&D Recycling, Inc., et al.,* Civil Action No. 1:CV–99–1332 (M.D. Pa.) was lodged with the court on July 28, 1999.

The proposed decree resolves claims of the United States against 120 defendants under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9606 and 9607, for response costs and actions at the Jack's Creek Superfund Site in Mifflin County, PA. The decree requires 40 of the defendants to perform the EPA-selected remedial action to address hazardous substance contamination at the site. That remedial action includes, inter alia, excavation and off-site disposal of certain contamination and on-site consolidation and capping of other contamination. The remaining 80 defendants are accorded de minimis treatment and required to pay a total of $3.05 million toward cleanup of the site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *A&D Recycling, Inc., et al.,* Civil Action No. 1:CV–99–1332 (M.D. Pa.), DOJ Ref. #90–11–2–911. Commenters may request an opportunity for a public meeting in the affected area, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed consent decree may be examined at the United States Department of Justice, Environment and Natural Resources Division, Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $27.50 (25 cents per page reproduction costs), payable to the Consent Degree Library. A copy of the exhibits to the decree may be obtained from the same source for an additional charge of $50.00

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–21466 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on August 4, 1999 two proposed consent decrees in *United States* v. *Greenwood Chemical Company,* Civ. Action No. 97–0147 (W.D. Va), were lodged with the United

States District Court for the Western District of Virginia.

In this action, the United States is recovering past and future response costs, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.* in connection with the Greenwood Chemical Company Superfund (''Site''), located in Albermarle County, Virginia.

The consent decrees that were lodged would resolve the United States' claims against two of the four defendants. One defendant, High Point Chemical Corporation, will pay $4 million to settle claims against it. The second defendant, Clarence Hustrulid, will pay $100,000 to resolve claims against him. In both cases, 90% of the money will be paid to the United States and the remaining 10% to the Commonwealth of Virginia, which is a co-plaintiff in the case.

The consent decrees include covenants not to sue by the United States under sections 106 and 107 of CERCLA, and under section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973.

The Department of Justice will receive for a period for thirty (30) days from the date of this publication comments relating to the proposed consent decrees. Comments should be sent to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Greenwood Chemical Company*, D.J. Ref. 90–11–2–679. Commenters may request an opportunity for a public hearing in the affected area, in accordance with section 7003(d) of RCRA.

The proposed consent decrees may be examined at the Office of the United States Attorney, Thomas B. Mason Building, 105 Franklin Rd., SW, Suite One, Roanoke, VA 24011; at US EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $14.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement, Section Environment and Natural Resources Division.

[FR Doc. 99–21366 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 3–99CV1398–H]

United States of America, and the State of Texas v. Aetna Inc. and The Prudential Insurance Company of America Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16 (b) through (h), that a proposed Final Judgment, Stipulation, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Texas (Dallas Division) in *United States of America and the State of Texas* v. *Aetna Inc. and The Prudential Insurance Company of America,* Civil Action No. 3–99CV1398–H. On June 21, 1999, the United States and the State of Texas filed a Complaint to enjoin defendant Aetna's proposed acquisition of certain health insurance-related assets of the Prudential Insurance Company of America, an acquisition which would have violated section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed with the Complaint requires Aetna to divest its interests in NYLCare Health Plans of the Gulf Coast, Inc. and NYLCare Health Plans of the Southwest, Inc., providers of health insurance in the Houston and Dallas areas, respectively. Copies of the Complaint, proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement are available for inspection at the Department of Justice in Washington, DC in Suite 200, 325 Seventh Street, NW, and at the Office of the Clerk of the United States District Court for the Northern District of Texas (Dallas Division).

Public comment on the proposed Final Judgment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Gail Krush, Chief, Healthcare Task Force, 325 Seventh Street, NW, Room 404, Antitrust Division, Department of Justice, Washington, DC 20530 (telephone: (202) 307–5799).

Constance Robinson,

Director of Operation & Merger Enforcement.

United States District Court for the Northern District of Texas (Dallas Division)

[Civil Action No.: 3–99CV1398–H]

United States of America, and the State of Texas, Plaintiffs, v. Aetna Inc., and The Prudential Insurance Company of America, Defendants.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) This Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue is proper in this Court.

(2) The proposed Final Judgment attached hereto may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that the plaintiffs have not withdrawn their consent, which they may do at any time before entry of the proposed Final Judgment by serving notice thereof on all other parties and by filing that notice with the Court.

(3) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

(4) This Stipulation shall apply with equal and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

(5) In the event the plaintiffs withdraw their consent, as provided in paragraph (2) above, or in the event that the Court declines to enter the proposed Final Judgment pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this

Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

(6) Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Respectfully submitted,

Dated: June 21, 1999.

For Plaintiff, United States of America.

Paul J. O'Donnell,

Massachusetts Bar #547125, U.S. Department of Justice, Antitrust Division, Health Care Task Force, 325 Seventh Street, NW., Suite 400, Washington, DC 20530; Tel: (202) 616–5933, Facsimile: (202) 514–1517.

For Plaintiff, State of Texas.

Mark Tobey,

State Bar No. 20082960, Assistant Attorney General, Chief, Antitrust Section, Office of the Attorney General, P.O. Box 12548, Austin, TX 78711–2548; Tel: (512) 463–2185, Facsimile: (512) 320–0975.

For Defendant, Aetna Inc.

Robert E. Bloch,

D.C. Bar #175927, Mayer, Brown & Platt, 1909 K Street, NW., Washington, DC 20006; Tel: (202) 263–3203, Facsimile: (202) 263–3300.

For Defendant, The Prudential Insurance Company of America.

Michael L. Weiner,

New York Bar #MW0294, Skadden, Arps, Slate, Meagher & Flom, LLP, 919 Third Avenue, New York, NY 10022; Tel: (212) 735–2632, Facsimile: (212) 451–7446.

[Civil Action No.: 3–99CV1398–H]

United States of America, and the State of Texas, Plaintiffs, v. Aetna Inc., and the Prudential Insurance Company of America, Defendants.

Hold Separate Stipulation and Order

It is hereby stipulated by and between the undersigned parties, by their respective attorneys, subject to approval and entry by the Court, that:

I. Definitions

As used in this Hold Separate Stipulation and Order:

A. ''Aetna'' means defendant Aetna Inc., a Connecticut corporation with its headquarters and principal place of business in Hartford, Connecticut, its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and its directors, officers, managers, agents, and employees.

B. ''NYLCare-Gulf Coast'' means NYLCare Health Plans of the Gulf Coast, Inc., a wholly-owned subsidiary of Aetna that operates a licensed HMO and HMO-based POS business under that name in Houston, Brazoria, Galveston, Austin, San Antonio, and Corpus Christi, Texas.

C. ''NYLCare-Southwest'' means NYLCare Health Plans of the Southwest, Inc., a wholly-owned subsidiary of Aetna that operates a licensed HMO and HMO-based POS business under that name in Dallas, Fort Worth, and several smaller cities in North Texas, including Paris, Tyler, Longview, and Amarillo.

D. ''Prudential'' means defendant The Prudential Insurance Company of America, a New Jersey mutual insurance company with its principal place of business in Newark, New Jersey, its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and its directors, officers, managers, agents, and employees.

II. Objectives

A. The proposed Final Judgment filed in this case is meant to ensure Aetna's prompt divestiture of NYLCare-Gulf Coast and NYLCare-Southwest for the purpose of maintaining viable competitors in the sale of HMO and HMO-based POS plans and the purchase of physician services, and to remedy the effects that the United States and the State of Texas allege would otherwise result from Aetna's proposed acquisition of Prudential's health care assets.

B. This Hold Separate Stipulation and Order is intended to ensure, prior to such divestiture, that NYLCare-Gulf Coast and NYLCare-Southwest, which are being divested, be maintained as independent, economically viable, ongoing business concerns, and that competition is maintained during the pendency of the divestiture.

III. Hold Separate Provisions

Until the divestiture required by the Final Judgment has been accomplished:

A. Aetna shall immediately begin to take all steps necessary to preserve, maintain, and operate NYLCare-Gulf Coast and NYLCare-Southwest as independent competitors with management, sales, service, underwriting, administration, and operations held entirely separate, distinct, and apart from those of Aetna. Aetna shall not coordinate the pricing, marketing, or sale of health care services from NYLCare-Gulf Coast and NYLCare-Southwest with the pricing, marketing, or sale of health care services by Aetna. Within twenty-five (25) calendar days of the filing of the Complaint in this matter, Aetna will comply and inform plaintiffs of the steps taken to comply with this provision.

B. Aetna shall take all steps necessary to ensure that NYLCare-Gulf Coast and NYLCare-Southwest are maintained and operated as independent, ongoing, economically viable, and active competitors, including but not limited to the following:

1. Aetna will appoint experienced senior management to run the combined business of NYLCare-Gulf Coast and NYLCare-Southwest until the divestiture required by the Final Judgment has been accomplished. These executives may be recruited from within the existing Aetna or NYLCare organizations, with plaintiffs' approval, subject to Section IV.C, or from outside the company.

2. Aetna will create a separate and independent sales organization for NYLCare-Gulf Coast and NYLCare-Southwest.

3. Aetna will create a separate and independent provider relations organization for NYLCare-Gulf Coast and NYLCare-Southwest.

4. Aetna will create a separate and independent patient management/quality management organization for NYLCare-Gulf Coast and NYLCare-Southwest.

5. Aetna will create a separate and independent commercial operations organization for the combined NYLCare-Gulf Coast and NYLCare-Southwest.

6. Aetna will create a separate and independent network operations organization for the combined NYLCare-Gulf Coast and NYLCare-Southwest.

7. Aetna will create a separate and independent underwriting organization for the combined NYLCare-Gulf Coast and NYLCare-Southwest.

8. Pursuant to transition services agreements approved by plaintiffs, subject to Section IV.C, Aetna will provide certain support services to NYLCare-Gulf Coast and NYLCare-Southwest until the divestiture. These services may include human resources, legal, finance, actuarial, software and computer operations support, and other services which are now provided to NYLCare-Gulf Coast and NYLCare-Southwest by other Aetna companies. These transition services agreements will contain appropriate confidentiality provisions to ensure that Aetna employees (other than the employees performing services under the agreements) do not receive information that Aetna is prohibited from receiving under paragraph III.C of this Hold Separate Stipulation and Order.

C. Aetna shall take all steps necessary to ensure that the management of NYLCare-Gulf Coast and NYLCare-Southwest will not be influenced by Aetna except as necessary to meet

Aetna's obligations as described below, and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with NYLCare-Gulf Coast and NYLCare-Southwest will be kept separate and apart from the operations of Aetna. Aetna's influence over NYLCare-Gulf Coast and NYLCare-Southwest shall be limited to that necessary to carry out Aetna's obligations under this Hold Separate Stipulation and Order, the Final Judgment, and any applicable regulatory requirements, including all reserve or capital requirements. Aetna may receive aggregate historical financial information (excluding rate or pricing information) relating to NYLCare-Gulf Coast and NYLCare-Southwest to the extent necessary to allow Aetna to prepare financial reports, tax returns, personnel reports, regulatory filings, and other necessary or legally required reports.

D. Aetna shall maintain at either current levels or at the highest levels approved during the year prior to Aetna's acquisition of NYLCare-Gulf Coast and NYLCare-Southwest, whichever are higher, promotional, advertising, sales, technical assistance, marketing, and merchandising support for NYLCare-Gulf Coast and NYLCare-Southwest, but in any event at levels sufficient to ensure that NYLCare-Gulf Coast and NYLCare-Southwest are economically viable businesses.

E. Aetna shall provide and maintain all required reserves and sufficient working capital to maintain NYLCare-Gulf Coast and NYLCare-Southwest as economically viable, ongoing businesses.

F. Aetna shall provide and maintain sufficient lines and sources of credit to maintain NYLCare-Gulf Coast and NYLCare-Southwest as economically viable, ongoing businesses.

G. Aetna shall not take any action to consummate the proposed acquisition of Prudential's health care business pursuant to the Asset Transfer and Acquisition Agreement, dated as of December 9, 1998, or any subsequent agreement between Aetna and Prudential, until such time as the plaintiffs in their sole discretion, subject to Section IV.C, have determined that NYLCare-Gulf Coast and NYLCare-Southwest are independent, viable competitors and that Aetna has complied with this Hold Separate Stipulation and Order, or until the divestitures required by the Final Judgment are complete.

H. Aetna shall not, except in the ordinary course of business, or as otherwise permitted under this Hold Separate Stipulation and Order, or as part of a divestiture approved by the plaintiffs in their sole discretion, subject to Section IV.C, remove, sell, lease, assign, transfer, pledge as collateral for loans, or otherwise dispose of, any asset, tangible or intangible, of NYLCare-Gulf Coast and NYLCare-Southwest.

I. Aetna shall maintain, in accordance with sound accounting principles, separate, true, accurate, and complete financial ledgers, books, and records that report, on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, income, profit, and loss of NYLCare-Gulf Coast and NYLCare-Southwest.

J. Until such time as NYLCare-Gulf Coast and NYLCare-Southwest are divested, except in the ordinary course of business or as is otherwise consistent with this Hold Separate Stipulation and Order, Aetna shall not hire, transfer, terminate, or alter, to the detriment of any employee, any current employment or salary agreement for any employee who on the date of the signing of this Hold Separate Stipulation and Order is employed at NYLCare-Gulf Coast or NYLCare-Southwest.

K. Aetna may retain an independent consultant (the ''Consultant'') to monitor the operations of NYLCare-Gulf Coast and NYLCare-Southwest until the divestiture(s) required by the Final Judgment has been accomplished. The Consultant shall have no role in the management of NYLCare-Gulf Coast and NYLCare-Southwest, but shall be given reasonable access to files, data, reports, and other information regarding the operations of NYLCare-Gulf Coast and NYLCare-Southwest. The Consultant's sole responsibility will be to report at least monthly to Aetna's Director of Internal Audit, stating the Consultant's opinion on the question whether NYLCare-Gulf Coast and NYLCare-Southwest are being managed in accordance with applicable law, consistent with prudent underwriting and other industry standards, and consistent with the fiduciary duties of its management. If the Consultant's opinion on this question is anything other than an unqualified ''yes,'' the Consultant shall submit a written report stating the basis for its opinion to the Director of Internal Audit, with a copy to the plaintiffs. The Consultant shall not transmit to Aetna any information that Aetna is prohibited from receiving under paragraph III.C of this Hold Separate Stipulation and Order. After receiving the Consultant's written report, and with the consent of the plaintiffs in their sole discretion, subject to Section IV.C, Aetna may take appropriate corrective action.

IV. Other Provisions

A. Aetna shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to a suitable purchaser.

B. Prudential shall take no action that would hinder or obstruct Aetna's ability or efforts to comply with this Hold Separate Stipulation and Order.

C. In the event plaintiffs are unable to agree on a course of action regarding any item within their discretion in seven days, then the United States may, in its sole discretion, act alone (or decline to act) with respect to that course of action.

D. With the consent of the plaintiffs, in their sole discretion, subject to Section IV.C, Aetna may exclude certain NYLCare-Gulf Coast and NYLCare-Southwest assets from this Hold Separate Stipulation and Order.

E. This Hold Separate Stipulation and Order shall remain in effect until the divestitures required by the Final Judgment are complete, or until further Order of this Court.

Respectfully submitted,

For Plaintiff, United States of America.

Paul J. O'Donnell,

Massachusetts Bar #547125, U.S. Department of Justice, Antitrust Division, Health Care Task Force, 325 Seventh Street, NW, Suite 400, Washington, DC 20530; Tel: (202) 616–5933, Facsimile: (202) 514–1517.

For Plaintiff, State of Texas.

Mark Tobey,

State Bar No. 20082960, Assistant Attorney General, Chief, Antitrust Section, Office of the Attorney General, P.O. Box 12548, Austin, TX 78711–2548; Tel: (512) 463–2185, Facsimile (512) 320–0975.

For Defendant, Aetna Inc.

Robert E. Bloch,

D.C. Bar #175927, Mayer, Brown & Platt, 1909 K Street, NW, Washington, DC 20006; Tel: (202) 263–3203, Facsimile: (202) 263–3300.

For Defendant, The Prudential Insurance Company of America.

Michael L. Weiner,

New York Bar #MW0294, Skadden, Arps, Slate, Meagher & Flom, LLP, 919 Third Avenue, New York, NY 10022; Tel: (212) 735–2632, Facsimile: (212) 451–7446.

It Is So Ordered.

Dated _____, 1999.

_____

United States District Judge.

C. This Hold Separate Stipulation and Order shall remain in effect until the divestitures required by the Final Judgment are complete, or until further Order of this Court.

Respectfully submitted,

For Plaintiff, United States of America.

Paul J. O'Donnell,

Massachusetts Bar #547125, U.S. Department of Justice, Antitrust Division, Health Care Task Force, 325 Seventh Street, NW, Suite 400, Washington, DC 20530; Tel: (202) 616–5933, Facsimile: (202) 514–1517.

For Plaintiff, State of Texas.

Mark Tobey,

State Bar No. 20082960, Assistant Attorney General, Chief, Antitrust Section, Office of the Attorney General, P.O. Box 12548, Austin, TX 78711–2548; Tel: (512) 463–2185, Facsimile (512) 320–0975.

For Defendant, Aetna Inc.

Robert E. Bloch,

D.C. Bar #175927, Mayer, Brown & Platt, 1909 K Street, NW, Washington, DC 20006; Tel: (202) 263–3203, Facsimile: (202) 263–3300.

For Defendant, The Prudential Insurance Company of America.

Michael L. Weiner,

New York Bar #MW0294, Skadden, Arps, Slate, Meagher & Flom, LLP, 919 Third Avenue, New York, NY 10022; Tel: (212) 735–2632, Facsimile: (212) 451–7446.

[Civil Action No. 3–99CV 1398–H]

United States of America, and the State of Texas, Plaintiff, v. Aetna Inc., and The Prudential Insurance Company of America, Defendants.

Revised Final Judgment

Whereas, plaintiffs, the United States of America and the State of Texas, filed a Complaint in this action on June 21, 1999, and plaintiffs and defendants, by their respective attorneys, having consented to the entry of this Revised Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Revised Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendants have agreed to be bound by the provisions of this Revised Final Judgment pending its approval by the Court;

And whereas, plaintiffs intend to preserve competition by requiring Aetna to divest its interests in the Houston operations of NYLCare Health Plans of the Gulf Coast, Inc., and the Dallas operations of NYLCare Health Plans of the Southwest, Inc., consisting of, among other assets, approximately two hundred sixty thousand (260,000) and one hundred sixty seven thousand (167,000) commercially insured HMO and HMO-based POS enrollees, respectively;

And whereas, plaintiffs require defendants to make the divestitures for the purpose of establishing a viable competitor in the development, marketing, and sale of HMO and HMO-based POS health plans in the Houston and Dallas areas;

And whereas, plaintiffs require defendants to make the divestitures for the purpose of redressing the effects that the United States and the State of Texas allege would otherwise result from Aetna's proposed acquisition of Prudential's health care assets, including the ability to depress physicians' reimbursement rates in Houston and Dallas, which is likely to lead to a reduction in quantity or a degradation in the quality of physician services provided to patients in those areas;

And whereas, defendants have represented to plaintiffs that the divestitures ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *ordered, adjudged, and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Revised Final Judgment:

A. ''Aetna'' means Aetna, Inc., a Connecticut corporation with its headquarters and principal place of business in Hartford, Connecticut, its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and its directors, officers, managers, agents, and employees.

B. ''Dallas'' means the entire service area of NYLCare-Southwest including, but not limited to, the following Texas counties: Collin, Dallas, Denton, Ellis, Grayson, Henderson, Hood, Hunt, Johnson, Kaufman, Parker, Rockwall, and Tarrant.

C. ''Excluded Assets'' means those businesses of NYLCare-Gulf Coast and NYLCare-Southwest that need not be divested, which consist of: (1) All Medicare HMO plans; (2) commercial HMO and HMO-based POS accounts not located in Houston or Dallas; (3) provider network rental arrangements for PPO plans; and (4) administrative services contracts with self-funded plans.

D. ''Houston'' means the following Texas counties: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller.

E. ''NYCare-Gulf Coast'' means NYLCare Health Plans of the Gulf Coast, Inc., a wholly owned subsidiary of Aetna that operates a licensed HMO and HMO-based POS business under that name in Central and Southeastern Texas, excepting the Excluded Assets, and includes:

1. All tangible assets necessary to compete in the sale or administration of HMO and HMO-based POS plans; all personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies, facilities, and other tangible property or improvements used in the sale or administration of HMO and HMO-based POS plans, all licenses, permits, and authorizations issued by any governmental organization relating to HMO and HMO-based POS plans; contracts or agreements for coverage of approximately two hundred sixty thousand (260,000) commercially insured HMO and HMO-based POS plan enrollees; all other contracts, agreements, leases, commitments, and understandings pertaining to HMO and HMO-based POS plans; all contracts with accounts located in Houston, all customer lists and credit records; and all other records maintained in connection with the sale and administration of HMO and HMO-based POS plans in Houston or Dallas;

2. All intangible assets relating to the sale or administration of HMO and HMO-based POS plans, including but not limited to any licenses and sublicenses, intellectual property, technical information, know-how, trade secrets, programs, and all manuals and technical information provided to employees, customers, suppliers, agents, or licenses.

F. ''NYLCare-Southwest'' means NYLCare Health Plans of the Southwest, Inc., a wholly owned subsidiary of Aetna that operates a licensed HMO and HMO-based POS business under that name in Dallas, Fort Worth, and several smaller cities in North Texas, including Paris, Tyler, Longview and Amarillo, excepting the Excluded Assets, and includes:

1. All tangible assets necessary to compete in the sale or administration of HMO and HMO-based POS plans; all personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies, facilities, and other tangible property or improvements used in the sale or administration of HMO

and HMO-based POS plans; all licenses, permits, and authorizations issued by any governmental organization relating to HMO and HMO-based POS plans; contracts or agreements for coverage of approximately one hundred sixty seven thousand (167,000) commercially insured HMO and HMO-based POS plan enrollees; all other contracts, agreements, leases, commitments, and understandings pertaining to HMO and HMO-based POS plans; all contracts with accounts located in Dallas; all customer lists and credit records,; and all other records maintained in connection with the sale and administration of HMO and HMO-based POS plans in Dallas or Houston;

2. All intangible assets relating to the sale or administration of HMO and HMO-based POS plans, including but not limited to any licenses and sublicenses, intellectual property, technical information, know-how, trade secrets, programs, and all manuals and technical information provided to employees, customers, suppliers, agents, or licenses.

G. ''Prudential'' means The Prudential Insurance Company of America, a New Jersey mutual insurance company with its principal place of business in Newark, New Jersey, its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

III. Applicability

A. The provisions of this Revised Final Judgment apply to Aetna and Prudential and to all other persons in active concert or participation with any of them who shall have received actual notice of this Revised Final Judgment by personal service or otherwise.

B. Aetna shall require, as a condition of the sale or other disposition of NYLCare-Gulf Coast and NYLCare-Southwest, that the acquirer agree to be bound by the provisions of this Revised Final Judgment.

IV. Divestiture

A. Aetna is hereby ordered and directed in accordance with the terms of this Revised Final Judgment to divest its interests in NYLCare-Gulf Coast and NYLCare-Southwest, excepting only the Excluded Assets, to an acquirer(s) acceptable to the plaintiffs, in their sole discretion, subject to Section XII.

B. Aetna is obligated to cause NYLCare-Gulf Coast and NYLCare-Southwest to maintain contracts or agreements for coverage of approximately two hundred sixty thousand (260,000) commercially insured HMO and HMO-based POS plan enrollees in Houston and contracts or agreements for coverage of approximately one hunded sixty seven thousand (167,000) commerically insured HMO and HMO-based POS plan enrollees in Dallas through the date of signing the definitive purchase and sale agreement(s) for the divestiture of the two NYLCare entities. Aetna may include related PPO business as a part of the sale of the NYLCare entities, and the actual number of such PPO enrollees as of the date of signing of the definitive purchase and sale agreement(s) of the divestiture of the NYLCare entities will be taken into account in determining Aetna's compliance with the membership targets described herein.

C. Aetna shall use its best efforts to accomplish the divestitures as expeditiously as possible and will accelerate the timetable for executing the definitive purchase and sale agreement(s) for the divestiture of the NYLCare entities to a target date of October 1, 1999. In any event, Aetna shall execute definitive purchase and sale agreement(s) and shall file all required applications for regulatory approval within one-hundred and twenty (120) calendar days after June 21, 1999. Aetna shall complete the divestitures within five (5) business days after it receives all necessary regulatory approvals for divestiture of NYLCare-Gulf Coast and NYLCare-Southwest and the acquisition of Prudential, or five (5) business days after notice of the entry of this Revised Final Judgment by the Court, whichever is later.

D. The plaintiffs, in their sole discretion, subject to Section XII, may extend the time period for any divestitures for an additional period of time not to exceed sixty (60) calendar days. If a further extension is required to obtain necessary regulatory approvals, the plaintiffs, in their sole discretion, subject to Section XII, may grant the time necessary to obtain such approvals.

E. In accomplishing the divestitures ordered by this Revised Final Judgment, Aetna promptly shall make known, by usual and customary means, the availability for purchase of NYLCare-Gulf Coast and NYLCare-Southwest. Aetna shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Revised Final Judgment and shall provide such person with a copy of this Revised Final Judgment. Aetna shall also offer to furnish to all prospective purchasers, subject to reasonable confidentiality assurances, all information regarding NYLCare-Gulf Coast and NYLCare-Southwest customarily provided in a due diligence process, except information subject to the attorney-client privilege or the attorney work-product privilege. Aetna shall make available such non-privileged information to the United States and the State of Texas at the same time that such information is made available to prospective purchasers.

F. Aetna shall permit prospective purchasers to have reasonable access to all NYLCare-Gulf Coast's and NYLCare-Southwest personnel, physical facilities, and any and all financial, operational or other documents and information customarily provided as part of a due diligence process.

G. Aetna shall not take any action that will impede in any way the operation of NYLCare-Gulf Coast and NYLCare-Southwest; shall immediately cease all actions directed at the integration of NYLCare-Gulf Coast and NYLCare-Southwest into Aetna.

H. Aetna shall take all steps necessary to ensure that NYLCare-Gulf Coast and NYLCare-Southwest are maintained and operated as independent, on-going, economically viable, and active competitors until completion of the divestitures ordered by this Revised Final Judgment, including but not limited to the following:

1. Aetna will appoint experienced senior management to run the combined business of NYLCare-Gulf Coast and NYLCare-Southwest. These executives may be recruited from within the existing Aetna or NYLCare organizations, with plaintiff's approval, subject to Section XII, or from outside the company.

2. Aetna will create a separate and independent sales organization for NYLCare-Gulf Coast and NYLCare-Southwest.

3. Aetna will create a separate and independent provider relations organization for NYLCare-Gulf Coast and NYLCare-Southwest.

4. Aetna will create a separate and independent management/quality management organization for NYLCare-Gulf Coast and NYLCare-Southwest.

5. Aetna will create a separate and independent commercial operations organization for the combined NYLCare-Gulf Coast and NYLCare-Southwest.

6. Aetna will create a separate and independent commercial operations organization for the combined NYLCare-Gulf Coast and NYLCare-Southwest.

7. Aetna will create a separate and independent underwriting organization for the combined NYLCare-Gulf Coast and NYLCare-Southwest.

8. Pursuant to transition services agreements approved by plaintiffs, subject to Section XII, Aetna will

provide certain support services to NYLCare-Gulf Coast and NYLCare-Southwest. These services may include human resources, legal, finance, actuarial, software and computer operations support, and other services which are now provided to NYLCare-Gulf Coast and NYLCare-Southwest by other Aetna companies. These transition services agreements will contain appropriate confidentiality provisions to ensure that Aetna employees (other than the employees performing services under the agreements) do not receive information that Aetna is prohibited from receiving under Section III.E of the Revised Hold Separate Stipulation and Order entered earlier.

9. Aetna will provide any additional transitional services requested by the management of NYLCare-Gulf Coast and/or NYLCare-Southwest in order to maintain the membership targets described in Section IV.B. Such additional services may include, but not be limited to, funding of service quality guarantees, subject to the approval of the plaintiffs in their sole discretion, pursuant to Section XII.

10. Aetna will fund an incentive pool of at least $500,000, which will be available to management of the NYLCare entities if they meet the membership targets described in Section IV.B as of the closing date for the sale of the NYLCare entities.

I. Aetna shall not take any action to consummate the proposed acquisition of Prudential's heath care business pursuant to the Asset Transfer and Acquisition Agreement, date as of December 9, 1998, or any subsequent agreement between Aetna and Prudential, until such time as plaintiffs, to their sole satisfaction, subject to Section XII, have determined that NYLCare-Gulf Coast and NYLCare-Southwest are independent, viable competitors, that Aetna has complied with the terms of the Revised Hold Separate Stipulation and Order entered previously, or until the divestitures required by this Revised Final Judgment are complete.

J. Aetna shall request that the NYLCare entities provide the plaintiffs with bi-weekly reports on total membership of the entities until the divestitures required by this Revised Final Judgment are complete.

K. Unless the plaintiffs, in their sole discretion, subject to Section XII, consent in writing, the divestitures pursuant to Section IV (or by trustee appointed pursuant to Section V) shall include the entire NYLCare-Gulf Coast and NYLCare-Southwest businesses, excepting only the Excluded Assets, operated pursuant to the Revised Hold Separate Stipulation and Order entered previously in this proceeding, and shall be accomplished by selling or otherwise conveying NYLCare-Gulf Coast and NYLCare-Southwest to a purchaser(s) in such a way as to satisfy the plaintiffs in their sole discretion, subject to Section XII, that NYLCare-Gulf Coast and NYLCare-Southwest can and will be used by the purchaser(s) as part of a viable, ongoing business engaged in the sale of HMO and HMO-based POS plans. These divestitures may be made to one or more purchasers provided that in each instance it is demonstrated to the sole satisfaction of the plaintiffs, subject to Section XII, that the acquirer(s) will remain viable competitors. The divestitures, whether pursuant to Section IV or Section V, shall be made to a purchaser(s) for whom it is demonstrated to the plaintiffs' sole satisfaction, subject to Section XII: (1) Has the capability and intent of competing effectively in the sale of HMO and HMO-based POS plans in Dallas and Houston; (2) has the managerial, operational, and financial capability to compete effectively in the sale of HMO and HMO-based POS plans in Houston and Dallas; and (3) is not restrained through any agreement with Aetna or otherwise in its ability to compete effectively in the sale of HMO and HMO-based POS plans in Dallas and Houston.

L. For a period of one year from the date of the completion of the divestiture, Aetna shall not hire or solicit to hire any individual who, on the date of the divestiture, was an employee of NYLCare-Gulf Coast and NYLCare-Southwest, unless such individual has (1) a written offer of employment from a third party for a like position, or (2) a written notice from the acquirer of NYLCare-Gulf Coast or NYLCare-Southwest, stating that the company does not intend to continue to employ the individual in a like position.

V. Appointment of Trustee

A. In the event that Aetna has not divested NYLCare-Gulf Coast and NYLCare-Southwest within the time specified in Section IV, the Court shall appoint, on application of the plaintiffs, a trustee selected by the plaintiffs in their sole discretion, subject to Section XII, to effect the required divestitures.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell NYLCare-Gulf Coast and NYLCare-Southwest, as described in Sections II.E and II.F. The trustee shall have the power and authority to accomplish the divestitures at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VI, and shall have such other powers as the Court shall deem appropriate. Subject to Section V.C, the trustee shall have the power and authority to hire, at the cost and expense of Aetna, any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestitures at the earliest possible time to a purchaser acceptable to the plaintiffs in their sole discretion, subject to Section XII, shall have the power and authority to require Aetna to sell NYLCare's PPO business in Houston and Dallas if the plaintiffs, in the exercise of their sole discretion, subject to Section XII, determine that such a sale is necessary for the preservation of competition, and shall have such other power and authority at this Court shall deem appropriate. Aetna shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by Aetna must be conveyed in writing to the plaintiffs and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

C. The trustee shall serve at the cost and expense of Aetna, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Aetna and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished.

D. Aetna shall use its best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and Aetna shall develop financial or other information relevant to the business to be divested customarily provided in a due diligence

process as the trustee may reasonably request, subject to customary confidentiality assurances. Aetna shall permit prospective purchasers of NYLCare-Gulf Coast and NYLCare-Southwest to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Revised Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Revised Final Judgment, provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports may be filed under seal for *in camera* review. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the businesses to be divested.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth: (1) The trustee's efforts to accomplish the required divestitures; (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished; and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports may be filed under seal for *in camera* review. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the plaintiffs, subject to Section XII.

VI. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Revised Final Judgment, to effect, in whole or in part, any proposed divestitures pursuant to Section IV or Section V, Aetna or the trustee, whichever is then responsible for effecting the divestitures, shall notify the United States and the State of Texas of the proposed divestitures. If the trustee is responsible, it shall similarly notify Aetna. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the businesses to be divested that is the subject of the binding contract, together with full details of same. Within ten (10) calendar days of their receipt of such notice, the United States or the State of Texas may request from Aetna, the trustee, the proposed purchaser, or any other third party additional information concerning the proposed divestitures and the proposed purchaser. Aetna and the trustee shall furnish any additional information requested from them within ten (10) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calender days after receipt of the notice or within twenty (20) calender days after the plaintiffs have been provided the additional information requested from Aetna, the trustee, the proposed purchaser, and any third party, whichever is later, the plaintiffs, in their sole discretion, subject to Section XII, shall provide written notice to Aetna and the trustee, if there is one, stating whether it objects to the proposed divestitures. If the plaintiffs provide written notice to Aetna and the trustee that they do not object, then the divestitures may be consummated, subject only to Aetna's limited right to object to the sale under Section V.B. Absent written notice that the plaintiffs do not object to the proposed purchaser or upon objection by the plaintiffs, such divestitures proposed under Section IV or Section V may not be consummated. Upon objection by Aetna under Section V.B, a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Affidavits

A. Within twenty-five (25) calendar days of the June 21, 1999 filing of the original Hold Separate Order and Stipulation in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed, whether pursuant to Section IV or Section V, Aetna shall deliver to the United States and the State of Texas an affidavit as to the fact and manner of compliance with Section IV or Section V. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that Aetna has made to solicit a buyer for NYLCare-Gulf Coast and NYLCare-Southwest and to provide required information to prospective purchasers including the limitations, if any, on such information.

B. Within twenty-five (25) calendar days of the June 21, 1999 filing of the original Hold Separate Order and Stipulation in this matter. Aetna shall deliver to the United States and the State of Texas an affidavit that describes in detail all actions Aetna has taken and all steps Aetna has implemented on an on-going basis to preserve NYLCare-Gulf Coast and NYLCare-Southwest pursuant to Section VIII and the Revised Hold Separate Stipulation and Order previously entered by this Court. The affidavit also shall describe, but not be limited to, Aetna's efforts to maintain and operate NYLCare-Gulf Coast and NYLCare-Southwest as active competitors, and the plans and timetable for Aetna's integration of Prudential's healthcare assets. Aetna shall deliver to the United States and the State of Texas an affidavit describing any changes to the efforts and actions outlined in Aetna's earlier affidavit(s) filed pursuant to this Section VII.B within fifteen (15) calendar days after such change is implemented.

C. Until one year after the divestitures required by this Revised Final Judgment have been completed, Aetna shall preserve all records of all efforts made to preserve the businesses to be divested and effect the divestitures.

VIII. Hold Separate Order

Until the divestitures required by this Revised Final Judgment have been accomplished, Aetna shall take all steps necessary to comply with Section IV and the Revised Hold Separate Stipulation and Order entered by this Court, to preserve the assets of NYLCare-Gulf Coast and NYLCare-Southwest, and to ensure that NYLCare-Gulf Coast and NYLCare-Southwest remain viable competitors in the sale of HMO and HMO-based POS plans in Dallas and Houston. Defendants shall take no action that would jeopardize the

divestitures of NYLCare-Gulf Coast and NYLCare-Southwest.

IX. Financing

Aetna is ordered and directed not to finance all or any part of any purchase by an acquirer(s) made pursuant to Section IV or Section V.

X. Compliance Inspection

For the purpose of determining or securing compliance with this Revised Final Judgment or for determining whether this Revised Final Judgment should be modified or terminated, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General of the United States or the Assistant Attorney General in charge of the Antitrust Division, or the State of Texas, upon written request by the Texas Attorney General, and on reasonable notice to Aetna made to its principal offices, shall be permitted:

1. Access during Aetna's office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents, including computerized records, in the possession or under the control of Aetna, which may have counsel present, relating to any matters contained in this Revised Final Judgment and the Revised Hold Separate Stipulation and Order;

2. Subject to the reasonable convenience of Aetna and without restraint or interference from it, to interview, either informally or on the record, its officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General of the United States, the Assistant Attorney General in charge of the Antitrust Division, or the Attorney General of the State of Texas, made to Aetna's principal offices, Aetna shall submit such written reports, under oath if required, with respect to any matter contained in this Revised Final Judgment and the Revised Hold Separate Stipulation and Order entered earlier by this Court.

C. No information or documents obtained by the means provided in Section VII or Section X shall be divulged by any representative of the plaintiffs to any person other than a duly authorized representative of the Executive Branch of the United States or of the State of Texas, except in the course of legal proceedings to which the United States or the State of Texas is a party (including grand jury proceedings), or for the purpose of securing compliance with this Revised Final Judgment, or as otherwise required by law.

D. If at any time Aetna furnishes to the United States or the State of Texas information or documents, Aetna represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Aetna marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States or the State of Texas shall give ten (10) calendar days' notice to Aetna prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Aetna is not a party.

XI. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Revised Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Revised Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XII. Miscellaneous

In the event plaintiffs are unable to agree on a course of action regarding Sections IV.A, IV.D, IV.H, IV.I, IV.K, V.A, V.B, V.F, and VI in seven days, then the United States may, in its sole discretion, act alone (or decline to act) with respect to the course of action.

XIII. Termination

Unless this Court grants an extension, this Revised Final Judgment will expire on the tenth anniversary of the date of its entry.

XIV. Public Interest

Entry of this Revised Final Judgment is in the public interest.

Dated _____, 1999.

United States District Judge.

[Civil Action No.: 3–99CV1398–H]

United States of America, and the State of Texas, Plaintiffs, v. Aetna Inc., and The Prudential Insurance Company of America, Defendants.

Revised Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C 16(b)–(h), the United States submits this Competitive Impact Statement to assist the Court in assessing the proposed Revised Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of This Proceeding

The United States filed a civil antitrust Complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, on June 21, 1999, alleging that the proposed acquisition by Aetna Inc. (''Aetna'') of The Prudential Insurance Company of America's (''Prudential'') health care business would violate Section 7 of the Clayton Act (''Section 7''), 15 U.S.C. 18. The State of Texas, by and through its Attorney General, is co-plaintiff with the United States in this action.

The Complaint alleges that Aetna and Prudential compete head-to-head in the sale of health maintenance organization (''HMO'') and HMO-based point-of-service (''HMO–POS'') health plans in Houston and Dallas, Texas; that such competition has benefited consumers by keeping prices low and quality high; and that the proposed acquisition would end such competition and give Aetna sufficient market power to increase prices or reduce quality in the sale of HMO and HMO–POS plans in these geographic areas (Complaint ¶ 26.) The Complaint also alleges that the acquisition would enable Aetna to unduly depress physicians' reimbursement rates in Houston and Dallas, resulting in a reduction of quantity or a degradation in quality of physicians' services in these area. (Complaint ¶ 33.)

When the Complaint was filed, the plaintiffs also filed a proposed settlement that would permit Aetna to complete its acquisition of Prudential but would require divestitures of certain assets sufficient to preserve competition in the sale of HMO and HMO–POS plans and the purchase of physicians' services in Houston and Dallas. This settlement consisted of a proposed Final Judgment, Hold Separate Stipulation and Order, and Stipulation. To further clarify certain aspects of the proposed Final Judgment, on August 4, 1999, the parties made a joint motion to the Court for entry of a Revised Hold Separate Stipulation and Order, as well as a joint motion to file a Revised Final Judgment and Revised Stipulation.

The proposed Revised Final Judgment requires Aetna to divest its interests in the Houston-area commercial HMO and HMO–POS businesses of NYLCare Health Plans of the Gulf Coast, Inc. (''NYLCare-Gulf Coast''), a previously acquired health plan serving Houston and other areas in south and central Texas, and the commercial HMO and

HMO–POS businesses of NYLCare Health Plans of the Southwest, Inc. (''NYLCare-Southwest''), a previously acquired health plan serving the Dallas area. If Aetna does not complete the divestitures within the time frame established in the proposed Revised Final Judgment, a trustee appointed by the Court will be empowered to sell NYLCare-Gulf Coast and NYLCare-Southwest. If the assets are not sold within six (6) months after the appointment of the trustee, the Court shall enter such orders as it shall deem appropriate to carry out the purpose of the trust. (Revised Final Judgment ¶ V.A., F.)

The Revised Hold Separate Stipulation and Order ensure that NYLCare-Gulf Coast and NYLCare-Southwest function as independent, economically viable, ongoing business concerns and that competition is maintained prior to the divestitures. It requires Aetna to immediately take steps to preserve, maintain, and operate NYLCare-Gulf Coast and NYLCare-Southwest as independent competitors until the completion of the divestitures ordered by the Revised Final Judgment, with management, sales, service, underwriting, administration, and operations held entirely separate, distinct, and apart from those of Aetna. In addition, Aetna is obligated to cause NYLCare-Gulf Coast and NYLCare-Southwest to maintain contracts or agreements for coverage of approximately two hundred sixty thousand (260,000) commercially insured HMO and HMO-based POS plan enrollees in Houston and contracts or agreements for coverage of approximately one hundred sixty seven thousand (167,000) commercially insured HMO and HMO-based POS plan enrollees in Dallas through the date of signing the definitive purchase and sale agreement(s) for the divestiture of the two NYLCare entities. Until the plaintiffs, in their sole discretion, determine the NYLCare-Gulf Coast and NYLCare-Southwest can function as effective competitors, Aetna may not take any action to consummate the proposed acquisition of Prudential. (Revised Final Judgment ¶ IV,I.)

The United States, the State of Texas, and the defendants have stipulated that the proposed Revised Final Judgment may be entered after compliance with the APPA. Entry of the proposed Revised Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Revised Final Judgment and to punish violations thereof.

II. The Alleged Violations

A. The Defendants

Aetna is a Connecticut corporation providing health and retirement benefits and financial services with its principal place of business in Hartford, Connecticut. Through its wholly owned subsidiary, Aetna U.S. Healthcare, Aetna offers an array of health insurance products, including indemnity (''fee-for-service''), preferred provider organization (''PPO''), POS, and HMO plans. Aetna also purchases physicians' services for its health plan members, which it offers to members through Aetna's health plans. In 1998, Aetna U.S. Healthcare reported revenues of over $14 billion and was the largest health insurance company in the country, providing health care benefits to approximately 15.8 million people in 50 states and the District of Columbia.

Prudential is a New Jersey mutual life insurance company with its principal place of business in Newark, New Jersey. Like Aetna, Prudential offers indemnity, PPO, POS, and HMO plans and also buys physicians' services, which it offers to its enrollees through Prudential's health plans. In 1998, Prudential HealthCare reported total revenues of approximately $7.5 billion and was the nation's ninth largest health insurance company, serving approximately 4.9 million health insurance beneficiaries in 28 states and the District of Columbia.

B. Description of the Events Giving Rise to the Alleged Violations

Aetna and Aetna Life Insurance Company, a wholly owned subsidiary of Aetna, entered into an Asset Transfer and Acquisition Agreement (''Agreement'') dated December 9, 1998, with Prudential and PRUCO, Inc., a wholly owned subsidiary of Prudential. Under the terms of the Agreement, Aetna would acquire substantially all of Prudential's assets related to issuing, selling, and administering group medical, dental indemnity, and managed care plans, including HMO and HMO–POS plans. The purchase price stated in the Agreement is $1 billion, consisting of $465 million in cash, $500 million in three-year promissory notes, $15 million in cash payable under a Coinsurance Agreement, and $20 million in cash to be paid under a Risk-Sharing Agreement.

C. Anticompetitive Effects of the Proposed Acquisition

1. The Sale of HMO and HMO–POS Plans

Aetna's proposed acquisition of Prudential would be likely to substantially lessen competition in the sale of HMO and HMO–POS plans in Houston and Dallas, Texas, in violation of Section 7.

a. Product Market

Managed care companies, such as Aetna and Prudential, contract with employers and other group purchasers to provide health insurance services or to administer health care coverage to employees and other group members. There are a variety of managed care products available to employers and other group purchasers which provide health care services at an agreed-upon rate, subject to certain utilization review and management requirements. These products, which include HMO, PPO, and POS plans, have become increasingly popular options for employers, largely because of the managed care companies' ability to obtain competitive rates from health care providers and to control utilization of health care services.

As the Complaint alleges, HMO and HMO–POS products differ from PPO or indemnity plans in terms of benefit design, cost, and other factors. (Complaint ¶ 15.) For example, HMOs provide superior preventative care benefits, but they place limits on treatment options and generally require use of a primary care physician ''gatekeeper.'' PPO plans, which do not require enrollees to go through a ''gatekeeper'' and do not emphasize preventative care, are generally more expensive than HMOs. POS plans can be based on either an HMO or PPO network and fall between HMO and PPO plans in terms of access and cost. That is, POS plans offer patients more flexibility at a higher cost relative to HMOs. In general, then, PPOs and indemnity options are more expensive, provide better benefits with respect to coverage when ill, and allow greater access to providers. In contrast, HMO and HMO-based POS options are generally less expensive, provide better benefits with respect to health maintenance or preventaive care, place greater limits on treatment, and restrict access to providers. (*Id.*)

Not only do these plans in fact differ by cost and benefit configuration, they are perceived as different by purchasers; neither employers nor employees view PPO plans as adequate substitutes for HMO or HMO–POS plans. Instead, they

view them as distinct products, meeting different needs and appealing to different types of enrollees. Indeed, enrollees who leave an HMO disproportionately select another HMO (or HMO–POS), not a PPO, for their next health care benefit plan. (Complaint ¶ 17.)

Moreover, analyses of the data obtained from the parties and from other plans strongly indicate that consumers—employers and employees—view HMO and HMO–POS plans as distinct from other health plans and that PPO or indemnity plans are not thought to be ready substitutes for HMO and HMO–POS plans. These analyses demonstrate that the elasticity of demand for HMO and HMO–POS plans is sufficiently low that a small but significant price increase for all HMO and HMO–POS plans would be profitable because consumers would not shift to PPO and indemnity plans in sufficient numbers to render such an increase unprofitable.

Together with consistent evidence from numerous witnesses interviewed, these analyses support the conclusion that HMO and HMO–POS plans constitute the relevant product for analysis of the proposed transaction. (Complaint ¶ 18.)

b. Geographic Markets

Virtually all managed care companies establish provider networks in the areas where employees work and live, and they compete on the basis of these local provider networks. The relevant geographic markets in which HMO and HMO–POS plans compete are thus generally no larger than the local areas within which HMO and HMO–POS enrollees demand access to providers. More specifically, a small but significant increase in the price of HMO and HMO–POS plans would not cause a sufficient number of customers to switch to health plans outside of these regions to make such a price increase unprofitable. For this reason, the Department's analysis focused on MSAs in and around Houston and Dallas as the relevant geographic markets. (Complaint ¶ 20.)

c. Competitive Effects

Aetna and Prudential are among each other's principal competitors in the sale of HMO and HMO–POS plans in Houston and Dallas, and employers currently view them as close substitutes based on product design and quality. Maintaining Prudential as a competitor to Aetna in Houston and Dallas has become particularly important since Aetna's 1998 acquisition of NYLCare, a transaction that propelled Aetna's HMO and HMO–POS market share from 13% to 44% in Houston and from 11% to 26% in Dallas. (Complaint ¶ 22.) The proposed acquisition of Prudential would further enhance Aetna's position by eliminating competition between the two companies, giving Aetna market shares of 63% in Houston and 42% in Dallas. (*Id.*)

As the Complaint alleges, potential or current competitors will not be able to constrain Aetna's exercise of its post-merger market power in the defined geographic markets. (Complaint ¶ 25). Effective new entry for a HMO or HMO–POS plan in Houston or Dallas typically takes two to three years and costs approximately $50 million. (Complaint ¶ 23.) In such an environment, *de novo* entry is unlikely to defeat a price increase over the short term. (*Id.*) Furthermore, companies currently offering PPO or indemnity plans are unlikely to shift their resources to provide HMO or HMO–POS plans in Houston or Dallas in the event of a small but significant price increase. A number of managed care providers have stated during interviews that such a shift would be difficult, expensive, and time consuming, and that they would not enter the HMO or HMO–POS markets even if Aetna were to raise its prices a ''small but significant amount.'' (Merger Guidelines ¶ 1.11.) Finally, managed care companies that presently offer HMO or HMO–POS plans in Houston and Dallas are unlikely to be able to expand or reposition themselves sufficiently to restrain anticompetitive behavior by Aetna in either area following the transaction. (Complaint ¶ 24.) Not only would these companies face some of the costs and difficulties of a new entrant, they would be unable to contend successfully with Aetna's advantages in national reputation, quality accreditation, product array, and provider network (*Id.*) It is therefore unlikely that either new entry or expansion by competitors could counteract a post-merger price increase. (Complaint ¶ 25.)

For all of these reasons, the proposed transaction would enable the merged entity to increase prices or reduce the quality of HMO and HMO–POS plans available to consumers in these areas, in violation of Section 7.

2. The Purchase of Physicians' Services

As alleged in the Complaint, Aetna's acquisition of Prudential will also consolidate its purchasing power over physicians' services in Houston and Dallas, enabling the merged entity to unduly reduce the rates paid for those services. 5

a. Product Market

Physician's services are those medical services provided and sold by physicians, and the only purchasers are individual patients or the commercial and government health insurers that purchase their services on behalf of individual patients. (Complaint ¶ 27.) As a result, physicians cannot seek other purchasers in the event of a small but significant decrease in the prices paid by these buyers. (*Id.*) Nor will such a price decrease cause physicians to stop providing their services or shift towards other activities in numbers sufficient to make such a price reduction unprofitable. (*Id.*) Physicians' services thus constitute the relevant product market within which to assess the likely effect of Aetna's acquisition of Prudential. (*Id.*)

b. Geographic Markets

The geographic markets for the purchase and sale of physicians' services are localized. In Houston and Dallas, as elsewhere, patients seeking medical care generally prefer to have access to treatment close to where they work or live. As a result, commercial and government health insurers—the primary purchasers of physicians' services—seek to have in their provider networks physicians whose offices are convenient to where their enrollees work or live. (Complaint ¶ 19.) Consequently, physicians could not shift their services towards purchasers outside of these areas in numbers sufficient to make a price paid to physicians practicing in Houston or Dallas.

Furthermore, an established physician who has invested time and expense in building a practice in Houston or Dallas (or any other locale) would incur considerable costs in moving his or her practice to a new geographic area, including the substantial costs of building new relationships with hospitals, other physicians, employees, and patients in the new area. (Complaint ¶ 28.) For these reasons, a small but significant decrease in the prices paid to physicians practicing in Houston or Dallas would not cause physicians to relocate their practices in numbers sufficient to make such a price reduction unprofitable. (Complaint ¶ 29).

For all of these reasons, the MSAs in and around Houston and Dallas constitute the relevant geographic markets. (*Id.*; Merger Guidelines ¶ 1.21.)

c. Competitive Effects

In Houston and Dallas, as elsewhere, the contract terms a physician can

obtain from a managed care company such as Aetna or Prudential depend on the physician's ability to terminate, or to credibly threaten to terminate, his or her relationship if the company demands unfavorable contract terms. (Complaint ¶ 30). Since physician's services, unlike certain tangible products, cannot be stored until the physician finds a more acceptable buyer, failing to replace lost business expeditiously imposes an irrevocable loss of revenue upon a physician. Consequently, a physician's ability to terminate, or credibly threaten to terminate, a provider relationship depends on his or her ability to make up that lost business promptly. (*Id.*)

Physicians, however, generally have only a limited ability to encourage patients to switch health care plans or providers. (Complaint ¶ 31.) To retain a patient after terminating a plan requires the physician to convince the patient either to switch to another employer-sponsored plan in which the physician participates (which might not be an option) or to pay considerably higher out-of-pocket costs, either in the form of increased copayments for use of an out-of-network physician (if allowed) or by absorbing the total cost of the physicians' services as unreimbursed medical expenses. As a result, a physician who discontinues his or her relationship with Aetna could expect to lose a significant share of his or her Aetna patients.

A physician's ability to replace, in a timely manner, such lost business is significantly diminished when a large number of patients need to be replaced. (Complaint ¶ 32.) Because of Aetna's all products clause''—which requires a physician to participate in all of Aetna's health plans if he or she participates in any Aetna plan—a physician would lose patients from all Aetna plans if he or she rejects the rates or other terms of any one Aetna plan. Thus, the cost of replacing Aetna patients will be greater when Aetna plans collectively account for a larger share of a physician's total revenue.

Furthermore, the ability to replace a given number of Aetna patients is diminished when a physician's non-Aetna sources of patients are more limited. Consequently, the cost of replacing Aetna patients will be greater the larger Aetna's share of all patients in a locality.

Aetna's proposed acquisition of Prudential, following its recent acquisition of NYLCare, will give it control over both a large share of the revenue of a substantial number of physicians in Houston and Dallas and a large share of all patients in those areas. (Complaint ¶ 33.) In light of the limited ability of physicians to encourage patient switching, a significantly larger number of physicians' in Houston and Dallas would be unable to reject Aetna's demands for more adverse contract terms if Aetna were allowed to acquire Prudential. (*Id.*) The proposed acquisition thus would give Aetna the ability to unduly depress physician reimbursement rates in Houston and Dallas, likely leading to a reduction in quantity or degradation in the quality of physicians' services. (*Id.; see also* Merger Guidelines ¶ 0.1.)

III. Explanation of the Proposed Revised Final Judgment

The proposed Revised Final Judgment orders and directs Aetna to divest its interests in the Houston operations of NYLCare-Gulf Coast and the Dallas operations of NYLCare-Southwest, consisting of, among other assets, approximately 260,000 and 167,000 commercially insured HMO and HMO–POS enrollees in Houston and Dallas, respectively. 6 (Revised Final Judgment ¶ II.E, F.)

The provisions of the proposed Revised Final Judgment are designed to eliminate the two anticompetitive effects of the proposed acquisition. First, the divestitures will preserve competition and protect consumers from higher prices for HMO and HMO–POS plans by establishing a new, independent, and economically viable competitor—or by significantly strengthening the existing competitors—in the development, marketing, and sale of HMO and HMO–POS plans in the Houston and Dallas areas. Second, the divestitures will prevent the consolidation of purchasing power over physicians' services in Houston and Dallas and thereby deny Aetna the ability to unduly depress physician reimbursement rates.

In order to meet these two objectives, the proposed Revised Final Jugdment requires that Aetna promptly make NYLCare-Gulf Coast and NYLCare-Southwest available for purchase. (Revised Final Judgment ¶ IV.A.) Aetna must give all prospective purchasers reasonable access to all NYLCare-Gulf Coast's and NYLCare-Southwest's personnel, physical facilities, and any and all financial, operational, or other documents and information customarily provided as part of a due diligence process. (Revised Final Judgment ¶ IV.F.) At the same time, Aetna must immediately cease all actions directed at the integration of NYLCare-Gulf Coast and NYLCare-Southwest into Aetna and must take all steps necessary to ensure that NYLCare-Gulf Coast and NYLCare-Southwest are maintained and operated as independent, on-going, economically viable, and active competitors until completion of the divestitures ordered by the Revised Final Judgment. (Revised Final Judgment ¶ IV.G, H.) Such steps must include the appointment of experienced senior management to run NYLCare-Gulf Coast and NYLCare-Southwest until the divestitures required by the Final Judgment have been accomplished, as well as the creation of a separate and independent sales organization, provider relations organization, patient management/quality management organization, commercial operations organization, network operations organization, and underwriting organization. (Revised Final Judgment ¶ IV.H.1–7.) To maintain the viability of the NYLCare entities, Aetna is also required to provide certain support services (i.e., legal, financial, actuarial, software, and computer operations support) to NYLCare-Gulf Coast and NYLCare-Southwest until the divestitures are completed. (Revised Final Judgment ¶ IV.H.8, 9.)

Aetna is obligated to cause NYLCare-Gulf Coast and NYLCare-Southwest to maintain contracts or agreements for coverage of approximately two hundred sixty thousand (260,000) commercially insured HMO and HMO-based POS plan enrollees in Houston and contracts or agreements for coverage of approximately one hundred sixty-seven thousand (167,000) commercially insured HMO and HMO-based POS plan enrollees in Dallas through the date of signing the definitive purchase and sale agreement for the divestitures of the two NYLCare entities. (Revised Final Judgment ¶ IV.B.) Aetna is required to use its best efforts to accomplish the divestiture as expeditiously as possible and will accelerate the timetable for executing the definitive purchase and sale agreement(s) for the divestiture of the NYLCare entities to a target date of October 1, 1999. (Revised Final Judgment ¶ IV.C.) In addition, Aetna will request that the NYLCare entities provide bi-weekly reports on total enrollment to the plaintiffs until the divestitures are complete. (Revised Final Judgment ¶ IV.J.) Aetna will also fund an incentive pool of at least $500,000, which will be available to the management of the NYLCare entities if they meet the membership targets described above as of the closing date for the sale of the entities. (Revised Final Judgment ¶ IV.H.10.)

Finally, Aetna may offer PPO related business as part of the sale of the NYLCare entities. (Revised Final Judgment IV.B.) The actual number of such PPO enrollees as of the signing date of the definitive purchase and sale

agreement for the divestitures of the NYLCare entities will be taken into account in determining compliance with the membership targets described in Section IV.B of the proposed Revised Final Judgment. (*Id.*) This last provision in no way lessens Aetna's obligation to divest itself of all of the assets of NYLCare-Gulf Coast and NYLCare-Southwest, excepting only the Excluded Assets.

The proposed Revised Final Judgment prohibits Aetna from taking any action to consummate the proposed acquisition until such time as plaintiffs, in their sole discretion, are satisfied that NYLCare-Gulf Coast and NYLCare-Southwest are independent and viable competitors and that Aetna has complied with the terms of the Revised Hold Separate Stipulation and Order or until the divestitures required by this Revised Final Judgment are completed. (Revised Final Judgment ¶ IV.I.) The divestitures must be accomplished by selling or conveying NYLCare-Gulf Coast and NYLCare-Southwest to a purchaser(s) in such a way as to satisfy the plaintiffs, in their sole discretion, that the entities conveyed can and will be used by the purchaser(s) as part of a viable, ongoing business engaged in the sale of HMO and HMO–POS plans in Houston and Dallas. (Revised Final Judgment ¶ IV.K.) The divestitures may be made to one or more purchasers provided that in each instance it is demonstrated, to the sole satisfaction of the plaintiffs, that the acquirer(s) will remain viable competitors. (*Id.*) The divestitures must be made to a purchaser(s) which is shown, to the plaintiffs' sole satisfaction, to have (1) the capability and intent of competing effectively in the sale of HMO and HMO–POS plans in Houston and Dallas, (2) the managerial, operational, and financial capability to complete effectively in the sale of HMO and HMO–POS plans in Houston and Dallas, and (3) no limitation, through any agreement with Aetna or otherwise, in its ability to compete effectively in the sale of HMO and HMO–POS plans in Houston and Dallas. (*Id.*)

Aetna must file all required applications for regulatory approval of the divestitures within one-hundred twenty (120) calender days after June 21, 1999, the date on which the original proposed Final Judgment was filed, and must complete the divestitures within five (5) business days after it receives all necessary regulatory approvals, or five (5) business days after the notice of the entry of this Revised Final Judgment by the Court, whichever is later. (Revised Final Judgment ¶ IV.C.) The plaintiffs may extend the time period for the divestitures by no more than sixty (60) calendar days and may, in their sole discretion, grant any further time extension needed by Aetna to obtain regulatory approval of the divestitures. (Revised Final Judgment ¶ IV.D.)

If Aetna cannot accomplish these divestitures within the above-described period, the proposed Revised Final Judgment provides that, upon application by the plaintiffs, the Court will appoint a trustee to effect the divestitures. (Revised Final Judgment ¶ V.A.) After the trustee's appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish the divestitures. (Revised Final Judgment ¶ V.E.) If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee and the parties will make recommendations to the Court, which shall enter such orders as it deems appropriate to carry out the purpose of the trust, including, if necessary, extending the trust and the term of the trustee's appointment by a period requested by the plaintiffs. (Revised Final Judgment ¶ V.F.)

The proposed Revised Final Judgment also requires Aetna to deliver affidavits to plaintiffs as to the fact and manner of its compliance with the Revised Final Judgment within twenty-five (25) calendar days of the Court's June 21, 1999 entry of the original Hold Separate Order and Stipulation, and every thirty (30) calendar days thereafter, until divestitures have been completed, (Revised Final Judgment ¶ VII.A.) Aetna must also submit, within twenty-five (25) calendar days of the Court's entry of the original Hold Separate Order and Stipulation, an affidavit that describes in detail all actions Aetna has taken and all steps Aetna has implemented on an on-going basis to preserve NYLCare-Gulf Coast and NYLCare-Southwest, describing Aetna's efforts to maintain and operate NYLCare-Gulf Coast and NYLCare-Southwest as active competitors, and the plans and timetable for Aetna's integration of Prudential's health care assets. (Revised Final Judgment ¶ VII.B.)

The relief sought has been tailored to safeguard Houston and Dallas consumers from an increase in price or a reduction in quality of HMO and HMO–POS products. The relief sought also ensures that physicians in these markets will be protected from an undue depression of reimbursement rates, which could have led to a reduction in the quantity or a degradation in the quality of physicians' services.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Revised Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), entry of the proposed Revised Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against Aetna or Prudential.

V. Procedures Available for Modification of the Proposed Revised Final Judgment

The parties have stipulated that the proposed Revised Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the plaintiffs have not withdrawn their consent. The APPA conditions entry upon the Court's determination that the proposed Revised Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Revised Final Judgment within which any person may submit to the United States written comments regarding the proposed Revised Final Judgment. Any person should comment within sixty (60) days of the date this Competitive Impact Statement is published in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Revised Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register.**

Written comments should be submitted to: Gail Kursh, Chief, Health Care Task Force, Antitrust Division, U.S. Department of Justice, 325 Seventh St., N.W., Suite 400, Washington, D.C. 20530. The proposed Revised Final Judgment provides that the Court will retain jurisdiction over this action and that the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Revised Final Judgment.

VI. Alternatives to the Proposed Revised Final Judgment

The Department considered, as an alternative to the proposed Revised Final Judgment, a full trial on the merits of the Complaint against the defendants. The Department is satisfied, however, that the divestitures of the assets and other relief contained in the proposed Revised Final Judgment will preserve viable competition in the sale of HMO and HMO–POS products and in the purchase of physicians' services in Houston and Dallas, Texas that otherwise would be affected adversely by the acquisition. Thus, the proposed Revised Final Judgment would achieve the relief the Department would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for Proposed Revised Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the Court shall determined whether entry of the proposed Revised Final Judgment ''is in the public interest.'' In making that determination, the Court may consider:

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment; [and]

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trail.

15 U.S.C. § 16(e).

As the United States Court of Appeals for the District of Columbia Circuit has held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the plaintiff's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995). In conducting this inquiry, ''[t]he Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 7 Rather,

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *MidAmerica Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508 at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d. 456, 462 (9th Cir. 1988) (*citing United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th cir. 1981)); *see also Microsoft*,, 56 F.3d. at 1460–62.

The law requires that the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.8

A proposed final judgment, therefore, need not eliminate every anticompetitive effect of a particular practice, nor guarantee free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability: ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' ''9

The proposed Revised Final Judgment here offers strong and effective relief that fully addresses the competitive harm posed by the proposed transaction.

VIII. Determinative Documents

There are no determinative materials or documents of the type described in Section 2(b) of the APPA, 15 U.S.C. § 16(b), that were considered by the United States in formulating the proposed Revised Final Judgment. Consequently, none are filed herewith.

Dated: August 3, 1999.

Respectfully submitted,

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John B. Arnett, Sr.
Steven Brodsky
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[FR Doc. 99–21368 Filed 8–17–99; 8:45 am]
BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Health Information Initiative Consortium

Notice is hereby given that, on January 26, 1999, pursuant to Section 6(a) of the Naitonal cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''The Act''), Health Information Initiative Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing its intention to disband. Specifically, as of November 30, 1998, said project was completed and the consortium and its steering committee have disbanded. The participation Agreement, which formed the basis for all authority and action by the consortium, is no longer in effect. Accordingly, The Koop Foundation Incorporated (KFI), as convener, has no further legal authority to act with respect to this project and has no ownership in any product of the project. KFI will continue to maintain its books and records relating to its activities and responsibilities as convener. KFI will respond to any questions concerning its responsibilities under the Participating Agreement. KFI is aware of no legal authority which would assign to KFI any present or future rights, duties or responsibilities with respect to any aspect of this project.

On March 30, 1995, Health Information Initiative Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section

6(b) of the Act on June 28, 1995 (60 FR 33432).

Constance K. Robinson,

Director of Operaitons, Antitrust Division.

[FR Doc. 99–21370 Filed 8–17–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Sarnoff: HDTV Broadcast Technology Consortium

Notice is hereby given that, on May 21, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Sarnoff: HDTV Broadcast Technology Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Wegener Communications, Duluth, GA has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Sarnoff: HDTV Broadcast Technology Consortium intends to file additional written notification disclosing all changes in membership.

On September 11, 1995, Sarnoff: HDTV Broadcast Technology Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 13, 1995 (60 FR 64079).

The last notification was filed with the Department on March 11, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28518). This notice rescinds and replaces the May 26, 1999 **Federal Register** notice.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–21369 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Sarnoff: HDTV Broadcast Technology Consortium

Notice is hereby given that, on May 4, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Sarnoff: HDTV Broadcast Technology Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, New Jersey Public Broadcasting Authority, Trenton, NJ has been added as a party to this venture. Also, Philips Laboratories, Briarcliff Manor, NY; and MCI Telecommunications, Richardson, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Sarnoff: HDTV Broadcast Technology Consortium intends to file additional written notification disclosing all changes in membership. This group research project remains open, and Sarnoff: HDTV Broadcast Technology Consortium intends to file additional written notification disclosing all changes in membership.

On September 11, 1995, Sarnoff: HDTV Broadcast Technology Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 13, 1995 (60 FR 64079).

The last notification was filed with the Department on March 11, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28518). This notice rescinds and replaces the May 26, 1999 **Federal Register** notice.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–21371 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant To the National Cooperative Research and Production Act Of 1993—Southwest Research Institute (''SWRI'') Joint Industry Program—Development of An Instrument For Corrosion Detection in Insulated Pipes Using A Magnetostrictive Sensor

Notice is hereby given that, on March 23, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SWRI'') Joint Industry Program—Development of an Instrument for Corrosion Detection in Insulated Pipes Using a Magnetostrictive Sensor has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASCG Inspection, Inc., Anchorage, AK has been added as a party to this venture. Also, CTI Alaska, Inc., Anchorage, AK has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Southwest Research Institute (''SWRI'') Joint Industry Program—Development of an Instrument for Corrosion Detection in Insulated Pipes Using a Magnetostrictive Sensor intends to file additional written notification disclosing all changes in membership.

On October 19, 1995, Southwest Research Institute (''SWRI'') Joint Industry Program—Development of an Instrument for Corrosion Detection in Insulated Pipes Using a Magnetostrictive Sensor filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 23, 1996 (61 FR 7020).

The last notification was filed with the Department on October 8, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the

Act on November 28, 1997 (62 FR 63389).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–21372 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP)–1247]

RIN 1121–ZB81

Announcement of the FY 1999 County and Municipal Agency Domestic Preparedness Equipment Support Program Applications

AGENCY: Office of Justice Programs, Justice.

ACTION: Notice of solicitation.

SUMMARY: The Office of Justice Programs is soliciting grant applications for equipment acquisition assistance from the Chief Executive Officers (CEO) of the nation's 157 largest metropolitan jurisdictions, including cities and counties, as well as the 50 States under a separate grant program.

DATES: Proposals for funding must be received by the Office of Justice Programs by 5:00 p.m. ET on Thursday, September 30, 1999.

ADDRESSES: An original and two copies of the application must be mailed to: Office of Justice Programs, 810 Seventh Street NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: The National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 or the U.S. Department of Justice Response Center at 1–800–421–6770.

The Office of Justice Programs is offering eligible applicants the opportunity to submit their jurisdiction's application electronically through the Grant Management System (GMS) on the OJP Web site. To submit electronic applications, applicants must possess a user I.D. and a GMS password, which can be obtained by contacting the Office for State and Local Domestic Preparedness Support at 202–305–9887 or by creating a new account online. Instructions regarding electronic submissions are provided on the OJP Web site at www.ojp.usdoj.gov/fundopps.htm.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105–277, October 21, 1998, 112 Stat. 2681).

Background

The Office for State and Local Domestic Preparedness Support will distribute FY 1999 funding to provide the maximum number of communities with a basic defensive capability to respond to domestic terrorism incidents. This program ensures that first responders are properly equipped and prepared to respond to incidents of domestic terrorism involving chemical and biological agents, as well as radiological and explosive devices. This program will provide grants to the 157 largest cities and localities, to procure personal protective, chemical, biological and radiological detection and communications equipment in accordance with the FY 1999 Authorized Equipment Purchase List.

Application Kits

Application kits will be mailed to the Chief Executive Officers in each of the targeted jurisdictions. Interested eligible applicants are encouraged to contact the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to ensure that they receive an application kit for the FY 1999 County and Municipal Agency Domestic Preparedness Equipment Support Program.

Eligible Applicants

Eligible applicants are the chief executive officers (CEOs) in the nation's 157 largest metropolitan jurisdictions, listed in the following table. However, if the county or municipal government is not responsible for the fire services, emergency medical services, hazardous materials response units, and/or law enforcement agencies in its jurisdiction, then the appropriate State or local agency that provides that service must be consulted in the development of the application. All eligible applicants are grouped by a population index based on 1992 census data.

Certain county jurisdictions may not provide any qualifying services or have authority to apply for this program. In those instances, an appropriate State or municipal-level agency must apply on behalf of the jurisdictions within the county. If your county falls into this category, please contact OJP at 202–305–9887 for guidance in meeting the application requirements.

Group A (up to $300,000)	Group B (up to $200,000)	Group C (up to $100,000)
1—Los Angeles County, CA	51—DuPage County, IL	101—Nashville/Davidson County, TN
2—New York City, NY	52—Indianapolis/Marion County, IN	102—Kent County, MI
3—Cook County, IL	53—City of San Jose, CA	103—Bristol County, MA
4—City of Los Angeles, CA	54—Montgomery County, MD	104—Camden County, NJ
5—Harris County, TX	55—Essex County, NJ	105—San Joaquin County, CA
6—City of Chicago, IL	56—Salt Lake County, UT	106—City of Cleveland, OH
7—San Diego County, CA	57—Prince George's County, MD	107—Snohomish County, WA
8—Orange County, CA	58—Macomb County, MI	108—City of Austin, TX
9—Maricopa County, AZ	59—San Francisco City/County, CA	109—Bernalillo County, NM
10—Wayne County, MI	60—City of Baltimore, MD	110—Union County, NJ
11—Dade County, FL	61—Monroe County, NY	111—New Orleans/Orleans Parish, LA
12—Dallas County, TX	62—Orange County, FL	112—Ramsey County, MN
13—City of Houston, TX	63—Fresno County, CA	113—Denver City/County, CO
14—King County, WA	64—Baltimore County, MD	114—Lake County, IN
15—Philadelphia City/County, PA	65—Jacksonville/Duval County, FL	115—Cobb County, GA
16—San Bernardino County, CA	66—Pima County, AZ	116—Onondaga County, NY
17—Santa Clara County, CA	67—Montgomery County, PA	117—City of Portland, OR
18—Cuyahoga County, OH	68—Ventura County, CA	118—Passaic County, NJ
19—Middlesex County, MA	69—Middlesex County, NJ	119—City of Fort Worth, TX
20—Alameda County, CA	70—Essex County, MA	120—Lucas County, OH
21—Allegheny County, PA	71—Jefferson County, KY	121—Wake County, NC
22—Suffolk County, NY	72—Fulton County, GA	122—Jefferson Parish, LA
23—Broward County, FL	73—San Mateo County, CA	123—Jefferson County, CO
24—Nassau County, NY	74—Jefferson County, AL	124—Oklahoma City, OK
25—Riverside County, CA	75—City of Columbus, OH	125—Kansas City, MO

Group A (up to $300,000)	Group B (up to $200,000)	Group C (up to $100,000)
26—Bexar County, TX	76—Jackson County, MO	126—City of Long Beach, CA
27—Tarrant County, TX	77—El Paso County, TX	127—City of Charlotte, NC
28—City of San Diego, CA	78—Norfolk County, MA	128—City of Tucson, AZ
29—Oakland County, MI	79—Pierce County, WA	129—City of Virginia Beach, VA
30—Sacramento County, CA	80—City of Milwaukee, WI	130—City of Albuquerque, NM
31—Hennepin County, MN	81—City of Memphis, TN	131—City of Atlanta, GA
32—City of Dallas, TX	82—Travis County, TX	132—City of St. Louis, MO
33—City of Phoenix, AZ	83—Oklahoma County, OK	133—City of Sacramento, CA
34—City of Detroit, MI	84—Multnomah County, OR	134—City of Fresno, CA
35—St. Louis County, MO	85—Kern County, CA	135—City of Tulsa, OK
36—City of San Antonio, TX	86—Washington, DC	136—City of Oakland, CA
37—Franklin County, OH	87—Montgomery County, OH	137—City of Pittsburgh, PA
38—Erie County, NY	88—Monmouth County, NJ	138—City of Minneapolis, MN
39—Milwaukee County, WI	89—De Kalb County, GA	139—City of Miami, FL
40—Palm Beach County, FL	90—Bucks County, PA	140—City of Cincinnati, OH
41—Westchester County, NY	91—Boston/Suffolk County, MA	141—City of Omaha, NE
42—Hamilton County, OH	92—Hudson County, NJ	142—City of Toledo, OH
43—Pinellas County, FL	93—City of El Paso, TX	143—City of Buffalo, NY
44—Honolulu City/County, HI	94—Delaware County, PA	144—City of Wichita, KS
45—Hillsborough County, FL	95—Lake County, IL	145—City of Mesa, AZ
46—Fairfax County, VA	96—Worcester County, MA	146—City of Las Vegas, NV
47—Clark County, NV	97—Mecklenburg County, NC	147—City of Colorado Springs, CO
48—Shelby County, TN	98—Summit County, OH	148—City of Santa Ana, CA
49—Contra Costa County, CA	99—City of Seattle, WA	149—City of Tampa, FL
50—Bergen County, NJ	100—Tulsa County, OK	150—City of Anaheim, CA
		151—City of Newark, NJ
		152—City of Arlington, TX
		153—City of St. Paul, MN
		154—City of Louisville, KY
		155—City of Corpus Christi, TX
		156—City of Birmingham, AL
		157—City of Norfolk, VA

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 99–21346 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP(NIJ)–1246]

RIN 1121–ZB80

National Institute of Justice Announcement of the Seventh Meeting of the National Commission on the Future of DNA Evidence

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of meeting.

SUMMARY: Announcement of the seventh meeting of the National Commission on the Future of DNA Evidence.

SUPPLEMENTARY INFORMATION: The seventh meeting of the National Commission on the Future of DNA Evidence will take place beginning on Sunday, September 26, 1999, 1:00 PM—5:00 PM Eastern Daylight Time and will continue on Monday, September 27, 1999, 9:00 AM—5:00 PM Eastern Daylight Time. The meeting will take place in the Polaris Room at the Ronald Reagan Building and International Trade Center, located at 1300 Pennsylvania Avenue, NW, Washington, DC 20004; Phone: 202–312–1300.

The National Commission on the Future of DNA Evidence, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, will meet to carry out its advisory functions under Sections 201–202 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Christopher H. Asplen, AUSA, Executive Director (202) 616–8123.

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, sections 201–203, as amended, 42 U.S.C. 3721–23 (1994).

Background

The purpose of the National Commission on the Future of DNA Evidence is to provide the Attorney General with recommendations on the use of current and future DNA methods, applications and technologies in the operation of the criminal justice system, from the crime scene to the courtroom. Over the course of its Charter, the Commission will review critical policy issues regarding DNA evidence and provide recommended courses of action to improve its use as a tool of investigation and adjudication in criminal cases.

The Commission will address issues in five specific areas: (1) The use of DNA in postconviction relief cases, (2) legal concerns including *Daubert* challenges and the scope of discovery in DNA cases, (3) criteria for training and technical assistance for criminal justice professionals involved in the identification, collection and preservation of DNA evidence at the crime scene, (4) essential laboratory capabilities in the face of emerging technologies, and (5) the impact of future technological developments in the use of DNA in the criminal justice system. Each topic will be the focus of the in-depth analysis by separate working groups comprised of prominent professionals who will report back to the Commission.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 99–21345 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–17]

Derricks (Inspection Certification Records) and Extension of the Office of Management and Budget's (OMB) Approval of an Information Collection (Paperwork) Requirement

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed decrease in, and extension of, the information collection requirements (inspection certification records) contained in the standard on Derricks (29 CFR 1910.181).

Request for Comment: The Agency seeks comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before October 18, 1999.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–99–17, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–2222. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements in 29 CFR 1910.181 (inspection certification records) is available for inspection and copying in the Docket Office, or mailed on request by telephoning Theda Kenney at (202) 693–2222 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at http://www.osha.gov/comp-links.html, and click on ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

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 continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is correct.

The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers are necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents. (29 U.S.C. 657). The major purpose of the information collection requirements in 29 CFR 1910.181 are to provide information for properly maintaining derricks and, therefore, to ensure safe operating conditions for employees. Specifically, employers must establish certification records to demonstrate that derrick inspections comply with the requirements specified in the standard. Failure of the employer to collect and distribute the information collected under the requirements contained in the standard will affect significantly OSHA's effort to control and reduce injuries and fatalities in the workplace.

II. Proposed Actions

OSHA proposes to decrease its earlier estimate of 28,508 burden hours for the information collection requirements in 29 CFR 1910.181 (g)(1) and (g)(3) to 28,500 burden hours.

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the above provisions.

Type of Review: Extension of currently approved information collection requirement.

Agency: Occupational Safety and Health Administration.

Title: Derricks (Inspection Certifications) (29 CFR 1910.181 (g)(1) and (g)(3)).

OMB Number: 1218–0222.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 10,000.

Frequency: Monthly; semi-annually.

Average Time per Response: 15 minutes (0.25 hour).

Estimated Total Burden Hours: 28,500.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 12th day of August 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–21431 Filed 8–17–99; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–456 and STN 50–457]

Commonwealth Edison Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. NPF–72 and NPF–77, issued to the Commonwealth Edison Company (ComEd, the licensee), for Braidwood Station, Unit Nos. 1 and 2, respectively, located in Will County, Illinois.

The proposed amendments would temporarily change the Technical Specifications (TS) to increase the upper temperature limit for the Ultimate Heat Sink (UHS) from 98 degrees Fahrenheit to 100 degrees Fahrenheit. The proposed temporary change would be in effect until September 30, 1999.

Prolonged hot weather has resulted in sustained, elevated UHS temperatures at Braidwood Station. Continued hot weather may result in the UHS

temperature exceeding 98 degrees Fahrenheit. This would be expected to occur before the Commission could publish a Notice in the **Federal Register** that would allow 30 days for public comment.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Analyzed accidents are assumed to be initiated by the failure of plant structures, systems or components. An inoperable UHS is not considered as an initiator of any analyzed events. The analyses for Braidwood Station, Units 1 and 2, assume an UHS temperature of 100 degrees Fahrenheit. Therefore, continued operation with an UHS temperature less than or equal to 100 degrees Fahrenheit, until September 30, 1999, will not increase the consequences of an accident previously evaluated in the UFSAR [Updated Final Safety Analysis Report]. The proposed change does not involve any physical alteration of plant systems, structures or components. A UHS temperature of up to 100 degrees Fahrenheit does not increase the failure rate of systems, structures or components because the systems, structures or components are rated and analyzed for operation with Essential Service water temperatures of 100 degrees Fahrenheit and the design allows for higher temperatures than at which they presently operate.

The basis provided in Regulatory Guide 1.27 ''Ultimate Heat Sink for Nuclear Power Plants,'' Revision 2, dated January 1976, was employed for the temperature analysis of the Braidwood Station UHS to implement General Design Criteria 44 and 2 of Appendix A to 10 CFR Part 50. This Regulatory Guide was employed for both the original design/licensing basis of the Braidwood Station UHS and a subsequent evaluation which investigated the potential for increasing the average water temperature of the UHS from less than or equal to 98 degrees Fahrenheit to less than or equal to 100 degrees Fahrenheit. The meteorological conditions chosen for the Braidwood Station UHS analysis utilized a synthetic 36-day period consisting of the most severe 5 days, most severe 1 day, and the most severe 30 days based on historical data. The heat loads selected for the UHS analysis considered one Braidwood Unit in a LOCA [Loss-of-Coolant Accident] condition concurrent with a Loss-of-Offsite Power (LOOP) and the remaining Braidwood unit undergoing a normal plant shutdown. In the analysis, these heat loads are removed by the UHS using only SX [essential service water] pumps. The main condenser cooling pond is conservatively assumed not to be available at the start of the event. The analysis shows that with an initial UHS temperature of 100 degrees Fahrenheit, the required heat loads can be met for 30 days while maintaining essential service water temperatures at acceptable values.

Based on the above facts and reasoning, it has been demonstrated that the increase of the initial UHS temperature from less than or equal to 98 degrees Fahrenheit to less than or equal to 100 degrees Fahrenheit at the start of the design basis event will result in the continued ability of the equipment and components supplied by the SX system to perform their safety functions.

Therefore, increasing the average water temperature of the UHS from less than or equal to 98 degrees Fahrenheit to less than or equal to 100 degrees Fahrenheit in TS 3.7.9, has no impact on any analyzed accident. Raising this limit does not introduce any new equipment, equipment modifications, or any new or different modes of plant operation, nor does it affect the operational characteristics of any equipment or systems. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed action does not involve a physical alteration of the units. There is no change being made to the parameters within which the units are operated that is not bounded by the analyses. There are no setpoints at which protective or mitigative actions are initiated that are affected by this proposed action. This proposed action will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No alteration in the procedures that ensure the units remain within analyzed limits, is proposed, and no change is being made to procedures relied upon to respond to an off-normal event. As such, no new failure modes are being introduced. The proposed action does not alter assumptions made in the safety analysis.

Increasing the average water temperature of the UHS in TS 3.7.9 has no impact on plant operation. The proposed temperature limits does not introduce new failure mechanisms for systems, structures or components. The engineering analyses performed to support the UHS temperature increase provides the basis to conclude that the equipment is designed for the operation at elevated temperatures. In addition, design and construction codes provided sufficient margin to accommodate the proposed temperature change.

Therefore, this proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed action allows operation with the UHS temperature less than or equal to 100 degrees Fahrenheit until September 30, 1999. The margin defined by the difference in the assumed steady state SX temperature and the calculated SX temperature profile integrated over the duration of the event is not significantly impacted. The margin of safety is determined by the design and qualification of the plant equipment, the operation of the plant within analyzed limits, and the point at which protective or mitigative actions are initiated. The proposed action does not impact these factors. There are no required design changes or equipment performance parameter changes associated with this change. No protection setpoints are affected as a result of this change. This temperature increase will not change the operational characteristics of the design of any equipment or system. All accident analysis assumptions and conditions will continue to be met. Thus, the proposed increase in temperature does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments requested involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 17, 1999, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendments requested involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments requested involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767, 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 amendments dated July 30, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 12th day of August 1999.

For the Nuclear Regulatory Commission.

Stewart Bailey,

Project Manager, Section 2, Project Directorate 3, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–21399 Filed 8–17–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443]

North Atlantic Energy Service Corporation, et al., (Seabrook Station Unit No. 1); Order Approving Application Regarding Corporate Merger (Canal Electric Company)

I

North Atlantic Energy Service Corporation (North Atlantic) is authorized to act as agent for the joint owners of the Seabrook Station Unit No. 1 (Seabrook) and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility as reflected in Facility Operating License NPF–86. Canal Electric Company (Canal), one of the joint owners, holds a 3.52317-percent possessory interest in Seabrook. The Nuclear Regulatory Commission (NRC) issued Facility Operating License NPF–86 on March 15, 1990, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located in Seabrook Township, Rockingham County, on the southeast coast of the State of New Hampshire.

II

Under cover of a letter dated February 11, 1999, North Atlantic forwarded an application by Canal requesting approval of the indirect transfer of control of Canal's interest in the operating license (OL) for Seabrook. The application was supplemented on February 23, March 5, and March 17, 1999 (collectively referred to hereinafter as the application).

According to the application, Canal is a wholly owned subsidiary of Commonwealth Energy System (CES). On December 5, 1998, CES and BEC Energy (BEC) entered into an Agreement and Plan of Merger under which those entities will merge into a new surviving Massachusetts corporation (the ''New Company''). Upon consummation of the merger, Canal will become a wholly owned subsidiary of the New Company, thereby effecting an indirect transfer of Canal's interest in Seabrook's OL. North Atlantic, the sole licensed operator of the facility, would remain as the managing agent for the 11 joint owners of the facility and would continue to have exclusive responsibility for the management, operation, and maintenance of Seabrook. The application does not propose a change in the rights, obligations, or interests of the other joint owners of Seabrook. In addition, no physical changes to Seabrook or operational changes are being proposed. No direct transfer of the license will result from the proposed merger.

Approval of the indirect transfer was requested pursuant to 10 CFR 50.80. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on April 27, 1999 (64 FR 22657). No hearing requests were filed.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that the proposed merger will not affect the qualifications of Canal as a holder of the Seabrook license, and that the transfer of control of the license, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission subject to the conditions set forth herein. The foregoing findings are supported by a safety evaluation dated August 11, 1999.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended; 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* That the indirect license transfer referenced above is approved, subject to the following conditions:

1. Canal shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Canal to its proposed parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Canal's consolidated net utility plant as recorded on Canal's books of accounts.

2. Should the transfer not be completed by August 1, 2000, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated February 2, 1999, and supplements dated February 23, March 5, and March 17, 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 Exeter Public Library, Founders Park, Exeter, NH 03833.

Dated at Rockville, Maryland, this 11th day of August 1999.

For the Nuclear Regulatory Commission.

William F. Kane,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–21398 Filed 8–17–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of August 16, 23, 30, September 6, *and* October 18, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 16

There are no meetings scheduled for the Week of August 16.

Week of August 23—Tentative

Tuesday, August 24

2:00 p.m.
Briefing by Executive Branch (Closed—ex. 1)

3:30 p.m.
Briefing on Threat Assessment (Closed—ex. 1)

Wednesday, August 25

9:55 a.m.
Affirmation Session (Public Meeting) (If needed)

Week of August 30—Tentative

Wednesday, September 1

9:25 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of September 6—Tentative

Tuesday, September 7

9:15 a.m.
Affirmation Session (Public Meeting) (if needed)

9:20 a.m.
Briefing on PRA Implementation Plan (Public Meeting) (Contact: Tom King, 301–415–5790)

AND

Week of October 18—Tentative

Thursday, October 21

9:30 a.m.

Briefing on Part 35—Rule on Medical Use of Byproduct Material (Contact: Cathy Haney, 301–415–6825) (SECY–99–201, *Draft Final Rule—10 CFR Part 35, Medical Use of Byproduct Material*, is available in the NRC Public Document Room or on NRC web site at ''www.nrc.gov/NRC/COMMISSION/SECYS/index.html''. Download the *zipped version* to obtain all attachments.)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contract the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to whm@nrc.gov or dkw@nrc.gov.

Dated: August 13, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–21527 Filed 8–16–99; 11:59 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Summary of Workshop on Redefining the Role of NRR Projects

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: On July 23, 1999, the Nuclear Regulatory Commission sponsored a public workshop involving NRR Division of Licensing Project Management, licensing officials representing the nuclear industry, and other stakeholders. The purpose of the meeting was to provide a forum for constructive dialogue on the agency's efforts to redefine the responsibilities of the Division of Licensing Project Management. The discussion focused on three program areas: Licensing Authority, Interface, and Regulatory Improvements. A brief version of the meeting summary is attached. The complete summary of the July 23, 1999, meeting with all attachments dated August 9, 1999, is available for public inspection at the Commission's public document room located at the Gelman Building, 2120 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sheri Peterson, Mail Stop O–8–G–9, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852–2738; Telephone: (301) 415–1193; *Internet:SRP@NRC.GOV*.

Dated at Rockville, Maryland, the 10th day of August 1999.

For the Nuclear Regulatory Commission.

Suzanne Black,

Deputy Director, Division of Licensing Project Management Office of Nuclear Reactor Regulation.

Summary—July 23, 1999, Meeting With Stakeholders on Redefining the Role of the Division of Licensing Project Management in the Office of Nuclear Reactor Regulation

On July 23, 1999, representatives of various licensees and members of the public met in a public meeting with members of the U.S. Nuclear Regulatory Commission (NRC) staff at NRC Headquarters in Rockville, Maryland. The NRC invited representatives of various nuclear utilities, other groups, and the public to participate in a workshop to discuss the responsibilities of the Division of Licensing Project Management (DLPM) and solicit feedback on the Division's ongoing redefinition process from interested stakeholders. A list of attendees is provided as Attachment 1. The workshop agenda is provided as Attachment 2. The Division's re-invention report provided during the meeting is included as Attachment 3. The feedback obtained from the meeting participants during the breakout sessions is included as Attachment 4. The written comments received to date on the role of DLPM are included as Attachment 5.

DLPM is in the process of redefining its responsibilities. Previous audits and reviews had indicated that the function of operating reactor licensing project managers needed to be reevaluated, clearly defined, and communicated. In addition, the staff is attempting to correlate the functions of DLPM with the four strategic objectives of maintaining safety, reducing unnecessary regulatory burden, increasing public confidence, and increasing efficiency and effectiveness of key NRC processes. DLPM shared the results of its redefinition process with external stakeholders to solicit feedback so that the responsibilities can be further refined.

After introductory remarks, the meeting participants broke into four groups to discuss the questions summarized in Attachment 4 (also published in the **Federal Register**, Volume 64, Number 133 dated July 13, 1999). Discussions focused on the project manager being the primary NRC interface for licensees and the public on operating plant licensing matters, the need for consistency, cost and schedular control of licensing actions, and the importance of maintaining staff with the required knowledge, skills and abilities for effectively carrying out the project manager function. The feedback presented by the various participants during the breakout sessions, and included as Attachment 4, was very extensive and will be useful to the NRC in DLPM's initiatives involving the project manager function within the Office of Nuclear Reactor Regulation.

Attachments:

1. Attendance List
2. Agenda (available in PDR)
3. DLPM Re-invention Report (available in PDR)
4. Feedback from breakout sessions
5. Written comments on the role of DLPM (available in PDR)

ATTACHMENT 1

PURPOSE: Redefining the Role of the Division of Licensing Project Management

Date: July 23, 1999.

Location: TWFN Auditorium.

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Roger DeWolfe	TXU
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Name	Affiliation
James Priest	PSE&G
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C. Jeff Thomas	Duke Energy
Paul Pace	TVA
Steve Bennett	Entergy-ANO
Paul Willoughby	Northeast Nuclear
Mike Schoppman	NEI
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Eileen McKenna	NRC/NRR
Thomas Shaub	VA Power
Bill Gleaves	NRC/NRR/DLPM
Tom Elwood	Illinois Power

Region I

Attachment 4

1. Principal role of projects.

General comment: 72 tasks are too many to expect an individual to perform well.

(1) Support/Process licensing actions

(a) Make it happen (authority)

—Active, up-front planning with licensees to facilitate NRC and licensee resource planning.

—Effective use of RAI process.

(2) Serve as the conscience of the staff.

(3) Be the advocate for the project.

(4) Focal point for resolving staff and licensee concerns (and other stakeholders).

(5) Balancing/accomplishing NRC and licensee priorities.

2. Five activities most important.

(1) Timely completion of licensing actions (on agreed-upon schedule).

(2) Communicate, manage difficulties with licensing actions effectively.

(3) Tasks 1–4, 8, 22, 37, 19, 26, 29, 59.—most important overall are tasks 1 through 12 (all licensing actions).

3. Reasons these activities are important (2).

(1) Keep plants safe.

(2) Allow efficient operation of the plant.

4. Other activities projects should perform.

(1) Manage public documents (ensuring incoming and outgoing documents are rapidly and readily available to the public and to licensees.

(2) Ensure timely notification of meetings.

(3) Communication clearing house (timely transmittal to licensee, particularly for those requiring responses).

(4) Manage/Control potential Violations during resolution of ongoing generic reviews.

(5) Cost management (fee billing)/ Communicate targets up front, PM monitor during review (hold both staff and licensee accountable).

(6) Development/training/ qualifications in project management skills and communication skills.

5. Reasons these activities are important (4).

(1) Reduce licensee burden (efficiency).

(2) Improve public confidence.

6. What types of performance indicators would be useful?

(1) Age of licensing actions.

(2) Accuracy of product.

—number of correction letters

—rework

(3) Stakeholder approval rating (including PM evaluation).

(4) Number of teleconferences per action.

(5) Number of review hours vs. complexity of item.

(6) Performance to schedule (specific tasks).

7. Five activities least important.

(1) Task #39 (from attachment 3 available in PDR)—Enforcement actions.

(2) #28—Transition of assignments.

(3) #70—Future rule changes.

(4) #57—Section meetings.

(5) #23—Petitions and requests from non-licensees.

(6) #60—Web page management.

(7) #64—Freedom of Information Act (FOIA) requests post-ADAMS (Agencywide document access and management system).

8. Reasons these activities (7) are less important.

(1) Not role of PM in meeting licensee priorities.

9. Any activities projects organization should not perform?

(1) see response to 7.

10. Additional input.

(1) Periodic face to face feedback sessions.

(2) Planning for peak periods.

(3) PMs need guidance of how much authority they have and when.

(4) Training of PMs (including behavioral skills).

(5) Ensure consistency with prior NRC approvals.

(6) PM should facilitate, coordinate, and manager accomplishment of licensing actions.

(7) Allow PM to focus on licensees as customers, maintaining his other obligations.

(8) Does PM have the authority commensurate with his responsibilities?

11. Other issues.

(1) None.

Region II

1. Principal role of projects.

(1) Process Technical Specification changes/licensing actions.

(2) Deliverer of licensee information for licensing actions.

(3) Primary interface with licensee and region (single point of contact).

(4) Coordinate/ensure communication (filter out unnecessary interactions)—requires PM knowledge of submittal and licensing basis.

(5) Coordinate meetings.

(6) Source of information on NRC policy/procedures (important for ''filter'' mentioned in 4 above).

(7) Contact on plant issues.

(8) Facilitate licensing work/ streamline process.

(9) Owner of licensing basis.

2. Five activities most important.

(1) Process licensing actions [**Federal Register** notice, processing Requests for Additional Information, Environmental Assessments]; including all actions that require prior NRC approval before the licensee implements—[10 CFR 52.90; 50.54]; Determine review method, schedule [work planning], and be responsible for implementation—Project Manager; Writing Safety evaluations, and other licensing tasks.

(2) Interface with licensee.

(a) Headquarter interfaces (provide filter for unnecessary regulatory burden)

(3) Administrative /Coordinator of NRC business functions;

(a) Review fees (billing licensee for staff review effort/cost control and administrative oversight).

(b) Manage to Office Letter 803 staff review time estimates/hours (for all licensing actions and other licensing tasks beyond amendments) and communicate with licensees/ensure accountability for hours charged to a review

(4) Other licensing tasks: Conflict resolution, ensuring consistent treatment of licensing actions/licensees, provide feedback on quality of licensee's submittals, and maintaining licensing basis.

(5) Interface with Office of General Counsel/Hearings.

3. Reasons these activities are important (2)

(1) Licensing actions

–Reduce unnecessary burden

–Maintain safety

(a) Project managers writing Safety evaluations

–Effectiveness and Efficiency, maintain safety.

(2) Interface with Licensee (as well as, NRC headquarters and Region)

–Efficiency and effectiveness

–Public confidence (accuracy of information).

(3) Administration/Cost control

–Reduce unnecessary burden

–Effectiveness and efficiency

(4) Other licensing tasks

–Public confidence (lack of ''open'' safety issues)

–Maintain safety

–Reduce unnecessary burden

4. Other activities projects should perform

(1) Cost control (look at Nuclear Energy Institute (NEI) talking points in enclosure 5).

(2) Task-oriented project management, i.e., license renewal, SG issues/ replacement, Power uprates, etc.

(3) Skill development/maintenance for effective project management.

5. Reasons these activities are important (4).

(1) Cost control

–Reduce burden

–Safety (best use of $$)

(2) Task-oriented Project Managers

–Effectiveness and efficiency

(3) Skills/Development

–Effectiveness and efficiency

6. What types of performance indicators would be useful?

(1) Supported NEI proposal (provided in enclosure 5)

(2) Overall timeliness, schedule adherence

(3) Average median ages (encourage staff to post data on the Web, including comparisons between NRC groups)

(4) NRC staff should conduct Benchmarking

(5) Customer surveys and feedback at the individual level (up to performance appraisal input on effectiveness of being the focal point.)

(6) Comparison of actual performance compared to a work plan vs. averages (ages, etc.)

7. Five activities least important.

(1) Maintaining licensing documents (need to do but shouldn't interfere with work).

(2) 50.59 reviews of annual report.

(3) Conducting surveys.

(4) Collateral duties/LPMs.

8. Reasons these activities are less important (7).

(1) Do not contribute to the four goals.

9. Any activities projects organization should not perform?

(1) As determined by priorities above.

10. Additional input.

(1) NRC budget process should be more timely and in advance.

(2) Role of Project Manager supervisor

–budget control

–conflict resolution (various staff and licensees)

–schedule adherence

(3) Customer orientation (NRR-licensee, NRR-region, NRR-public; watch out for escalating cost of public interaction).

(4) Redefining—Reprioritizing for current effort.

(5) Move toward approaches like inspection/oversight process

–define need to do/safety significance.

(6) Maintain separation of licensing and oversight.

11. Other issues.

Region III

1. Principal role of projects.

(1) PMs should run interference to ensure reviewers are being consistent.

(2) PMs need decision authority to actively manage their issues.

(3) PMs need knowledge of licensing basis—tools—i.e., use a ''licensing notebook,'' evaluate a plant against its licensing basis vs. Standard review plan (SRP should not be imposed on non-SRP plants).

(4) Still need to work on Office Letter 803 implementation. Some PMs read requests for additional information (RAI) questions instead of faxing them to licensee. Some PMs don't review RAI questions to ensure they are appropriate (e.g., consistent with design basis) before sending them to licensee.

(5) PMs need to work with licensee for most efficient way to do review.

(6) Proactive PM/''advocate'' of efficient/effective review.

(7) PMs should provide for timely Technical Specification interpretations/ commitments/regulation.

(8) ''DLPM'' should initiate ''Task Interface Agreement-like'' process for questions from licensee.

(9) Continue daily interface with region

(10) Improvement with PM doing own reviews.

(11) Staff should be consistent with past decisions.

2. Five activities most important (only 4 were selected).

(1) Management of licensing issues (including notices of enforcement discretion).

(2) Routine interface during licensing action reviews.

(3) Reduce regulatory burden through reduced reporting requirements.

(4) Communications—bring balance and perspective to regulation of power plant.

3. Reasons these activities are important (2)

(1) Maintains safety, improves efficiency and effectiveness and enhances public confidence.

(2) Reduce unnecessary regulatory burden.

(3) Reduce unnecessary regulatory burden, improve safety by allowing licensees to concentrate on safety significant issues.

(4) Improve public confidence, improve efficiency and effectiveness and decrease unnecessary regulatory burden.

4. Other activities projects should perform

(1) Maintain a licensing notebook for licensing basis reference.

(2) Develop a standard process for PM turnover, etc.

(3) Communication/plant visits on open item (i.e, TAC list, etc.). Include reviewers on a case-by-case basis.

(4) Prioritize generic issues by risk significance so licensee's don't have to work them all at once.

5. Reasons these activities are important (4).

(3) Improves efficiency and effectiveness and improves safety (through better PM knowledge of plant).

(4) Improves efficiency and effectiveness.

(5) Improves efficiency and effectiveness, decreases regulatory burden and increases public confidence.

(6) Improves safety, decreases regulatory burden and increases public confidence.

6. What types of performance indicators would be useful?

(1) Rating PM behaviors, attributes and leadership

(2) Formal feedback mechanism—surveys, errors in safety evaluation reports (SERs).

(3) Self assessments.

(4) Schedule vs. priority
(5) Measure percentage of closed activities as a multiple of how fast they were requested to be closed out.
(6) Internal review to ensure quality; develop a standard. SERs should be reviewed by independent group.
(7) At licensing workshops, get attributes for quality submittals and SERs.
7. Five activities least important.
(1) Use of PMs as acting resident.
(2) Collateral duties (e.g., lead PM assignments).
(3) Requirement to submit routine reports that don't appear to receive NRC review.
(4) Should review 10 CFR 50.54 changes on audit basis instead of reviewing and approving each change.
(5) PMs should not be responsible for ensuring accuracy of licensing basis. That's the licensee's responsibility.
8. Reasons these activities are less important (7).
(1) Not efficient or effective use of PM.
(2) Not efficient or effective use of PM, could harm safety by distracting PM from primary responsibility.
(3) Regulatory burden with no benefit.
(4) Regulatory burden with no benefit.
(5) Not efficient or effective use of PM.
9. Any activities projects organization should not perform?
(1) DLPM should not be doing technical specifications bases reviews in some cases (Distinguish between improved technical specifications (ITS) and non-ITS plants for TS bases changes (bases control program)).
10. Additional input/Other Issues.
(1) ''Cherry picking''—NRC should issue Generic Letter identifying what new improved technical specifications items they can get.
(2) Administrative support
—OGC—work of OGC should be better controlled to improve process
—Concurrence chain ''empowerment''—concurrences should be minimized
—There should be enough administrative support to prevent typing/distribution causing delays in the licensing process.
(3) Clarify role of PM/NRR in new oversight process
—ensure consistency
—role in 50.59 inspection
—SDP—NRR may need to support regional Senior Risk Analysts/others
—Plant performance reviews
(4) NRR should have input to new process (PMs)
(5) Need more informal ways of taking advantage of generic resolutions
(6) Need to define role of PM in license renewal and decommissioning. Need to retain same PM.
(7) Need the Infrastructure to support PM.
(8) For informal surveys, need to ensure consistency; timeliness; NRC expectations;
(9) TIA process should be more open to allow licensee input.

Region IV

There was a fair bit of discussion about the need to distinguish between what PMs should do, and what DLPM/NRR should do when the group considered the following questions. In some cases, the group has delineated their responses accordingly.
1. Principal role of projects.
(1) Coordination.
(2) Interface with NRR/Licensee.
—advocate for licensee
—(or) representative of licensee
—on schedule
(3) Screening Requests for additional information (RAIs) and staff decisions for regulatory basis/achieve burden reduction.
Advance reactor safety by providing a knowledgeable interface between NRC and licensees and ensuring licensing actions are processed efficiently.
2. Five activities most important.
The following items are important for PMs:
(1) Licensing action coordination (true project management role).
(1a) licensing action review/approval performed by PM (personal approval).
(2) Communication with licensees—explain what is needed/required by the staff, and why it is needed (regulatory basis).
(3) Screening RAIs, and guarding the licensing basis.
(4) Keep senior NRC management informed of activities at that plant.
The following items are important for DLPM:
(5) Coordination/prioritization with other divisions.
(6) NRR/region interface.
(7) Regulatory improvements.
3. Reasons these activities are important (2).
(1) PM should evaluate licensing actions, RAIs, work priorities, etc. against outcome goals and reject those that don't conform with outcome goals.
4. Other activities projects should perform.
(1) Relationship with media, and maintain sensitivity when providing information that has financial or commercial consequences.
(2) Participate in site inspections.
(3) Be more involved with enforcement.
(4) Be more involved with new performance assessment process.
5. Reasons these activities are important (4).
(1) Relationship to outcome goals.
6. What types of performance indicators would be useful?
(1) Number of days deviation from project schedule (joint agreement between staff and licensee on schedule).
(2) Current goals, e.g., 95% < 1 year, *not* appropriate for all licensing actions.
(3) Number of RAIs.
(4) Quality of licensing action, e.g., number of errors.
(5) Percentage of licensing actions performed by project manager.
7. Five activities least important.
(1) 2.206, other Federal agency interface (this is important for DLPM, not PM).
(2) 50.59 evaluation reviews.
(3) Review of inspection reports.
(4) Maine Yankee, Millstone lessons learned.
(5) Support for Congressional Affairs.
8. Reasons these activities are less important (7).
(1) Not supportive of outcome goals and primary licensing action work.
9. Any activities projects organization should not perform?
(1) None identified.
10. Additional input.
See 11.
11. Other issues.
(1) Dedicated project manager for plant is key ingredient for success.
—In some cases 1 PM could handle more than 1 plant (if plants were similar)
—is billing an issue?
—varies by commonality of licensing tasks
—varies with workload
—decision to assign PM to more than 1 plant, and assignment of significant co-lateral duties should include licensee input
—NRR needs to have flexibility.
(2) TIA process.
—need licensee involvement to provide information for NRR consideration.
—currently little communication with licensee until decision is made.
(3) Better coordination of generic issues—need for generic issue project managers, not necessarily plant PMs.
(4) Should review 72 items against the priorities in Question 2.

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RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of

the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are Invited on:

(a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information-Collecting

Gross Earnings Reports; OMB 3220–0132.

In order to carry out the financial interchange provisions of section 7(c)(2) of the Railroad Retirement Act (RRA), the RRB obtains annually from railroad employer's the gross earnings for their employees on a one-percent basis, i.e., 1% of each employer's railroad employees. The gross earnings sample is based on the earnings of employees whose social security numbers end with the digits ''30.'' the gross earnings are used to compute payroll taxes under the financial interchange.

The gross earnings information is essential in determining the tax amounts involved in the financial interchange with the Social Security Administration and Health Care Financing Administration. Besides being necessary for current financial interchange calculations, the gross earnings file tabulations are also an integral part of the data needed to estimate future tax income and corresponding financial interchange amounts. These estimates are made for internal use and to satisfy requests from other government agencies and interested groups. In addition, cash flow projections of the social security equivalent benefit account, railroad retirement account and cost estimates made for proposed amendments to laws administered by the RRB are dependent on input developed from the information collection.

The RRB utilizes Form BA–11 or its electronic equivalent to obtain gross earnings information from railroad employers. One response is requested of each railroad employer. Completion is mandatory.

No changes are proposed to Form BA–11.

Estimate of Annual Respondent Burden

Gross earnings reports are required annually from all employers reporting railroad service and compensation. There are approximately 633 railroad employers who currently report gross earnings to the RRB. Most large railroad employers include their railroad subsidiaries in their gross earnings reports. This results in the RRB collecting *less* than 633 earnings reports. Also, there are a large number of railroad employers have worked forces so small that they do not have employees with social security numbers ending in ''30.'' Currently, there are 382 such employers in this category who file ''negative'' BA–11 responses to the RRB. Overall, on an annual basis, the RRB receives 16 reports consisting of computer prepared tapes or diskettes and 138 by means of manually prepared Form BA–11. The RRB estimates an average preparation time of 5 hours for each gross earnings report submitted by computer tape or diskette and 30 minutes for each manually prepared BA–11.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 21374 Filed 8–17–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Intertape Polymer Group Inc., Common Stock, Without Nominal or Par Value) File No. 1–10928

August 11, 1999.

Intertape Polymer Group Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the security specified above (''Security'') from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Security has been listed for trading on the Amex and, pursuant to a Registration Statement on Form 8–A filed with the Commission on August 6, 1999, is slated to become listed on the New York Stock Exchange (''NYSE''). Trading in the Securities on the NYSE is expected to commence on or about August 16, 1999.

The Company has complied with the rules of the Amex by filing with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Security from listing on the Exchange and by setting forth in detail to the Amex the reasons for such proposed withdrawal, and the facts in support thereof. The Amex has in turn informed the Company that it will not interpose any objection to the withdrawal of the Company's Security from listing on the Exchange.

In making the decision to withdraw its Security from listing on the Amex and to list it instead on the NYSE, the Company has stated its belief that listing on the NYSE will benefit its shareholders by providing the Security exposure to a larger trading market.

The Company's application relates solely to the withdrawal of the Security from listing on the Amex and shall have no effect upon the pending listing of the Security on the NYSE. Moreover, by reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, the Company would continue to be obligated to file reports with the Commission and the NYSE under Section 13 and other applicable sections of the Act.

Any interested person may, on or before September 1, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–21358 Filed 8–17–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23944; File No. 812–11604]

Parkstone Advantage Fund et al.; Notice of Application

August 11, 1999.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order pursuant to Section 6(c) of the Investment Company Act of 1940 (the ''1940 Act'') granting relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit shares of any current or future series of the Parkstone Advantage Fund (the ''Fund'') and shares of any other investment company that is designed to fund variable insurance products and for which the National City Investment Management Company (the ''Adviser''), or any of its affiliates, may serve now or in the future, as investment adviser, (the Fund, together with such other investment companies, the ''Insurance Products Funds'') to be offered and sold to, and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies (''Participating Insurance Companies'') and qualified pension and retirement plans outside of the separate account context (''Qualified Plans'' or ''Plans'').

APPLICANTS: Parkstone Advantage Fund and National City Investment Management Company.

FILING DATE: The application was filed on May 3, 1999, and amended and restated on July 19, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on September 7, 1999, and accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicants, c/o Audrey C. Talley, Esq., Drinker Biddle & Reath LLP, 1345 Chestnut Street, Suite 1100, Philadelphia, PA 19107–3496.

FOR FURTHER INFORMATION CONTACT: Lorna MacLeod, Attorney, or Kevin Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, NW, Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representation

1. The Fund is a Massachusetts business trust that is registered under the 1940 Act as an open-end management investment company. The Fund consists of three series which are currently offered. The Fund may in the future issue shares of additional series.

2. The Adviser, a Michigan corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as the investment adviser for the Fund.

3. Shares of the Fund are offered to separate accounts of Participating Insurance Companies to serve as investment vehicles for variable annuity and variable life insurance contracts (including single premium, scheduled premium, modified single premium and flexible premium contracts) (collectively, ''Variable Contracts''). These separate accounts either will be registered as investment companies under the 1940 Act or will be exempt from such registration.

4. The Participating Insurance Companies will establish their own separate accounts and design their own Variable Contracts. Each Participating Insurance Company will have the legal obligation of satisfying all applicable requirements under the federal securities laws. The role of the Insurance Products Funds will be limited to that of offering their shares to separate accounts of Participating Insurance Companies and to Qualified Plans and fulfilling the conditions set forth in the application and described later in this notice. Each Participating Insurance Company will enter into a fund participation agreement with the Insurance Products Fund in which the Participating Insurance Company invests.

Applicants' Legal Analysis

1. Applicants request that the Commission issue an order under Section 6(c) of the 1940 Act granting exemptions from Sections 9(a), 13(a), 15(a) and 15(b) thereof and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Insurance Products Funds to be offered and sold to, and held by: (a) Variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company (''mixed funding''); (b) separate accounts of unaffiliated life insurance companies (including both variable annuity and variable life separate accounts) (''shared funding''); and (c) qualified pension and retirement plans outside the separate account context.

2. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. These exemptions are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares exclusively to variable life insurance separate accounts of the life insurer or any affiliated life insurance company. Therefore, the relief granted by Rule 6e–2(b)(15) is not available if the scheduled premium variable life insurance separate account owns shares of a management investment company that also offers its shares to a variable annuity separate account of the same insurance company or an affiliated insurance company. The relief granted by Rule 6e–2(b)(15) is not available if the scheduled premium variable life insurance separate account owns shares of an underlying management investment company that also offers its shares to a variable annuity separate account of the same insurance company or to separate accounts funding variable contracts of one or more unaffiliated life insurance companies. The relief granted by Rule 6e–2(b)(15) also is not available if the shares of the Insurance Products Funds also are sold to Qualified Plans.

3. In connection with the funding of flexible premium variable life insurance

contracts issued through a separate amount registered under the 1940 Act as a unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. These exemptions are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled premium variable life insurance contracts or flexible premium variable life insurance contracts, or both, or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company. Therefore, the exemptions provided by Rule 6e–3(T)(b)(15) are available if the underlying fund is engaged in mixed funding, but are not available if the fund is engaged in shared funding or if the fund sells its shares to Qualified Plans.

4. Applicants state that the current tax law permits the Insurance Products Funds to increase their asset base through the sale of shares to Plans. Section 817(h) of the Internal Revenue Code of 1986, as amended (the ''Code''), imposes certain diversification standards on the underlying assets of Variable Contracts. The Code provides that such contracts shall not be treated as an annuity contract or life insurance contract for any period (and any subsequent period) during which the investments are not adequately diversified in accordance with regulations prescribed by the Treasury Department. Treasury regulations provide that, to meet the diversification requirements, all of the beneficial interests in an investment company must be held by the segregated asset accounts of one or more insurance companies. The regulations do contain certain exceptions to this requirement, however, one of which permits shares of an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company also to be held by the separate accounts of insurance companies in connection with their variable annuity and variable life contracts (Treas. Reg. § 1.817–5(f)(3)(iii)).

5. Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) preceded the issuance of these Treasury regulations. Applicants assert that, given the then current tax law the sale of shares of the same underlying fund to separate accounts and to Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

6. Applicants request relief for a class or classes of persons and transactions consisting of Participating Insurance Companies and their scheduled premium variable life insurance separate accounts and flexible premium variable life insurance separate accounts (and, to the extent necessary, any investment adviser, principal underwriter and depositor of such separate accounts) investing in any of the Insurance Products Funds.

7. Section 6(c) authorizes the Commission to grant exemptions from the provisions of the 1940 Act, and rules thereunder, if and to the extent that an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Disqualification

8. Section 9(a)(3) of the 1940 Act provides that it is unlawful for any company to act as investment adviser to or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a)(1) or (2). Rules 6e–2(b)(15)(i) and (ii), and 6e–3(T)(b)(15)(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the application of eligibility restrictions to affiliated individuals or companies that directly participate in the management or administration of the underlying investment company.

9. Applicants state that the relief from Section 9(a) provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants assert that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals who do not directly participate in the administration or management of the Insurance Products Funds, who are employed by the various unaffiliated insurance companies (or affiliated companies of Participating Insurance Companies) that may utilize the Insurance Products Funds as the funding medium for Variable Contracts. Applicants do not expect the Participating Insurance Companies to play any role in the management or administration of the Insurance Products Funds. Applicants assert, therefore, that applying the restrictions of Section 9(a) to individuals employed by Participating Insurance Companies serves no regulatory purpose.

10. Applicants state that the relief requested should not be affected by the proposed sale of Insurance Products Funds to Qualified Plans because the Plans are not investment companies and will not be deemed affiliates solely by virtue of their shareholdings.

Pass-Through Voting

11. Applicants submit that Rule 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) assume the existence of a ''pass-through voting'' requirement with respect to management investment company shares held by a separate account. Applicant state that Rule 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide exemptions from the pass-through voting requirements in limited situations, assuming the limitations on mixed and shared funding imposed by the 1940 Act and the rules thereunder are observed. More specifically, Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its contract owners in connection with the voting of shares of an underlying investment company if such instructions would require such shares to be voted to cause an underlying investment company to make, or refrain from making, certain investments which would result in changes in the sub-classification or investment objectives of such company, or to approve or disapprove any contract between an investment company and its investment adviser, when required to do so by an insurance regulatory authority. In addition, Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that an insurance company may disregard contract owners' voting instructions with regard to changes initiated by the contract owners in the investment company's investment policies, principal underwriter or investment adviser, provided that disregarding such voting instructions is based on specific good faith determinations.

12. Shares of the Insurance Products Fund sold to Qualified Plans will be held by the trustees of such Plans as required by Section 403(a) of the Employee Retirement Income Security Act of 1974 (''ERISA''). Section 403(a)

also provides that the trustees must have exclusive authority and discretion to manage and control the Plan with two exceptions: (a) when the Qualified Plan expressly provides that the trustees are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, the Qualified Plan trustees have exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. The Qualified Plans may have their trustees or other fiduciaries exercise voting rights attributable to investment securities held by the Qualified Plans in their discretion. Where a Qualified Plan does not provide Qualified Plan participants with the right to give voting instructions. Applicants state that they do not see any potential for irreconcilable material conflicts of interest between or among Variable Contract holders and Plan participants with respect to voting of the respective Insurance Products Fund's shares. Accordingly, Applicants note that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with respect to Qualified Plans since the Plans are not entitled to pass-through voting privileges. Even if a Qualified Plan were to hold a controlling interest in an Insurance Products Fund, the Applicants do not believe that such control would disadvantage other investors in such Insurance Products Fund to any greater extent than is the case when any institutional shareholder holds a majority of the voting securities of any open-end management investment company. In this regard, the Applicants submit that investment in an Insurance Products Fund by a Qualified Plan will not create any of the voting complications occasioned by mixed funding or share funding.

13. Applicants state that some of the Qualified Plans may provide for the trustee(s), investment adviser(s) or another named fiduciary to exercise voting rights in accordance with instructions from Qualified Plan participants. Applicants state that, in such cases, the purchase of shares by such Qualified Plans does not present any complications not otherwise occasioned by mixed or shared funding.

Conflicts of Interest

14. Applicants state that no increased conflict of interest would be presented by the granting of the requested relief. Applicants submit that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. In this regard, Applicants note that when different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of other insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. The possibility, however, is no different or greater than exists when a single insurer and its affiliates offer their insurance products in several states, as is currently permitted.

15. Applicants state that affiliation does not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions set forth in the application and later in this notice (which are adapted from the conditions included in Rule 6e–3(T)(b)(15)) are designed to safeguard against any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Insurance Products Funds.

16. Applicants also assert that affiliation does not eliminate the potential, if any exists, for divergent judgments as to when a Participating Insurance Company could disregard Variable Contract owner voting instructions. The potential for disagreement is limited by the requirements that disregarding voting instructions be reasonable and based on specified good faith determinations. However, if the Participating Insurance Company's decision to disregard Variable Contract owner voting instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Insurance Products Fund, to withdraw its separate account's investment in that Insurance Products Fund and no charge or penalty will be imposed upon the Variable Contract owner, as a result of such withdrawal.

17. Applicants submit that there is no reason why the investment policies of an Insurance Products Fund with mixed funding would or should be materially different from what those policies would or should be if such Insurance Products Fund or series thereof funded only variable annuity or variable life insurance contracts. In this regard, Applicants note that a fund's adviser is legally obligated to manage the fund in accordance with the fund's investment objectives, policies and restrictions as well as any guidelines established by the fund's Board. Applicants submit that no one investment strategy can be identified as appropriate in a particular insurance product or to a Plan. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance and investment goals. A fund supporting even one type of insurance product must accommodate these diverse factors in order to attract and retain purchasers. Applicants submit that permitting mixed and shared funding will provide economic support for the continuation of the Insurance Products Funds. In addition, permitting mixed and shared funding also will facilitate the establishment of additional series of Insurance Products Funds serving diverse goals.

18. As noted above, Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury Regulation § 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, ''qualified pension or retirement plans'' and insurance company separate accounts to share the same underlying investment company. Therefore, Applicants assert that neither the Code, nor the Treasury regulations, nor the revenue rulings thereunder present any inherent conflicts of interest if the Qualified Plans, variable annuity separate accounts, and variable life insurance separate accounts all invest in the same management investment company.

19. While there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Plans, Applicants state that the tax consequences do not raise any conflicts

of interest. When distributions are to be made, and the separate account of the Participating Insurance Company or Qualified Plan cannot net purchase payments to make the distributions, the separate account or Qualified Plan will redeem shares of the Insurance Products Funds at their respective net asset values. The Qualified Plan will then make distributions in accordance with the terms of the Plan and the Participating Insurance Company will make distributions in accordance with the terms of the Variable Contract.

20. Applicants submit that the ability of the Insurance Products Funds to sell their respective shares directly to Qualified Plans does not create a ''senior security,'' as such term is defined under Section 18(g) of the 1940 Act, with respect to any Variable Contract owner as opposed to a participant under a Qualified Plan. As noted above, regardless of the rights and benefits of participants under the Qualified Plans, or Variable Contract owners under their Variable Contracts, the Qualified Plans and the separate accounts of Participating Insurance Companies have rights only with respect to their respective shares of the Insurance Products Funds. They can redeem such shares at their net asset value. No shareholder of any of the Insurance Products Funds has any preference over any other shareholder with respect to distribution of assets or payments of dividends.

21. Applicants assert that there are no conflicts between the Variable Contract owners and the Plan participants with respect to state insurance commissioners' veto powers over investment objectives. The basic premise of shareholder voting is that not all shareholders may agree with a particular proposal. While time-consuming, complex transactions must be undertaken to accomplish redemptions and transfers by separate accounts trustees of Qualified Plans can quickly redeem shares from Insurance Products Funds and reinvest in other funding vehicles without the same regulatory impediments or, as in the case with most Qualified Plans, even hold cash or other liquid assets pending suitable alternative investment. Applicants maintain that even if there should arise issues where the interests of Variable Contract owners and the interests of participants in Plans are in conflict, the issues can be almost immediately resolved because the trustees of the Plans can, on their own, redeem shares out of the Insurance Products Funds.

22. Applicants submit that mixed and shared funding should provide benefits to Variable Contract owners by eliminating a significant portion of the costs of establishing and administering separate funds. Participating Insurance Companies will benefit not only from the investment and administrative expertise of the Adviser, but also from the cost efficiencies and investment flexibility afforded by a larger pool of assets. Mixed and shared funding also would permit a greater amount of assets available for investment by the Insurance Products Funds, thereby promoting economies of scale, by permitting increased safety through greater diversification and by making the addition of new series more feasible. Therefore, making the Insurance Products Funds available for mixed and shared funding will encourage more insurance companies to offer Variable Contracts, and this should result in increased competition with respect to both Variable Contract design and pricing, which can be expected to result in more product variation and lower charges.

23. Applicants assert that there is no significant legal impediment to permitting mixed and shared funding. Separate accounts organized as unit investment trusts historically have been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account. Applicants do not believe that mixed and shared funding, and sales to Qualified Plans, will have any adverse federal income tax consequences.

Applicants' Conditions

Applicants have consented to the following conditions.

1. A majority of each Insurance Products Fund's Board of Trustees or Directors (each a ''Board'') shall consist of persons who are not ''interested persons'' thereof, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any Board member or members, then the operation of this condition shall be suspended: (a) For a period of 45 days if the vacancy or vacancies may be filled by the remaining Board members; (b) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies, or (c) for such longer period as the Commission may prescribe by other upon application.

2. Each Insurance Products Fund's Board will monitor their respective Insurance Products Fund for the existence of any material irreconcilable conflict among the interests of the Variable Contract owners of all separate accounts investing in the Insurance Products Funds and of the Plan participants and Qualified Plans investing in the Insurance Products Funds. The Board will determine what action, if any, shall be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Insurance Products Funds are being managed; (e) a difference in voting instructions given by variable annuity contract owners, variable life insurance contract owners and trustees of the Plans; (f) a decision by a Participating Insurance Company to disregard the voting instructions of Variable Contract owners; or (g) if applicable, a decision by a Qualified Plan to disregard the voting instructions of Plan participants.

3. The Adviser (or any other investment adviser of an Insurance Products Fund), any Participating Insurance Company and any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of an Insurance Products Fund (collectively, ''Participants''), will report any potential or existing conflicts to the Board of any relevant Insurance Products Fund. Participants will be responsible for assisting the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever Variable Contract owner voting instructions are disregarded and, if pass-through voting is applicable, an obligation by each Qualified Plan to inform the Board whenever it has determined to disregard Plan participant voting instructions. The responsibility to report such information and conflicts and to assist the Boards, will be contractual obligations of all Participating Insurance Companies and Qualified Plans investing in the Insurance Products Funds under their respective agreements governing

participation in the Insurance Products Fund, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of Variable Contract owners and, if applicable, Plan participants.

4. If a majority of an Insurance Fund's Board members, or a majority of the disinterested Board members, determine that a material irreconcilable conflict exists, the relevant Participating Insurance Companies and Qualified Plans shall, at their own expense and to the extent reasonably practicable as determined by a majority of the disinterested Board members, take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, including: (a) In the case of Qualified Plans, withdrawing the assets allocable to some or all of the Qualified Plans from the Insurance Products Fund and reinvesting such assets in a different investment medium; (b) in the case of Participating Insurance Companies, withdrawing the assets allocable to some or all of the separate accounts from the Insurance Product Fund or any series thereof and reinvesting such assets in a different investment medium, including another series of an Insurance Product Fund or another Insurance Product Fund, or submitting the question as to whether such segregation should be implemented to a vote of all affected Variable Contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity or variable life insurance contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Variable Contract owners the option of making such a change; and (c) establishing a new registered management investment company or managed separate amount. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard Variable Contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote then the Participating Insurance Company may be required, at the election of the Insurance Products Fund, to withdraw the insurer's separate account investment in such Insurance Products Fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Qualified Plan may be required, at the election of the Insurance Products Fund, to withdraw its investment in such Insurance Products Fund, and no charge or penalty will be imposed as a result of such withdrawal.

The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies and Qualified Plans under their agreements governing participation in the Insurance Products Funds, and these responsibilities shall be carried out with a view only to the interests of the Variable Contract owners and Plan participants.

5. For purposes of Condition 4, a majority of the disinterested Board members of the applicable Board shall determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will the relevant Insurance Products Fund or the Adviser (or any other investment adviser of the Insurance Products Funds) be required to establish a new funding medium for any Variable Contract. No Participating Insurance Company shall be required by Condition 4 to establish a new funding medium for any Variable Contract if any offer to do so has been declined by vote of a majority of the Variable Contract owners materially and adversely affected by the material irreconcilable conflict. Further, no Qualified Plan shall be required by Condition 4 to establish a new funding medium for any Qualified Plan if: (a) A majority of Plan participants materially and adversely affected by the material irreconcilable conflict vote to decline such offer; or (b) pursuant to governing Plan documents and applicable law, the Plan makes such decision without a Plan Participant vote.

6. The determination of the Board of the existence of a material irreconcilable conflict and its implications will be made known in writing promptly to all Participating Insurance Companies and Qualified Plans.

7. Participating Insurance Companies will provide pass-through voting privileges to Variable Contract owners who invest in registered separate accounts so long as and to the extent that the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Variable Contract owners. As to Variable Contracts issued by unregistered separate accounts, pass-through voting privileges will be extended to participants to the extent granted by issuing insurance companies. Each Participating Insurance Company will also vote shares of the Insurance Products Fund held in its separate accounts for which no voting instructions from contract owners are timely received, as well as shares of the Insurance Products Funds which it owns, in the same proportion as those shares of the Insurance Products Funds for which voting instructions from contract owners are timely received. Participating Insurance Companies will be responsible for assuring that each of their registered separate accounts participating in the Insurance Products Funds calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other registered separate accounts investing in the Insurance Products Fund will be a contractual obligation of all Participating Insurance Companies under their agreements governing participating in the Insurance Products Funds. Each Plan will vote as required by applicable law and governing Plan documents.

8. All reports of potential or existing conflicts received by the Board of an Insurance Products Fund and all Board action with regard to determining the existence of a conflict, notifying Participants of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of meetings of the appropriate Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. Each Insurance Products Fund will notify all Participating Insurance Companies that separate disclosure in their respective separate account prospectuses may be appropriate to advise accounts regarding the potential risks of mixed and shared funding. Each Insurance Products Fund shall disclose in its prospectus that: (a) The Insurance Products Fund is intended to be a funding vehicle for variable annuity and variable life insurance contracts offered by various insurance companies and for qualified pension and retirement plans; (b) due to differences of tax treatment and other considerations, the interests of Variable Contract owners participating in the Insurance Products Fund and/or the interests of Qualified Plans investing in the Insurance Products Fund may at some time be in conflict; and (c) the Board will monitor events in order to identify any material conflicts and to determine what action, if any should be taken in response to any such conflict.

10. Each Insurance Products Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (for these purposes, shareholders will be the persons having a voting interest in the shares of the Insurance Products Funds), and in particular, the Insurance Products Funds either will provide for annual shareholder meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act, as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, each Insurance Products Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of Board members and with whatever rules the Commission may promulgate with respect thereto.

11. If and to the extent that Rules 6e–2 or 6e–3(T) under the 1940 Act are amended, or Rule 6e–3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules promulgated thereunder, with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in the Application, then the Insurance Products Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 or 6e–3(T), as amended, or proposed Rule 6e–3, as adopted, to the extent such Rules are applicable.

12. The Participants and/or their Adviser, at least annually, shall submit to each Board such reports, materials or data as each Board may reasonably request so that the Board may fully carry out obligations imposed upon it by the conditions contained in the Application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participants to provide these reports, materials and data to the Board when the Board so reasonably requests, shall be a contractual obligation of all Participants under their agreements governing participation in the Insurance Products Funds.

13. If a Qualified Plan should ever become a holder of 10% or more of the assets of an Insurance Products Fund, such Plan will execute a participation agreement with the Insurance Products Fund that includes the conditions set forth herein to the extent applicable. A Qualified Plan will execute an application containing an acknowledgment of this condition upon such Plan's initial purchase of the shares of any Insurance Products Fund.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–21359 Filed 8–17–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41721; File No. SR–Amex–98–31]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to the Proposed Rule Change Relating to Options on the Cure for Cancer Common Stock Index

I. Introduction

On August 14, 1998, the American Stock Exchange LLC (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to authorize options on the Cure for Cancer Common Stock Index (''Index''). The Exchange submitted Amendment No. 1 to its proposal on January 28, 1999,[3] Amendment No. 2 on February 24, 1999,[4] and Amendment No. 3 on May 19, 1999.[5]

The proposed rule change, including Amendment Nos. 1 and 2, was published for comment in the **Federal Register** on March 4, 1999.[6] No comments were received on the proposal. This order approves the proposal, as amended.

II. Description of Proposal

A. General

The Exchange proposes to trade standardized options on the Index, a cash-settled narrow based index developed by the Amex. The Index is composed of the stocks of twelve companies engaged in the research, creation, development and production of cancer fighting drugs, treatments and processes. The Exchange will use an equal dollar weighted methodology to calculate the Index.[7] The Index was initialized at a level of 100.00 as of the close of trading on December 31, 1992.

B. Eligibility Standards for Index Components

Amex, as developer of the Index, is responsible for selecting and maintaining the companies to be included in the Index. The Exchange represents that the Index conforms with the criteria of Exchange Rule 901C for including stocks in an index on which standardized options trade. In addition, all of the component securities currently meet the following standards: (1) Each component has a market capitalization of at least $75 million, except one that has a market value of at least $50 million and accounts for no more than 10% of the weight of the Index; (2) more than 80% of the weight of the Index is accounted for by securities each having a trading volume of not less than 1,000,000 shares over each of the last six months and the remaining 20% of the weight of the Index is accounted for by components having a trading volume of not less than 850,000 shares over each of the last six months,[8] (3) at least 75% of the Index's components and its numerical index value currently underlie standardized options; (4) foreign country securities or American Depositary receipts (''ADR'') thereon are

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Amended Rule 19b–4 Filing (''Amendment No. 1'').

[4] *See* Letter from Scott Van Hatten, Legal Counsel, Amex, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated February 23, 1999 (''Amendment No. 2'').

[5] In Amendment No. 3, the Exchange submitted a revised list of component securities for the Index and confirmed that the revised list of component securities satisfied all of the criteria set forth in the notice. *See* Letter from Scott Van Hatten, Legal Counsel, Amex, to Richard Strasser, Assistant Director, Division, Commission, dated May 17, 1999 (''Amendment No. 3'').

[6] *See* Securities Exchange Act Release No. 41100 (February 24, 1999), 64 FR 10512.

[7] *See infra* Section II.C. entitled ''Index Calculation'' for a description of this calculation method.

[8] Previously, one component of the Index specifically agreed to by the Commission was permitted to have a trading volume of not less than 350,000 shares. However, because the Amex revised the component securities comprising the Index (*see* Amendment No. 3, *supra* note 5), this provision is no longer needed. Telephone conversation between Scott Van Hatten, Legal Counsel, Amex, and Terri Evans, Attorney, Division, Commission, on May 21, 1999.

not currently represented in the Index; (5) all component stocks are either listed on the New York Stock Exchange (''NYSE''), Amex, or traded through the facilities of the National Association of Securities Dealers Automated Quotation System (''Nasdaq'') and are reported National Market System (''NMS'') securities; and (6) no component security represents more than 25% of the weight of the Index, and the five highest weighted component securities in the Index do not in the aggregate account for more than 60% of the weight of the Index.[9]

The Exchange believes the potential for manipulation of the Index is minimized for the following reasons: (1) No single component dominates the Index, which is equal dollar weighted, with each component constituting approximately 8.3% of the Index; (2) at least 75% of the value of the Index is accounted for by stocks which currently underlie standardized options; and (3) the component stocks are substantial and liquid, having an average market capitalization of $402.47 million, an average of 26.57 million shares outstanding, and a six-month average monthly trading volume of 5.8 million shares.[10]

C. Index Calculation

The Index will be calculated by the Amex using an ''equal dollar weighted'' methodology designed to ensure that each of the component securities is represented in an approximately equal dollar amount in the Index. The following is a description of the methodology. As of the market close on December 31, 1992, a portfolio of stocks was established representing an investment of approximately $100,000 in the stock (rounded to the nearest whole share) of each of the companies in the Index. The value of the Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the sum of the assigned number of share of each of the stocks in the Index portfolio divided by the Index divisor. The Index divisor was initially determined to yield the benchmark value of 100.00 as of the close of trading on December 31, 1992. Quarterly, following the close of trading on the third Friday of February, May August and November, the Index portfolio will be adjusted by changing the number of whole shares of each component stock so that each company is again represented in ''equal'' dollar amounts. If necessary, a divisor adjustment is made during the rebalancing to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

As noted above, the number of shares of each component stock in the Index portfolio remain fixed between quarterly reviews except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, stock distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In a merger or consolidation of an issuer of a component stock if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock addition or replacement, the average dollar value of the remaining components will be calculated and that amount invested in the stock of the new component to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calucated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

D. Index Maintenance

The Index will be maintained by the Exchange consistent with it original purpose (*i.e.*, to include components engaged in the research, creation, development and production of cancer fighting drugs, treatments and processes). As stated above, the number of shares of each component stock in the Index portfolio will remain fixed between quarterly rebalances except in the event of certain types of corporate actions. If necessary in order to maintain continuity of the Index, its divisor may be adjusted to reflect certain events relating to the component stocks. These events include, but are not limited to, stock distributions, stock splits, reverse stock splits, spin-offs, certain rights issuance, recapalitalizations, reorganizations, and mergers and acquisitions. All stock replacement and the handling of non-routine corporate actions will be announced at least ten business days in advance of such effective change, whenever possible. The Exchange will make this information available to the public through dissemination of an information circular.

The Exchange will maintain the Index so that (1) the Index is comprised of no less than nine component securities; (2) the component securities constituting the top 90% of the Index by weight, will have a minimum market capitalization of $75 million and the component stocks constituting the bottom 10% of the Index, by weight, may have a minimum market capitalization of $50 million; (3) 75% of the Index's numerical index value will meet the then current criteria for standardized option trading set forth in Amex Rule 915, except that one component included in the 75% may meet the then current criteria set forth in Amex Rule 916 if submitted to and approved by the Commission, [11] (4) foreign country securities or ADRs thereon that are not subject to comprehensive surveillance agreements will not in the aggregate represent more than 20% of the weight of the Index; (5) all component stocks will either be listed on Amex, NYSE, or Nasdaq/NMS; and (6) each of the component stocks shall have a minimum monthly trading volume of at least 500,000 shares for each of the last six months, except that for each of the lowest weighted components in the Index that in the aggregate account for no more than 10% of the weight of the Index, trading volume must be at least 400,000 shares for each of the last six months.[12]

The Exchange shall not open for trading any additional option series should the Index fail to satisfy any of the maintenance criteria set forth above unless such failure is determined by the

[9] The Amex confirmed that the individual component securities satisfy all of the criteria set forth in the notice. *See* Amendment No. 3, *supra* note 5.

[10] *See* Amendment No. 3, *supra* note 5.

[11] The Commission previously agreed to a specific component security that could satisfy Amex Rule 916 in lieu of Amex Rule 915. The Index, however, no longer needs this specific component to satisfy the 75% requirement. Nevertheless, the Amex has requested that it be allowed the flexibility to have any one of the components meet the maintenance requirements in Amex Rule 916 in complying with the 75% options eligibility requirement should that be necessary in the future. Telephone conversation between Scott Van Hatten, Legal Counsel, Amex, and Terri Evans, Attorney, Division, Commission, on May 21, 1999. The Commission has determined to allow Amex to utilize the exception in maintaining the Index provided that Amex submits to the Commission for its review and approval the proposed security that would satisfy Amex Rule 916 in lieu of Amex Rule 915. The factors the Commission will examine in determining whether to permit Amex to utilize Amex Rule 916 standards include, among other things, the security's market capitalization, daily and six month trading volume, and the last six months price history.

[12] The Amex raised the trading volume limit for the bottom 10% of the weight of the Index from 350,000 to 400,000 shares. Telephone conversation between Scott Van Hatten, Legal Counsel, Amex, and Terri Evans, Attorney, Division, Commission, on May 21, 1999.

Exchange not to be significant and the Commission concurs in that determination.

E. Expiration and Settlement

The exercise settlement value for all of the Index's expiring options will be calculated based upon the primary exchange regular way opening sale prices for the component stocks. In the case of securities traded through the Nasdaq system, the first reported regular way sale price will be used. If any component stock does not open for trading on its primary market on the last trading day before expiration, then the prior day's last sale price will be used in the calculation.[13]

F. Contract Specifications

The proposed options on the Index will be European style (*i.e.*, exercises permitted at expiration only) and cash settled. Standard option trading hours (9:30 a.m. to 4:02 p.m. (ET)) will apply. The options on the Index will expire on the Saturday following the third Friday of the expiration month. The last trading day in an expiring option series will normally be the second to last business day preceding the Saturday following the third Friday of the expiration month (normally a Thursday). Trading in expiring options will cease at the close of trading on the last trading day.

G. Listing of Long-Term Options on the Full or Reduced Value of the Index

The Exchange plans to list option series with expirations in the three near-term calendar months and in the two additional calendar months in the March cycle. In addition, longer term option series having up to thirty-six months to expiration and FLEX Index options [14] may be traded on the Index. Instead of such long-term options on a full value Index level, the Exchange may list long-term, reduced value put and call options based on one-tenth (1/10th) of the Index's full value. The interval between expirations months for either a full value or reduced value long-term option will not be less than six months. The trading of any long-term options, either full or reduced value, would be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures, and all options will have European style exercise.

H. Exchange Rules Applicable to Stock Index Options

Amex Rules 980C will apply to the trading of option contracts based on the Index. These Exchange Rules cover issues such as surveillance, exercise prices and position limits. The Index is deemed to be a Stock Index Option under Amex Rule 901C(a) and a Stock Index Industry Group under Amex Rule 900C(b)(1). With respect to Amex Rule 903C(b), the Exchange proposes to list near-the-money (*i.e.*, within ten points above or below the current Index value) option series on the Index at 2½ point strike (exercise) price intervals when the value of the Index is below 200 points. In addition, the Exchange expects that the review required by Amex Rule 904C(c) will result in a position limit of 15,000 contracts with respect to options on this Index.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading options on the Index. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group (''ISG'') Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[15]

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[16] and in particular, with the requirements of Section 6(b)(5).[17] Specifically, the Commission finds that the trading of options on the Index, including FLEX and long term full-value and reduced value index options, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with an additional means to hedge exposure to market risk associated with stocks in the cancer research industry.[18]

The trading of options on the Index and reduced-value Index, however, raises several issues relating to index design, customer protection, surveillance and market impact. The Commission believes, for the reasons discussed below, that the Amex adequately has addressed these issues.

A. Index Design and Structure

The Commission believes it is appropriate for the Exchange to designate the Index as narrow-based for purposes of index options trading. The Index is comprised of a limited number of stocks intended to track a discrete industry group: the cancer research sector of the stock market. Accordingly, the Commission believes it is appropriate for the Amex to apply its rules governing narrow-based index options to trading in the proposed Index options.[19]

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[13] The Commission notes that pursuant to Article XVII, Section 4 of the Options Clearing Corporation's (''OCC'') by-laws, OCC is empowered to fix an exercise settlement amount in the event it determines a current index value is unreported or otherwise unavailable. Further, OCC has the authority to fix an exercise settlement amount whenever the primary market for the securities representing a substantial part of the value of an underlying index is not open for trading at the time when the current index value (*i.e.*, the value used for exercise settlement purposes) ordinarily would be determined. *See* Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 42671 (order approving SR–OCC–95–19).

[14] *See* Securities Exchange Act Release No. 39928 (April 28, 1998), 63 FR 25130 (May 6, 1998) (approving FLEX options trading on all indices, including stock index industry groups). The Commission notes that the Amex has established position limits for industry index FLEX options at four times the position limits for standard options on the respective underlying industry index. Therefore, in the present case, the position limit could not exceed 60,000 contracts. Telephone conversation between Scott Van Hatten, Legal Counsel, Amex, and Terri Evans, Attorney, Division, Commission, on August 9, 1999.

[15] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: Amex; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange Inc.; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the NYSE; the Pacific Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock, and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[16] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options in the Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks representing companies in the cancer research sector in the U.S. markets.

[19] *See supra* Section II.H. entitled ''Exchange Rules Applicable to Stock Index Options.''

The Commission also believes that the liquid markets, relatively large capitalizations of the stocks comprising a majority of the weight of the Index, and relative weightings of the Index's component stocks minimize the potential for manipulation of the Index. First, most of the stocks are actively traded. The minimum monthly trading volume in the aforementioned top weighted component stocks of the Index as of May 14, 1999, ranged from 2.11 million to 5.81 million shares. Second the market capitalization of those stocks are relatively large, ranging from roughly $117.66 million to $1.19 billion. Third, because the Index is equal dollar weighted, no one particular stock or group of stocks dominates the Index. In addition, the Commission notes that the Exchange will review and maintain the Index consistent with its original purpose. Fourth, the Index will be maintained so that in addition to the other maintenance criteria discussed above in Section II.D., at each rebalancing, at least 75% of the Index's numerical value will be composed of securities eligible for standardized options trading, except that one component included in the 75% and specifically agreed to by the Commission may meet the then current criteria set forth in Amex Rule 916. Finally, the Commission believes that Amex's existing mechanisms to monitor trading activity in the component stocks of the Index, or options on those stocks in the Index will help deter as well as detect any illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on the Index, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading, and (3) special compliance procedures are applicable to options accounts. Accordingly, because options on the Index will be subject to the same regulatory regime as other standardized options currently traded on the Amex, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options on the Index. Finally, the Amex has stated that it will distribute information circulars to the public to notify the public of changes in the composition of the Index and the handling of non-routine corporate actions at least ten business days in advance of the change, whenever possible. The Commission believes this should help to protect investors and avoid investor confusion.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities market. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[20] In this regard, markets on which the components of the Index currently trade and the market on which all component stocks trade are members of the ISG, which provides for the exchange of all necessary surveillance information.

D. Market Impact

The Commission believes that the listing and trading of options on the Index, including long-term full-value and reduced-value Index options, on the Amex will not adversely impact the underlying securities markets.[21] First, as noted above, due to the equal dollar weighting methodology, no one stock or group of stocks dominates the Index. Second, as noted above, most of the stocks contained in the Index have relatively large capitalizations and are relatively actively traded. Third, the currently applicable 15,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraparty non-performance will be minimized because the options on the Index will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiration options on the Index (including long-term full-value and reduced-value Index options) based on the opening process of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for stock underlying options on the Index.[22]

The Commission also finds Amendment No. 3 consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposal is consistent with the requirements of Section 6(b)(5) of the Act,[23] because it removes impediments to and perfects the mechanism of a free and open market and a national market system and, in general, protects investors and the public interest by providing investors with an additional means to hedge exposure to market risk associated with stocks in the cancer research industry while ensuring that only those component securities that satisfy the requirements set forth above are included in the Index.

The Commission finds good cause to approve Amendment No. 3 to the proposed rule change prior to the thirtieth day after the publication of notice of filing of the amendment in the **Federal Register**. Specifically, Amendment No. 3 merely clarifies the composition of the Index and revises the trading data for all component securities. Accordingly, the Commission finds that there is good cause, consistent with Sections 6(b)(5) and 19(b) of the Act,[24] to approve Amendment No. 3 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the

[20] *See* Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[21] In addition, the Amex and the OPRA have represented that the Amex and the OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of options on the Index. *See* Letters from Scott Van Hatten, Legal Counsel, Amex, to Richard Strasser, Assistant Director, Division, Commission, dated October 21, 1998, and from Joe Corrigan, Executive Director, OPRA, to Richard Strasser, Assistant Director, Division, Commission, dated January 15, 1999.

[22] *See* Securities Exchange Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78f(b)(5) and 78s(b).

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 in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–98–31 and should be submitted by September 8, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–Amex–98–31), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

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[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41727; File No. SR–CBOE–99–39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Market-Maker Surcharge Fee Schedule

August 11, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 23, 1999, the Chicago Board Options Exchange, Inc., (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposing to make changes to its fee schedule pursuant to CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage.*[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to CBOE Rule 2.40, the Equity Floor Procedure Committee (''Committee'') approved the following fees for the following option classes:

Option class	Market-maker surcharge (per contract)	Order book official brokerage rate (per contract)[4]
For Motor Company (F)	$0.14	$0.00

[4] The surcharge will be used to reimburse the Exchange for the reduction in the Order Book Official brokerage rate from $0.20 in the relevant option classes. Any remaining funds will be paid to Stationary Floor Brokers as provided in Exchange Rule 2.40.

The fee for Ford Motor Company will be effective as of August 2, 1999. All of the fees will remain in effect until such time as the Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4)[5] of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)[6] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999) (order approving CBOE Rule 2.40).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19B–4(f)(2).

[8] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–39 and should be submitted by September 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41732; File No. SR–CBOE–99–30]

August 11, 1999.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Elimination of the Prohibition Against Market-Maker Surcharges on Single-List Issues

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage,* to eliminate the restriction against a surcharge from being assessed on trades in classes not traded on another options exchange. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of a and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently received approval from the Commission to assess a surchange on market-makers trading in multiply-listed classes pursuant to new CBOE Rule 2.40.[3] The Exchange believes CBOE Rule 2.40 will enable the Exchange to compete for order flow more effectively against other options exchanges.

In this present filing, the Exchange proposes to eliminate a restriction in paragraph (e) of CBOE Rule 2.40 which prohibits a surcharge from being assessed on trades in classes not traded on another options exchange. When the Commission approved Exchange Rule 2.40 recently, the Commission stated that it believes ''that the proposed rule change, as amended, is a reasonable effort by CBOE to better enable its competitive market-maker crowds to compete for multiply-listed options with other exchanges that employ a specialist system.''[4] While the Exchange agrees that the proposed rule provides the Exchange with the tools to compete more effectively in attracting order flow in multiple list issues, the Exchange believes CBOE Rule 2.40 would be more effective and useful if the restriction against imposing a surcharge on single-list issues was eliminated.

The Exchange believes CBOE Rule 2.40 would be more effective by eliminating this restriction,[5] because specialists on other exchanges, who may trade both single-list and multiple-list issues, have greater flexibility than CBOE market-makers currently having using CBOE Rule 2.40 to adjust their transaction fees. Specifically, these specialists are able to seek to attract customer loyalty and a larger portion of their order flow in the multiple-listed issues by reducing fees and charges not just for those multiple-listed classes, but also for the single-list classes. Consequently, the Exchange will find it more and more difficult to compete for order flow in multiple-listed issues—even with Exchange Rule 2.40 in place—as long as specialists are able to entice firms to send order flow to them by more broadly reducing their fees, to include their single-list issues. The elimination of the single-list prohibition will allow the Exchange to provide the surcharge to floor brokers (thereby inducing a reduction in their brokerage rates on customer orders) and/or to reduce the book brokerage rate in single-list issues which will expand the benefit of this program and the potential benefit to customers.

In requesting the Exchange to revise its original proposal to limit the surcharge to multiple-listed issues only, the Exchange is aware that the commission believed that competition among exchanges in the multiple-listed classes would obviate the risk that the spreads in these classes would not be widened to compensate for the cost of market-makers of any surcharges. As the need for the proposed rule change makes clear, that same rationale extends to single-list classes, since the overall competition for order flow encompasses all issues, whether single- or multiple-list. Moreover, the Exchange believes that current safeguards in CBOE Rule 2.40 will protect against a widening of the spreads on the single-list issues which become subject to a surcharge. Specifically, the cap on the surcharge amount of $0.25/contract should help to ensure that spreads are not widened in the single-list issues.[6] Of course, the Exchange is also obligated to analyze data comparing spreads before and after the imposition of the surcharge so any

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 1123 (March 9, 1999).

[4] *Id., 64 FR at 11525.*

[5] The Exchange added the prohibition against imposing the surcharge on single list issues at the suggestion of Commission staff.

[6] As the Exchange noted in Amendment No. 1 to SR–CBOE–98–35 (dated February 26, 1999), the minimum bid-ask spread for the option class is $6.25 (one sixteenth of a dollar ($0.0625) times a multiplier of 100 since one option contract represents 100 shares of stock) although the actual spread for many options in wider. (Given that the spread is usually at $6.25 or greater, the Exchange believes it is unlikely that spreads would be adjusted to account for a surcharge of $0.25 or less.

possible ill effects of the elimination of the prohibition will be readily noted. Finally, the Exchange believes the elimination of this prohibition against imposing the surcharge on single-list issues would be fair. Specialists on the other exchanges today are able to change their fees on their single-list issues without having to study or justify any possible effect this action may have on the spreads in those issues. The Exchange wants to provide its marketmakers with the same ability to apply the surcharge to single-list issues.[7]

2. Statutory Basis

The CBOE believes that the proposed rule change is in furtherance of Section 6(b)(5) the Act[8] in that it is designed to remove impediments to a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–99–30 and should be submitted by September 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–21444 Filed 8–17–99; 8:45 am]

BILLING CODE 8010–01–M

[7] Under CBOE Rules 2.40 the appropriate Floor Procedure Committing actually imposes the surcharge on a class of options but the market-makers in the training crowd may recommend a surcharge amount.

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release 34–41733; File No. 600–30]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Approving a Request for Extension of Temporary Registration as a Clearing Agency

August 12, 1999.

Notice is hereby given that on July 1, 1999, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') an application pursuant to Section 19(a)(1) of the Securities Exchange Act of 1934 (''Act'')[1] requesting that the Commission extend EMCC's temporary registration as a clearing agency for one year.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to extend EMCC's temporary registration as a clearing agency until August 20, 2000.

On February 13, 1998, pursuant to Sections 17A(b) and 19(a)(1) of the Act[3] and Rule 17Ab2–1 promulgated thereunder,[4] the Commission granted EMCC's application for registration as a clearing agency until August 20, 1999.[5] EMCC was created to facilitate the clearance and settlement of transactions in U.S. dollar denominated Brady Bonds.[6]

EMCC began operating on April 6, 1998, with ten dealer members and five interdealer brokers clearing through Daiwa Securities America, Inc.[7] In its first month of operation, EMCC members achieved an average trade-date matching the rate of over 97 percent on 71 eligible securities for an average volume of over 360 sides per day.[8] Prior to EMCC beginning its operations, approximately only 40 percent of trades compared on trade date resulting in a considerable number of failed transactions.[9] During its temporary registration period, EMCC typically handled 700 sides per day. However, during the market crisis in Asia, Latin America, and Russia, EMCC successfully handled volume in excess of 1,000 sides per day.[10]

During its temporary registration period, EMCC expanded the list of eligible instruments to include not only Brady Bonds but also the sovereign debt of any emerging market country.[11] EMCC also modified its rules to allow it to accept data directly from either its members or from service bureaus and to compare trades.[12]

As part of EMCC's temporary registration, the Commission granted EMCC temporary exemptions from Section 17A(b)(3)(B) of the Act because EMCC did not provide for the admission of some of the categories of members

[1] 15 U.S.C. 78s(a)(1).

[2] Letter from Richard Paley, Associate Counsel, EMCC (July 1, 1999) and Form CA–1 (July 1, 1999).

[3] 15 U.S.C. 78q–1(b) and 78s(a)(1).

[4] 17 CFR 240.17Ab2–1.

[5] Securities Exchange Act Release No. 39661, International Series Release No. 1117 (February 13, 1998), 63 FR 8711 (February 20, 1998) (''Registration Order'').

[6] Brady bonds are restructured bank loans. They were first issued pursuant to a plan developed by then U.S. Treasury Secretary Nicholas Brady to assist debt-ridden countries restructure their sovereign debt into commercially marketable securities. The plan provided for the exchange of bank loans for collateralized debt securities as part of an internationally supported sovereign debt restructuring. Typically, the collateral would be U.S. Treasury securities.

[7] EMCC has been advised that Daiwa will stop providing clearing services for interdealer brokers by the end of September 1999.

[8] EMCC Annual Report, p. 2.

[9] *Id.*

[10] *Id.*

[11] Securities Exchange Act Release No. 40363 (August 25, 1998), 63 FR 46 46263 (August 31, 1999).

[12] Securities Exchange Act Release No. 41247 (April 2, 1999), 64 FR 17705 (April 12, 1998).

required by that section.[13] To date, EMCC continues to limit the categories of entities eligible for membership to U.S. broker-dealers, United Kingdom broker-dealers, U.S. banks, and non-U.S. banks. As the Commission noted in the Registration Order, the Commission believes that providing for limited categories of members is appropriate at least during a clearing agency's initial phases of operations especially when no one in a category not covered by EMCC desires to be a member. Accordingly, the Commission is extending EMCC's temporary exemption from Section 17A(b)(3)(B).

The Commission also granted EMCC a temporary exemption from Sections 17A(b)(3)(A) and 17A(b)(3)(F) of the Act to permit EMCC to use, subject to certain limitations, ten percent of its clearing fund to collaterize a line of credit at Euroclear to finance on an intraday basis the receipt by EMCC of eligible instruments from one member that EMCC will redeliver to another member.[14] The Registration Order limited EMCC's use of clearing fund deposits for this intraday financing to the earlier of one year after EMCC commenced operations or the date on which EMCC begins its netting service. On April 2 and May 17, 1999 the Commission approved rule changes that permitted EMCC to implement a netting service and that extended EMCC's ability to use clearing fund deposits for intraday financing at Euroclear until all EMCC members are netting members (as opposed to the date on which netting services are available or EMCC's first anniversary).[15] Accordingly, the Commission is extending EMCC's temporary exemption from Section 17A(b)(3)(A) and (F).

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with Section 19(a)(1) of the Act.[16] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the amended application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All submissions should refer to File No. 600–30 and should be submitted by September 8, 1999.

It is therefore ordered, pursuant to Section 19(a) of the Act, that EMCC's registration as a clearing agency (File No. 600–30) be and hereby is temporarily approved through August 20, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–21441 Filed 8–17–99; 8:45 am]

BILLING CODE 8010–01–M

[13] Registration Order at 8716.

[14] Registration Order at 8720.

[15] Securities Exchange Act Release Nos. 41247 (April 2, 1999), 64 FR 17705 (April 12, 1999) and 41415 (May 17, 1999), 64 FR 27841 (May 21, 1999).

[16] 15 U.S.C. 78s(a)(1).

[17] 17 CFR 200.30–3(a)(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41731; File No. SR–NASD–99–39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Regarding Riskless Principal Trade Reporting Rules

August 11, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 5, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated this proposal as one constituting a stated policy and interpretation with respect to the meaning of an existing rule under Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1)[4] thereunder, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq filed with the SEC an interpretation to NASD Rules 4632, 4642, 4652, and 6620, regarding riskless principal trade-reporting. The interpretation, which will be issued as a *Notice to Members*, addresses how mark-ups and other fees will be treated for determining whether trades are executed at the ''same'' price, for purposes of the aforementioned NASD rules. The text of the proposed rule change is available at the NASD, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background. On March 24, 1999, the Commission approved a proposal to amend the trade reporting rules relating to riskless principal transactions in Nasdaq National Market, The Nasdaq SmallCap Market, Nasdaq convertible debt, and non-Nasdaq OTC equity securities.[5] When the SEC approved the rule change, the Commission asked Nasdaq to submit an interpretation providing examples of how mark-ups, mark-downs, and other fees will be excluded for purposes of the amended riskless principal rules.[6] As requested, Nasdaq is distributing *Notice to Members* 99–65,[7] which provides examples of how mark-ups and other fees will be excluded for purposes of the riskless principal trade-reporting rules, as an interpretation to existing NASD Rules 4632, 4642, 4652, and 6620.

[5] *See* Securities Exchange Act Release No. 41208 (March 24, 1999) 64 FR 15386 (March 31, 1999) (SR–NASD–98–59).

[6] *See id.* at footnote 15.

[7] The NASD has submitted *Notice to Members* 99–65 as Exhibit 2 to this rule filing. The Notice is available for inspection at the NASD and at the Commission.

Substance of the Interpretation. Under the riskless principal trade reporting rules approved by the Commission, a market maker reports as ''riskless'' principal once if the market maker receives an order to buy (sell) a security, and then purchases (sells) the security as principal at the same price as the order in hand to satisfy the order to buy (sell). As stated in the interpretation contained in *Notice to Members* 99–65, to determine whether two transactions are executed at the same price, a market maker must compare the price reported to the Automated Confirmation Transaction Service (''ACT'')[8] pursuant to NASD trade reporting rules, which require members to exclude any mark-up or mark-down, commission-equivalent, or other fee when trade reporting (''tape price''), and the price of the offsetting trade with the customer, exclusive of any mark-up or mark-down, commission-equivalent, or other fee (''net price''). If the tape price and the net price to the customer are the same, then the transaction must be reported as riskless principal to the NASD and the offsetting leg with the customer should not be reported to the NASD. If a market maker is executing a large order through a series of trades and has an arrangement to charge the customer an average price based on the various executions received, the net price to the customer and the volume weighted average price (''VWAP'') of the trades must be the same for the transaction to receive riskless principal treatment.

Notice to Members 99–65 also states that the riskless principal trade reporting rules do not mandate the prices at which market makers must execute the various legs of ''riskless principal'' transactions. Nor do the rules prohibit market makers from trading on a net basis. Thus, a market maker is not precluded from accumulating a position at one price and executing the offsetting trade with the customer at another price (with no mark-up, mark-down, commission-equivalent or other fee), provided such arrangement satisfies the member's best execution obligation and is consistent with SEC and NASD statements regarding the matching of limit and market orders.[9]

Nasdaq recognizes that there are times when a market maker will, while holding a customer's order, effect a buy (sell) at one price and an offsetting sell (buy) with the customer at another price, such as when a market maker is trading ''net'' with an institution. If what otherwise would appear to be a riskless principal trade is effected at two different net prices, a market maker is required to report both legs of the transaction to the tape.[10] *Notice to Members* 99–65 instructs, however, that if a member is working an order for an institutional account or a block size and the member finds the other side of the order, the presumption will be that the orders will be matched off at the same price (exclusive of any mark-up or mark-down, commission equivalent or other fee) and reported as riskless principal, unless the customer has specifically requested that the order be traded on a net basis, at a different price. The *Notice to Members* 99–65 further notes that, while net trading is not impermissible, market makers should endeavor to trade at one price when executing riskless principal transactions because this will provide greater transactional integrity and will have the corollary benefit of reducing SEC transaction fees (commonly known as ''Section 31 fees'').[11]

The following provides an example of how Nasdaq believes the riskless principal trade reporting rules will operate:

Nasdaq Inside Market: $10—10⅜, 10 × 10

Question—MMA receives a not-held order from an institutional customer to sell 6,000 shares, with instructions to obtain the best price available with a ''bottom'' of $10⅛. Using the phone, MMA sells 4,000 shares at $10⅜ to MMB and 2,000 shares at $10 to MMC. What are MMA's trade reporting obligations?

Answer—MMA must report to ACT the sell to MMB of 4,000 shares at $10⅜ and the sell to MMC of 2,000 shares at $10. (Note that the volume weighted average price for this trade is $10¼.) If MMA buys 6,000 shares from his customer at a volume weighted average price (VWAP) of $10¼, she/he will not be required to report to the tape the offsetting buy with the customer. The NASD believes that it would be consistent with the SEC No Action Letter Regarding SEC Rule 10b–10[12] for MMA to disclose on the confirmation a reported price of $10¼—the VWAP—instead of a reported price for each individual transaction. The confirmation must contain a notation that the disclosed price is an average price, ad must note that details regarding the actual price are available to the customer upon request.[13] If market maker charged a mark-down, commission-equivalent, or other fee on top of the $10¼, it also would be permissible for the confirmation to disclose the fee as a single amount.

Alternatively, if MMA trades on a net basis and buys 6,000 shares from his customer at $10 (or another price different than the VWAP of $10¼), MMA would also report the buy with its customer to the tape because the VWAP and the buy from the customer are different prices. The confirmation would disclose a reported price of $10, a price to the customer of $10, and no differential.

2. *Statutory Basis*

The NASD and Nasdaq believe that the new interpretation increases investor protection and clarifies a member's obligations under the NASD trade reporting rules. Accordingly, the NASD and Nasdaq believe that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[14] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Completion

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule change and timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[15] and Rule 19b–4(f)(1)[16] in that it constitutes a stated policy and interpretation with respect to the meaning of an existing rule.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

[8] *See* NASD Rule 4651(b).

[9] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (Order Handling Rules Adopting Release); NASD *Notice to Members* 96–65 (October 1996); NASD *Notice To Members* 97–57 (September 1997).

[10] The NASD and Nasdaq currently are examining whether trade reporting rules should be further amended to cover market makers reporting riskless principal trades at different prices.

[11] *See* Section 31 of the Act, 16 U.S.C. 78ee.

[12] *See, e.g.,* SEC No-action letter from Catherine McGuire, SEC, to Eugene Lopez, Nasdaq, dated May 6, 1997 (permitting the issuance of a single confirmation at an average price and with multiple capacities for a single customer order effected with multiple executions).

[13] *See id.*

[14] 15 U.S.C. 78o–3(b)(6).

[15] 15 U.S.C. 78s–(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(1).

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–99–39 and should be submitted by September 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–21443 Filed 8–17–99; 8:45 am]

BILLING CODE 8010–01–M

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41726; File No. SR–NYSE–99–26]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Amending Cancellation Procedures for MOC/LOC Orders

August 11, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on June 14, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC") or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the Exchange's market-at-the-close ("MOC") and limit on-close ("LOC") procedures to prohibit cancellation of MOC an LOC orders for any reason after 3:50 p.m.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Current procedures[3] utilized for MOC and LOC orders prohibit the cancellation of MOC orders and LOC orders after 3:40 p.m., except (1) in the case of legitimate error or; (2) to comply with the provisions of Exchange Rule 80A[4] or; (3) when a regulatory trading halt is in effect at or after 3:40 p.m.[5]

The Exchange is proposing to prohibit cancellation or reduction in size of MOL/LOC orders after 3:50 p.m. for *any* reason, *including* cases of legitimate error or to comply with the provisions of Rule 80A. If Rule 80A goes into effect *before* 3:50 p.m., members and member organizations must cancel MOC index arbitrage orders that are related to a derivative index product that is not expiring and that do not meet the Rule's tick, restrictions no later than 3:50 p.m.

In June 1998, the Commission approved amendments to procedures regarding entry of MOC and LOC orders and the publications of order imbalances.[6] The Commission noted in its approval order that the enhanced publication requirements (*e.g.*, at 3:50 p.m. and the integration of marketable LOC orders in the imbalance may help ease market volatility at the close by attracting additional offsetting MOC/LOC orders for stocks that have a significant order imbalance at 3:50 p.m.

Historically, the window of opportunity for correcting errors has been from 3:50 p.m. to 4:00 p.m. When the cutoff time for MOC/LOC order entry on non-expiration days was moved from 3:50 p.m. to 3:40 p.m.,[7] the Exchange did not revisit the issue of cancellations to correct errors. Upon review, the exchange has determined that it is appropriate to move the ten-minute window for error correction to 3:40 p.m. This would put the responsibility on members and member organizations to make sure by 3:50 p.m. that MOC/LOC orders entered are accurate. In turn, this will ensure that the 3:50 p.m. imbalance publication is accurate when offsetting orders are entered.

The Exchange believes that canceling MOC/LOC orders after 3:50 p.m. could exacerbate an order imbalance or cause a reversal in an order imbalance near the close. Precluding such cancellations would enhance the effectiveness of the MOC/LOC publication procedures in reducing volatility at the close.

Upon Commission approval of this proposed rule change, the Exchange intends to issue an information Memo to inform its members of the revised procedures.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirement under Section 6(b)(5) of the Act[8] that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 40094 (June 15, 1998), 63 FR 33975 (June 22, 1998).

[4] Rule 80A requires index arbitrage orders in any stock in the Standard & Poor's 500 Stock Price Index entered on the Exchange to be stabilizing (*i.e.*, the order must be marked either buy minus or sell plus) when the Dow Jones Industrial Average ("DJIA") advances or declines from its closing value on the previous trading day by 2% of the DJIA average closing value from the last month of the previous calendar quarter. Current procedures require that, when the Rule goes into effect, an MOC index arbitrage order without the appropriate tick restriction must be canceled unless it is related to an expiring derivative index product.

[5] *See* Securities Exchange Act Release No. 41497 (June 9, 1999), 64 FR 32595 (June 17, 1999). If a regulatory trading halt is in effect at or after 3:40 p.m., MOC/LOC orders can be canceled until 3:50 p.m. or the time the stock reopens, whichever occurs first.

[6] *See supra* note 3.

[7] *See supra* note 3.

[8] 15 U.S.C. 78f(b)(5).

system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–99–26 and should be submitted by September 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–21442 Filed 8–17–99; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Administrator's Line of Succession Designation, No. 1–A, Revision 22

This document replaces and supercedes ''Delegation of Authority No. 1–A, Revision 21.'' It is a ''Line of Succession Designation,'' and not a ''delegation of authority,'' consistent with the provisions of Small Business Administration's internal standard operating procedure (SOP) 00 01.

Line of Succession Designation No. 1–A, Revision 22

Effective immediately, the Administrator's Line of Succession Designation is as follows:

(a) If I am absent from the office the Deputy Administrator will assume all functions and duties of the Administrator. In the event both I and the Deputy Administrator are absent from the office, I designate the officials in listed order below to serve as Acting Administrator with full authority to perform all acts which the Administrator is authorized to perform:

(1) Chief of Staff;

(2) General Counsel;

(3) Associate Deputy Administrator for Management and Administration;

(4) Associate Deputy Administrator for Capital Access;

(5) Associate Deputy Administrator for Government Contracting and Minority Enterprise Development;

(6) Associate Deputy Administrator for Entrepreneurial Development.

(b) An individual serving in an acting capacity in any of the positions listed in paragraph (a)(1) through (6) is not also included in this Line of Succession. Instead, the next non-acting incumbent on the list shall serve as Acting Administrator.

(c) This designation shall remain in full force and effect until revoked or superceded in writing by the Administrator, or by the Deputy Administrator when serving as Acting Administrator.

(d) Serving as Acting Administrator has no effect on the officials listed in paragraph (a) (1) through (6), above, with respect to their full-time position's authorities, duties and responsibilities (except that such official cannot both recommend and approve an action).

Dated: August 9, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–21354 Filed 8–17–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Regulations; Full Table of Small Business Size Standards

AGENCY: Small Business Administration.

ACTION: Notice of publication of full table of small business size standards.

SUMMARY: The U.S. Small Business Administration (SBA) is publishing a full table of small business size standards by four-digit Standard Industrial Classification (SIC) code. The table reflects changes made to size standards since publication of SBA's Small Business Size Regulations on January 31, 1996. This table does not create, establish or modify any size standards currently in existence. This table merely presents all four-digit SIC codes for which SBA has established a small business size standard as a convenient reference for users of SBA's size standards.

FOR FURTHER INFORMATION CONTACT: SBA Office of Size Standards at (202) 205–6618.

SUPPLEMENTARY INFORMATION: SBA is publishing below a full table of small business size standards in accordance with 13 CFR 121.101. On January 31, 1996, SBA published in the **Federal Register** (61 FR 3280) a Final Rule that clarified and streamlined its small business size standards and related eligibility requirements under 13 CFR Part 121, ''Small Business Size Regulations.'' The simplification of SBA's Small Business Size Regulations reduced the apparent size of the table of small business size standards in § 121.201 by listing general size standards by SIC Division. Those standards apply to all industries in that Division except those two-digit major group or four-digit industry codes listed with other specific standards. This streamlined table eliminated the duplication of common industry size standards within a Division and reduced the Code of Federal Regulations by fourteen pages.

Since the January 31, 1996, publication of the streamlined size standards table in § 121.201, SBA has published two final rules in the **Federal Register** changing small business size standards. They are the following:

1. **Very Small Business.** On September 2, 1998, SBA published in the **Federal Register** (63 FR 46640) a Final Rule incorporating the Very Small Business (VSB) Set-Aside Pilot Program. The Final Rule became effective immediately. Section 304 of the Small Business Administration Reauthorization and Amendments Act of 1994 (Public Law 103–403) authorized the VSB program and defined a ''Very Small Business'' as one that has 15 or fewer employees together with average annual receipts that do not exceed $1 million. The VSB Program is a pilot in 10 SBA district offices, and will expire on September 30, 2000. The VSB Program is in SBA's Regulations at 13 CFR 121.401, 121.413.

2. **Engineering, Architectural, Surveying, and Mapping Services.** On May 14, 1999, SBA published in the **Federal Register** (64 FR 26275) a Final Rule increasing the small business size standards for general Engineering (part of SIC 8711), Architectural (SIC 8712), Surveying (SIC 8713), and Mapping Services (part of SIC 7389). The new size standards for each of these is $4 million in average annual revenues, effective June 14, 1999.

The Very Small Business rule does not affect this table. The Engineering, Architectural, Surveying, and Mapping Services rule does change specific size standards, which this table incorporates. Interested parties may refer to the **Federal Register** notices for further detail on these final rules. The table published below is complete and does not itself create, establish or modify any size standards currently in existence, but only presents all size standards in an expanded and more convenient format. Changes or modifications to 13 CFR 121 are only made in accordance with the Administrative Procedure Act. Any changes to the table of small business size standards will be reflected in the annual publication of the full list of size standards. SBA will also provide copies of any size related rules on its Internet web site at http://www.sba.gov/. Those with access to the Internet can obtain and download the current table of size standards, listed by four-digit SIC industry code, at http://www.sba.gov/regulations/siccodes/. SBA's Small Business Size Regulations, 13 CFR 121, are available at *http://www.sba.gov/library/lawroom.html.* Also, SBA's ''Guide to SBA Definitions of Small Business'' is available at http://www.sba.gov/size/. Others may contact any SBA office to verify size standards currently in effect.

Purpose of This Table

SBA was aware when it published the streamlined table of size standards that many users prefer a table listing size standards for each four-digit SIC code. SBA recognizes that the entire list of small business size standards for the four-digit SIC codes often makes it easier for users to apply the proper standards to their needs, and that it should also reduce the chance for error. The entire table of small business size standards also provides users with additional size standards information without expanding Federal regulations. Therefore, 13 CFR 121.101 states that SBA will publish an entire table annually in the **Federal Register**. Accordingly, this notice contains a table matching a small business size standard with each four-digit SIC code for which SBA has established a size standard.

Since the publication of the streamlined size standards table, SBA has received questions as to whether small business size standards apply to the four-digit SIC codes that are not specifically listed in the text of § 121.201. The paragraph at the head of the table in § 121.201 states that ''Size standards are listed by Division and apply *to all industries in that Division* [emphasis added] except those specifically listed with separate size standards for a specific two-digit major group or four-digit industry code.'' That is, *all* four-digit SIC codes within that major group have the same size standard, except those that SBA otherwise lists as exceptions. For example, the size standard for management consulting services, SIC code 8742, is $5 million in average annual revenues. Although this industry is not specifically listed in the size table in 13 CFR 121.201, a size standard does exist for that industry.

Proper application of the size standards table in § 121.201 is very important, because eligibility for programs reserved for small businesses requires that a concern qualify as a small business under the size standard for the appropriate SIC industry. In connection with SBA financial assistance programs, § 121.301 states that ''(a) For Business Loans and Disaster Loans (other than physical disaster loans), an applicant must not exceed the size standard for the industry [emphasis added] in which: (1) The applicant combined with its affiliates is primarily engaged; and (2) The applicant alone is primarily engaged.'' Also, to be eligible as a small business for Federal procurement programs, a concern must meet the size standard specified in the solicitation, which the contracting officer selects giving primary consideration ''to the *industry descriptions in the SIC Manual*, * * * [emphasis added]'' (§ 121.402).

The 1987 SIC Manual, Appendix B (page 699), designates ''industry'' by a four-digit SIC code. The industries described in the SIC Manual are all four-digit industries. SBA's small business size standards were established and continue to exist for the various SIC industries, which are identified solely by their four-digit codes. By publishing this full table of small business size standards annually, SBA intends to facilitate the correct use of the small business size standards.

The full table of small business size standards follows:

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
	DIVISION A — AGRICULTURE, FORESTRY AND FISHING	
	MAJOR GROUP 01 — AGRICULTURAL PRODUCTION — CROPS	
0111	Wheat	$0.5
0112	Rice	$0.5
0115	Corn	$0.5
0116	Soybeans	$0.5
0119	Cash Grains, N.E.C.	$0.5
0131	Cotton	$0.5

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
0132	Tobacco	$0.5
0133	Sugarcane and Sugar Beets	$0.5
0134	Irish Potatoes	$0.5
0139	Field Crops, Except Cash Grains, N.E.C.	$0.5
0161	Vegetables and Melons	$0.5
0171	Berry Crops	$0.5
0172	Grapes	$0.5
0173	Tree Nuts	$0.5
0174	Citrus Fruits	$0.5
0175	Deciduous Tree Fruits	$0.5
0179	Fruits and Tree Nuts, N.E.C.	$0.5
0181	Ornamental Floriculture Nursery Products	$0.5
0182	Food Crops Grown Under Cover	$0.5
0191	General Farms, Primarily Crop	$0.5
	MAJOR GROUP 02 — LIVESTOCK AND ANIMAL SPECIALTIES	
0211	Beef Cattle Feedlots (Custom)	$1.5
0212	Beef Cattle, Except Feedlots	$0.5
0213	Hogs	$0.5
0214	Sheep and Goats	$0.5
0219	General Livestock, Except Dairy and Poultry	$0.5
0241	Dairy Farms	$0.5
0251	Broiler, Fryer, and Roaster Chickens	$0.5
0252	Chicken Eggs	$9.0
0253	Turkeys and Turkey Eggs	$0.5
0254	Poultry Hatcheries	$0.5
0259	Poultry and Eggs, N.E.C.	$0.5
0271	Fur-Bearing Animals and Rabbits	$0.5
0272	Horses and Other Equines	$0.5
0273	Animal Aquaculture	$0.5
0279	Animal Specialties, N.E.C.	$0.5
0291	General Farms, Primarily Livestock and Animal Specialties	$0.5
	MAJOR GROUP 07 — AGRICULTURAL SERVICES	
0711	Soil Preparation Services	$5.0
0721	Crop Planting, Cultivating, and Protecting	$5.0
0722	Crop Harvesting, Primarily by Machine	$5.0
0723	Crop Preparation Service for Market, Except Cotton Ginning	$5.0
0724	Cotton Ginning	$5.0
0741	Veterinary Services for Livestock	$5.0
0742	Veterinary Services for Animal Specialties	$5.0
0751	Livestock Services, Except Veterinary	$5.0
0752	Animal Specialty Services, Except Veterinary	$5.0
0761	Farm Labor Contractors and Crew Leaders	$5.0
0762	Farm Management Services	$5.0
0781	Landscape Counseling and Planning	$5.0
0782	Lawn and Garden Services	$5.0
0783	Ornamental Shrub and Tree Services	$5.0
	MAJOR GROUP 08 — FORESTRY	
0811	Timber Tracts	$5.0
0831	Forest Nurseries and Gathering of Forest Products	$5.0
0851	Forestry Services	$5.0
	MAJOR GROUP 09 — FISHING, HUNTING, AND TRAPPING	
0912	Finfish	$3.0
0913	Shellfish	$3.0
0919	Miscellaneous Marine Products	$3.0
0921	Fish Hatcheries and Preserves	$3.0
0971	Hunting and Trapping, and Game Propagation	$3.0

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
	DIVISION B — MINING	
	MAJOR GROUP 10 — METAL MINING	
1011	Iron Ores	500
1021	Copper Ores	500
1031	Lead and Zinc Ores	500
1041	Gold Ores	500
1044	Silver Ores	500
1061	Ferroalloy Ores, Except Vanadium	500
1081	Metal Mining Services	$5.0
1094	Uranium-Radium-Vanadium Ores	500
1099	Miscellaneous Metal Ores, N.E.C.	500
	MAJOR GROUP 12 — COAL MINING	
1221	Bituminous Coal and Lignite Surface Mining	500
1222	Bituminous Coal Underground Mining	500
1231	Anthracite Mining	500
1241	Coal Mining Services	$5.0
	MAJOR GROUP 13 — OIL AND GAS EXTRACTION	
1311	Crude Petroleum and Natural Gas	500
1321	Natural Gas Liquids	500
1381	Drilling Oil and Gas Wells	500
1382	Oil and Gas Field Exploration Services	$5.0
1389	Oil and Gas Field Services, N.E.C.	$5.0
	MAJOR GROUP 14 — MINING AND QUARRYING OF NONMETALLIC MINERALS, EXCEPT FUELS	
1411	Dimension Stone	500
1422	Crushed and Broken Limestone	500
1423	Crushed and Broken Granite	500
1429	Crushed and Broken Stone, N.E.C.	500
1442	Construction Sand and Gravel	500
1446	Industrial Sand	500
1455	Kaolin and Ball Clay	500
1459	Clay, Ceramic, and Refractory Minerals, N.E.C.	500
1474	Potash, Soda, and Borate Minerals	500
1475	Phosphate Rock	500
1479	Chemical and Fertilizer Mineral Mining, N.E.C.	500
1481	Nonmetallic Minerals Services, Except Fuels	$5.0
1499	Miscellaneous Nonmetallic Minerals, Except Fuels	500
	DIVISION C — CONSTRUCTION	
	MAJOR GROUP 15 — BUILDING CONSTRUCTION — GENERAL CONTRACTORS AND OPERATIVE BUILDERS	
1521	General Contractors — Single-Family Houses	$17.0
1522	General Contractors — Residential Buildings, Other than Single-Family	$17.0
1531	Operative Builders	$17.0
1541	General Contractors — Industrial Buildings and Warehouses	$17.0
1542	General Contractors — Nonresidential Buildings, Other than Industrial Buildings and Warehouses	$17.0
	MAJOR GROUP 16 — HEAVY CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION — CONTRACTORS	
1611	Highway and Street Construction, Except Elevated Highways	$17.0
1622	Bridge, Tunnel, and Elevated Highway Construction	$17.0
1623	Water, Sewer, Pipeline, and Communications and Power Line Construction	$17.0
1629	Heavy Construction, N.E.C.	$17.0
EXCEPT,	Dredging and Surface Cleanup Activities	[1] $13.5
	MAJOR GROUP 17 — CONSTRUCTION — SPECIAL TRADE CONTRACTORS	
1711	Plumbing, Heating, and Air-Conditioning	$7.0
1721	Painting and Paper Hanging	$7.0

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
1731	Electrical Work	$7.0
1741	Masonry, Stone Setting, and Other Stone Work	$7.0
1742	Plastering, Drywall, Acoustical and Insulation Work	$7.0
1743	Terrazzo, Tile, Marble, and Mosaic Work	$7.0
1751	Carpentry Work	$7.0
1752	Floor Laying and Other Floor Work, N.E.C.	$7.0
1761	Roofing, Siding, and Sheet Metal Work	$7.0
1771	Concrete Work	$7.0
1781	Water Well Drilling	$7.0
1791	Structural Steel Erection	$7.0
1793	Glass and Glazing Work	$7.0
1794	Excavation Work	$7.0
1795	Wrecking and Demolition Work	$7.0
1796	Installation or Erection of Building Equipment, N.E.C.	$7.0
1799	Special Trade Contractors, N.E.C.	$7.0
EXCEPT,	Base Housing Maintenance	[12] $7.0

DIVISION D — MANUFACTURING [2]

MAJOR GROUP 20 — FOOD AND KINDRED PRODUCTS

2011	Meat Packing Plants	500
2013	Sausages and Other Prepared Meat Products	500
2015	Poultry Slaughtering and Processing	500
2021	Creamery Butter	500
2022	Natural, Processed, and Imitation Cheese	500
2023	Dry, Condensed, and Evaporated Dairy Products	500
2024	Ice Cream and Frozen Desserts	500
2026	Fluid Milk	500
2032	Canned Specialties	1,000
2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies	[3] 500
2034	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes	500
2035	Pickled Fruits and Vegetables, Vegetable Sauces and Seasonings, and Salad Dressings	500
2037	Frozen Fruits, Fruit Juices, and Vegetables	500
2038	Frozen Specialties, N.E.C.	500
2041	Flour and Other Grain Mill Products	500
2043	Cereal Breakfast Foods	1,000
2044	Rice Milling	500
2045	Prepared Flour Mixes and Doughs	500
2046	Wet Corn Milling	750
2047	Dog and Cat Food	500
2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats	500
2051	Bread and Other Bakery Products, Except Cookies and Crackers	500
2052	Cookies and Crackers	750
2053	Frozen Bakery Products, Except Bread	500
2061	Cane Sugar, Except Refining	500
2062	Cane Sugar Refining	750
2063	Beet Sugar	750
2064	Candy and Other Confectionery Products	500
2066	Chocolate and Cocoa Products	500
2067	Chewing Gum	500
2068	Salted and Roasted Nuts and Seeds	500
2074	Cottonseed Oil Mills	500
2075	Soybean Oil Mills	500
2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean	1,000
2077	Animal and Marine Fats and Oils	500
2079	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, N.E.C.	750
2082	Malt Beverages	500
2083	Malt	500
2084	Wines, Brandy, and Brandy Spirits	500
2085	Distilled and Blended Liquors	750
2086	Bottled and Canned Soft Drinks and Carbonated Waters	500
2087	Flavoring Extracts and Flavoring Syrups, N.E.C,	500
2091	Canned and Cured Fish and Seafoods	500
2092	Prepared Fresh or Frozen Fish and Seafoods	500
2095	Roasted Coffee	500
2096	Potato Chips, Corn Chips, and Similar Snacks	500
2097	Manufactured Ice	500

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
2098	Macaroni, Spaghetti, Vermicelli, and Noodles	500
2099	Food Preparations, N.E.C.	500
	MAJOR GROUP 21 — TOBACCO PRODUCTS	
2111	Cigarettes	1,000
2121	Cigars	500
2131	Chewing and Smoking Tobacco and Snuff	500
2141	Tobacco Stemming and Redrying	500
	MAJOR GROUP 22 — TEXTILE MILL PRODUCTS	
2211	Broadwoven Fabric Mills, Cotton	1,000
2221	Broadwoven Fabric Mills, Manmade Fiber and Silk	500
2231	Broadwoven Fabric Mills, Wool (Including Dyeing and Finishing)	500
2241	Narrow Fabric and Other Smallwares Mills: Cotton, Wool, Silk and Manmade Fiber	500
2251	Women's Full-Length and Knee-Length Hosiery, Except Socks	500
2252	Hosiery, N.E.C.	500
2253	Knit Outerwear Mills	500
2254	Knit Underwear and Nightwear Mills	500
2257	Weft Knit Fabric Mills	500
2258	Lace and Warp Knit Fabric Mills	500
2259	Knitting Mills, N.E.C.	500
2261	Finishers of Broadwoven Fabrics of Cotton	1,000
2262	Finishers of Broadwoven Fabrics of Manmade Fiber and Silk	500
2269	Finishers of Textiles, N.E.C.	500
2273	Carpets and Rugs	500
2281	Yarn Spinning Mills	500
2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills	500
2284	Thread Mills	500
2295	Coated Fabrics, Not Rubberized	1,000
2296	Tire Cord and Fabrics	1,000
2297	Nonwoven Fabrics	500
2298	Cordage and Twine	500
2299	Textile Goods, N.E.C.	500
	MAJOR GROUP 23 — APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS	
2311	Men's and Boys' Suits, Coats and Overcoats	500
2321	Men's and Boys' Shirts, Except Work Shirts	500
2322	Men's and Boys' Underwear and Nightwear	500
2323	Men's and Boys' Neckwear	500
2325	Men's and Boys' Separate Trousers and Slacks	500
2326	Men's and Boys' Work Clothing	500
2329	Men's and Boys' Clothing, N.E.C.	500
2331	Women's, Misses', and Juniors' Blouses and Shirts	500
2335	Women's, Misses', and Juniors' Dresses	500
2337	Women's, Misses', and Juniors' Suits, Skirts, and Coats	500
2339	Women's, Misses', and Juniors' Outerwear, N.E.C.	500
2341	Women's, Misses', Children's, and Infants' Underwear and Nightwear	500
2342	Brassieres, Girdles, and Allied Garments	500
2353	Hats, Caps, and Millinery	500
2361	Girls', Children's, and Infants' Dresses, Blouses, and Shirts	500
2369	Girls', Children's, and Infants' Outerwear, N.E.C.	500
2371	Fur Goods	500
2381	Dress and Work Gloves, Except Knit and All-Leather	500
2384	Robes and Dressing Gowns	500
2385	Waterproof Outerwear	500
2386	Leather and Sheep-Lined Clothing	500
2387	Apparel Belts	500
2389	Apparel and Accessories, N.E.C.	500
2391	Curtains and Draperies	500
2392	Housefurnishings, Except Curtains and Draperies	500
2393	Textile Bags	500
2394	Canvas and Related Products	500
2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade	500
2396	Automotive Trimmings, Apparel Findings, and Related Products	500
2397	Schiffli Machine Embroideries	500
2399	Fabricated Textile Products, N.E.C.	500

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
	MAJOR GROUP 24 — LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE	
2411	Logging	500
2421	Sawmills and Planing Mills, General	500
2426	Hardwood Dimension and Flooring Mills	500
2429	Special Product Sawmills, N.E.C.	500
2431	Millwork	500
2434	Wood Kitchen Cabinets	500
2435	Hardwood Veneer and Plywood	500
2436	Softwood Veneer and Plywood	500
2439	Structural Wood Members, N.E.C.	500
2441	Nailed and Lock Corner Wood Boxes and Shook	500
2448	Wood Pallets and Skids	500
2449	Wood Containers, N.E.C.	500
2451	Mobile Homes	500
2452	Prefabricated Wood Buildings and Components	500
2491	Wood Preserving	500
2493	Reconstituted Wood Products	500
2499	Wood Products, N.E.C.	500
	MAJOR GROUP 25 — FURNITURE AND FIXTURES	
2511	Wood Household Furniture, Except Upholstered	500
2512	Wood Household Furniture, Upholstered	500
2514	Metal Household Furniture	500
2515	Mattresses, Foundations, and Convertible Beds	500
2517	Wood Television, Radio, Phonograph, and Sewing Machine Cabinets	500
2519	Household Furniture, N.E.C.	500
2521	Wood Office Furniture	500
2522	Office Furniture, Except Wood	500
2531	Public Building and Related Furniture	500
2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers	500
2542	Office and Store Fixtures, Partitions, Shelving, and Lockers, Except Wood	500
2591	Drapery Hardware and Window Blinds and Shades	500
2599	Furniture and Fixtures, N.E.C.	500
	MAJOR GROUP 26 — PAPER AND ALLIED PRODUCTS	
2611	Pulp Mills	750
2621	Paper Mills	750
2631	Paperboard Mills	750
2652	Setup Paperboard Boxes	500
2653	Corrugated and Solid Fiber Boxes	500
2655	Fiber Cans, Tubes, Drums, and Similar Products	500
2656	Sanitary Food Containers, Except Folding	750
2657	Folding Paperboard Boxes, Including Sanitary	750
2671	Packaging Paper and Plastics Film, Coated and Laminated	500
2672	Coated and Laminated Paper, N.E.C.	500
2673	Plastics, Foil, and Coated Paper Bags	500
2674	Uncoated Paper and Multiwall Bags	500
2675	Die-Cut Paper and Paperboard and Cardboard	500
2676	Sanitary Paper Products	500
2677	Envelopes	500
2678	Stationery, Tablets, and Related Products	500
2679	Converted Paper and Paperboard Products, N.E.C.	500
	MAJOR GROUP 27 — PRINTING, PUBLISHING, AND ALLIED INDUSTRIES	
2711	Newspapers: Publishing, or Publishing and Printing	500
2721	Periodicals: Publishing, or Publishing and Printing	500
2731	Books: Publishing, or Publishing and Printing	500
2732	Book Printing	500
2741	Miscellaneous Publishing	500
2752	Commercial Printing, Lithographic	500
2754	Commercial Printing, Gravure	500
2759	Commercial Printing, N.E.C.	500
2761	Manifold Business Forms	500
2771	Greeting Cards	500
2782	Blankbooks, Looseleaf Binders and Devices	500
2789	Bookbinding and Related Work	500

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
2791	Typesetting	500
2796	Platemaking and Related Services	500
	MAJOR GROUP 28 — CHEMICALS AND ALLIED PRODUCTS	
2812	Alkalies and Chlorine	1,000
2813	Industrial Gases	1,000
2816	Inorganic Pigments	1,000
2819	Industrial Inorganic Chemicals, N.E.C.	1,000
2821	Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers	750
2822	Synthetic Rubber (Vulcanizable Elastomers)	1,000
2823	Cellulosic Manmade Fibers	1,000
2824	Manmade Organic Fibers, Except Cellulosic	1,000
2833	Medicinal Chemicals and Botanical Products	750
2834	Pharmaceutical Preparations	750
2835	In Vitro and In Vivo Diagnostic Substances	500
2836	Biological Products, Except Diagnostic Substances	500
2841	Soap and Other Detergents, Except Specialty Cleaners	750
2842	Specialty Cleaning, Polishing, and Sanitation Preparations	500
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils, and Assistants	500
2844	Perfumes, Cosmetics, and Other Toilet Preparations	500
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	500
2861	Gum and Wood Chemicals	500
2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments	750
2869	Industrial Organic Chemicals, N.E.C.	1,000
2873	Nitrogenous Fertilizers	1,000
2874	Phosphatic Fertilizers	500
2875	Fertilizers, Mixing Only	500
2879	Pesticides and Agricultural Chemicals, N.E.C.	500
2891	Adhesives and Sealants	500
2892	Explosives	750
2893	Printing Ink	500
2895	Carbon Black	500
2899	Chemicals and Chemical Preparations, N.E.C.	500
	MAJOR GROUP 29 — PETROLEUM REFINING AND RELATED INDUSTRIES	
2911	Petroleum Refining	[4] 1,500
2951	Asphalt Paving Mixtures and Blocks	500
2952	Asphalt Felts and Coatings	750
2992	Lubricating Oils and Greases	500
2999	Products of Petroleum and Coal, N.E.C.	500
	MAJOR GROUP 30 — RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS	
3011	Tires and Inner Tubes	[5] 1,000
3021	Rubber and Plastics Footwear	1,000
3052	Rubber and Plastics Hose and Belting	500
3053	Gaskets, Packing, and Sealing Devices	500
3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods	500
3069	Fabricated Rubber Products, N.E.C.	500
3081	Unsupported Plastics Film and Sheet	500
3082	Unsupported Plastics Profile Shapes	500
3083	Laminated Plastics Plate, Sheet, and Profile Shapes	500
3084	Plastics Pipe	500
3085	Plastics Bottles	500
3086	Plastics Foam Products	500
3087	Custom Compounding of Purchased Plastics Resins	500
3088	Plastics Plumbing Fixtures	500
3089	Plastics Products, N.E.C.	500
	MAJOR GROUP 31 — LEATHER AND LEATHER PRODUCTS	
3111	Leather Tanning and Finishing	500
3131	Boot and Shoe Cut Stock and Findings	500
3142	House Slippers	500
3143	Men's Footwear, Except Athletic	500
3144	Women's Footwear, Except Athletic	500
3149	Footwear, Except Rubber, N.E.C.	500
3151	Leather Gloves and Mittens	500

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
3161	Luggage	500
3171	Women's Handbags and Purses	500
3172	Personal Leather Goods, Except Women's Handbags and Purses	500
3199	Leather Goods, N.E.C.	500
	MAJOR GROUP 32 — STONE, CLAY, GLASS, AND CONCRETE PRODUCTS	
3211	Flat Glass	1,000
3221	Glass Containers	750
3229	Pressed and Blown Glass and Glassware, N.E.C.	750
3231	Glass Products, Made of Purchased Glass	500
3241	Cement, Hydraulic	750
3251	Brick and Structural Clay Tile	500
3253	Ceramic Wall and Floor Tile	500
3255	Clay Refractories	500
3259	Structural Clay Products, N.E.C.	500
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories	750
3262	Vitreous China Table and Kitchen Articles	500
3263	Fine Earthenware (Whiteware) Table and Kitchen Articles	500
3264	Porcelain Electrical Supplies	500
3269	Pottery Products, N.E.C.	500
3271	Concrete Block and Brick	500
3272	Concrete Products, Except Block and Brick	500
3273	Ready Mixed Concrete	500
3274	Lime	500
3275	Gypsum Products	1,000
3281	Cut Stone and Stone Products	500
3291	Abrasive Products	500
3292	Asbestos Products	750
3295	Minerals and Earths, Ground or Otherwise Treated	500
3296	Mineral Wool	750
3297	Nonclay Refractories	750
3299	Nonmetallic Mineral Products, N.E.C.	500
	MAJOR GROUP 33 — PRIMARY METAL INDUSTRIES	
3312	Steel Works, Blast Furnaces (Including Coke Ovens), and Rolling Mills	1,000
3313	Electrometallurgical Products, Except Steel	750
3315	Steel Wiredrawing and Steel Nails and Spikes	1,000
3316	Cold-Rolled Steel Sheet, Strip, and Bars	1,000
3317	Steel Pipe and Tubes	1,000
3321	Gray and Ductile Iron Foundries	500
3322	Malleable Iron Foundries	500
3324	Steel Investment Foundries	500
3325	Steel Foundries, N.E.C.	500
3331	Primary Smelting and Refining of Copper	1,000
3334	Primary Production of Aluminum	1,000
3339	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum	750
3341	Secondary Smelting and Refining of Nonferrous Metals	500
3351	Rolling, Drawing, and Extruding of Copper	750
3353	Aluminum Sheet, Plate, and Foil	750
3354	Aluminum Extruded Products	750
3355	Aluminum Rolling and Drawing, N.E.C.	750
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum	750
3357	Drawing and Insulating of Nonferrous Wire	1,000
3363	Aluminum Die-Castings	500
3364	Nonferrous Die-Castings, Except Aluminum	500
3365	Aluminum Foundries	500
3366	Copper Foundries	500
3369	Nonferrous Foundries, Except Aluminum and Copper	500
3398	Metal Heat Treating	750
3399	Primary Metal Products, N.E.C.	750
	MAJOR GROUP 34 — FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION EQUIPMENT	
3411	Metal Cans	1,000
3412	Metal Shipping Barrels, Drums, Kegs, and Pails	500
3421	Cutlery	500
3423	Hand and Edge Tools, Except Machine Tools Handsaws	500
3425	Saw Blades and Handsaws	500

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
3429	Hardware, N.E.C.	500
3431	Enameled Iron and Metal Sanitary Ware	750
3432	Plumbing Fixture Fittings and Trim	500
3433	Heating Equipment, Except Electric and Warm Air Furnaces	500
3441	Fabricated Structural Metal	500
3442	Metal Doors, Sash, Frames, Molding, and Trim	500
3443	Fabricated Plate Work (Boiler Shops)	500
3444	Sheet Metal Work	500
3446	Architectural and Ornamental Metal Work	500
3448	Prefabricated Metal Buildings and Components	500
3449	Miscellaneous Structural Metal Work	500
3451	Screw Machine Products	500
3452	Bolts, Nuts, Screws, Rivets, and Washers	500
3462	Iron and Steel Forgings	500
3463	Nonferrous Forgings	500
3465	Automotive Stampings	500
3466	Crowns and Closures	500
3469	Metal Stampings, N.E.C.	500
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring	500
3479	Coating, Engraving, and Allied Services, N.E.C.	500
3482	Small Arms Ammunition	1,000
3483	Ammunition, Except for Small Arms	1,500
3484	Small Arms	1,000
3489	Ordnance and Accessories, N.E.C.	500
3491	Industrial Valves	500
3492	Fluid Power Valves and Hose Fittings	500
3493	Steel Springs, Except Wire	500
3494	Valves and Pipe Fittings, N.E.C.	500
3495	Wire Springs	500
3496	Miscellaneous Fabricated Wire Products	500
3497	Metal Foil and Leaf	500
3498	Fabricated Pipe and Pipe Fittings	500
3499	Fabricated Metal Products, N.E.C.	500
	MAJOR GROUP 35 — INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	
3511	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units	1,000
3519	Internal Combustion Engines, N.E.C.	1,000
3523	Farm Machinery and Equipment	500
3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment	500
3531	Construction Machinery and Equipment	750
3532	Mining Machinery and Equipment, Except Oil and Gas Field Machinery and Equipment	500
3533	Oil and Gas Field Machinery and Equipment	500
3534	Elevators and Moving Stairways	500
3535	Conveyors and Conveying Equipment	500
3536	Overhead Traveling Cranes, Hoists, and Monorail Systems	500
3537	Industrial Trucks, Tractors, Trailers, and Stackers	750
3541	Machine Tools, Metal Cutting Types	500
3542	Machine Tools, Metal Forming Types	500
3543	Industrial Patterns	500
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds	500
3545	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices	500
3546	Power-Driven Handtools	500
3547	Rolling Mill Machinery and Equipment	500
3548	Electric and Gas Welding and Soldering Equipment	500
3549	Metalworking Machinery, N.E.C.	500
3552	Textile Machinery	500
3553	Woodworking Machinery	500
3554	Paper Industries Machinery	500
3555	Printing Trades Machinery and Equipment	500
3556	Food Products Machinery	500
3559	Special Industry Machinery, N.E.C.	500
3561	Pumps and Pumping Equipment	500
3562	Ball and Roller Bearings	750
3563	Air and Gas Compressors	500
3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment	500
3565	Packaging Machinery	500
3566	Speed Changers, Industrial High-Speed Drives, and Gears	500
3567	Industrial Process Furnaces and Ovens	500
3568	Mechanical Power Transmission Equipment, N.E.C.	500

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
3569	General Industrial Machinery and Equipment, N.E.C.	500
3571	Electronic Computers	1,000
3572	Computer Storage Devices	1,000
3575	Computer Terminals	1,000
3577	Computer Peripheral Equipment, N.E.C.	1,000
3578	Calculating and Accounting Machines, Except Electronic Computers	1,000
3579	Office Machines, N.E.C.	500
3581	Automatic Vending Machines	500
3582	Commercial Laundry, Drycleaning, and Pressing Machines	500
3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment	750
3586	Measuring and Dispensing Pumps	500
3589	Service Industry Machinery, N.E.C.	500
3592	Carburetors, Pistons, Piston Rings, and Valves	500
3593	Fluid Power Cylinders and Actuators	500
3594	Fluid Power Pumps and Motors	500
3596	Scales and Balances, Except Laboratory	500
3599	Industrial and Commercial Machinery and Equipment, N.E.C.	500
MAJOR GROUP 36 — ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS, EXCEPT COMPUTER EQUIPMENT		
3612	Power, Distribution, and Specialty Transformers	750
3613	Switchgear and Switchboard Apparatus	750
3621	Motors and Generators	1,000
3624	Carbon and Graphite Products	750
3625	Relays and Industrial Controls	750
3629	Electrical Industrial Apparatus, N.E.C.	500
3631	Household Cooking Equipment	750
3632	Household Refrigerators and Home and Farm Freezers	1,000
3633	Household Laundry Equipment	1,000
3634	Electric Housewares and Fans	750
3635	Household Vacuum Cleaners	750
3639	Household Appliances, N.E.C.	500
3641	Electric Lamp Bulbs and Tubes	1,000
3643	Current-Carrying Wiring Devices	500
3644	Noncurrent-Carrying Wiring Devices	500
3645	Residential Electric Lighting Fixtures	500
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures	500
3647	Vehicular Lighting Equipment	500
3648	Lighting Equipment, N.E.C.	500
3651	Household Audio and Video Equipment	750
3652	Phonograph Records and Prerecorded Audio Tapes and Disks	750
3661	Telephone and Telegraph Apparatus	1,000
3663	Radio and Television Broadcasting and Communications Equipment	750
3669	Communications Equipment, N.E.C.	750
3671	Electron Tubes	750
3672	Printed Circuit Boards	500
3674	Semiconductors and Related Devices	500
3675	Electronic Capacitors	500
3676	Electronic Resistors	500
3677	Electronic Coils, Transformers, and Other Inductors	500
3678	Electronic Connectors	500
3679	Electronic Components, N.E.C.	500
3691	Storage Batteries	500
3692	Primary Batteries, Dry and Wet	1,000
3694	Electrical Equipment for Internal Combustion Engines	750
3695	Magnetic and Optical Recording Media	1,000
3699	Electrical Machinery, Equipment, and Supplies	750
MAJOR GROUP 37 — TRANSPORTATION EQUIPMENT		
3711	Motor Vehicles and Passenger Car Bodies	1,000
3713	Truck and Bus Bodies	500
3714	Motor Vehicle Parts and Accessories	750
3715	Truck Trailers	500
3716	Motor Homes	1,000
3721	Aircraft	1,500
3724	Aircraft Engines and Engine Parts	1,000
3728	Aircraft Parts and Auxiliary Equipment, N.E.C.	[9] 1,000
3731	Shipbuilding and Repair of Nuclear Propelled Ships	1,000
EXCEPT,	Shipbuilding of Nonnuclear Propelled Ships and Nonpropelled Ships	1,000

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
	Ship Repair (Including Overhauls and Conversions) Performed on Nonnuclear Propelled and Nonpropelled Ships East of the 108th Meridian	1,000
	Ship Repair (Including Overhauls and Conversions) Performed on Nonnuclear Propelled and Nonpropelled Ships West of the 108th Meridian	1,000
3732	Boat Building and Repairing	500
3743	Railroad Equipment	1,000
3751	Motorcycles, Bicycles, and Parts	500
3761	Guided Missiles and Space Vehicles	1,000
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts	1,000
3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment, N.E.C.	1,000
3792	Travel Trailers and Campers	500
3795	Tanks and Tank Components	1,000
3799	Transportation Equipment, N.E.C.	500
	MAJOR GROUP 38 — MEASURING, ANALYZING, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC, MEDICAL, AND OPTICAL GOODS; WATCHES AND CLOCKS	
3812	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments	750
3821	Laboratory Apparatus and Furniture	500
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances	500
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products	500
3824	Totalizing Fluid Meters and Counting Devices	500
3825	Instruments for Measuring and Testing of Electricity and Electrical Signals	500
3826	Laboratory Analytical Instruments	500
3827	Optical Instruments and Lenses	500
3829	Measuring and Controlling Devices, N.E.C.	500
3841	Surgical and Medical Instruments and Apparatus	500
3842	Orthopedic, Prosthetic, and Surgical Appliances and Supplies	500
3843	Dental Equipment and Supplies	500
3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus	500
3845	Electromedical and Electrotherapeutic Apparatus	500
3851	Ophthalmic Goods	500
3861	Photographic Equipment and Supplies	500
3873	Watches, Clocks, Clockwork Operated Devices, and Parts	500
	MAJOR GROUP 39 — MISCELLANEOUS MANUFACTURING INDUSTRIES	
3911	Jewelry, Precious Metal	500
3914	Silverware, Plated Ware, and Stainless Steel Ware	500
3915	Jewelers' Findings and Materials, and Lapidary Work	500
3931	Musical Instruments	500
3942	Dolls and Stuffed Toys	500
3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles	500
3949	Sporting and Athletic Goods, N.E.C.	500
3951	Pens, Mechanical Pencils, and Parts	500
3952	Lead Pencils, Crayons, and Artists' Materials	500
3953	Marking Devices	500
3955	Carbon Paper and Inked Ribbons	500
3961	Costume Jewelry and Costume Novelties, Except Precious Metal	500
3965	Fasteners, Buttons, Needles, and Pins	500
3991	Brooms and Brushes	500
3993	Signs and Advertising Specialties	500
3995	Burial Caskets	500
3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, N.E.C.	750
3999	Manufacturing Industries, N.E.C.	500
	DIVISION E — TRANSPORTATION, COMMUNICATIONS ELECTRIC, GAS AND SANITARY SERVICES	
	MAJOR GROUP 40 — RAILROAD TRANSPORTATION	
4011	Railroads, Line-Haul Operating	1,500
4013	Railroad Switching and Terminal Establishments	500
	MAJOR GROUP 41 — LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER TRANSPORTATION	
4111	Local and Suburban Transit	$5.0
4119	Local Passenger Transportation, N.E.C.	$5.0
4121	Taxicabs	$5.0

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
4131	Intercity and Rural Bus Transportation	$5.0
4141	Local Bus Charter Service	$5.0
4142	Bus Charter Service, Except Local	$5.0
4151	School Buses	$5.0
4173	Terminal and Service Facilities for Motor Vehicle Passenger Transportation	$5.0
	MAJOR GROUP 42 — MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING	
4212	Local Trucking Without Storage	$18.5
EXCEPT,	Garbage and Refuse Collection, Without Disposal	$6.0
4213	Trucking, Except Local	$18.5
4214	Local Trucking With Storage	$18.5
4215	Courier Services, Except by Air	$18.5
4221	Farm Product Warehousing and Storage	$18.5
4222	Refrigerated Warehousing and Storage	$18.5
4225	General Warehousing and Storage	$18.5
4226	Special Warehousing and Storage, N.E.C.	$18.5
4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	$5.0
	MAJOR GROUP 44 — WATER TRANSPORTATION	
4412	Deep Sea Foreign Transportation of Freight	500
4424	Deep Sea Domestic Transportation of Freight	500
4432	Freight Transportation on the Great Lakes—St. Lawrence Seaway	500
4449	Water Transportation of Freight, N.E.C.	500
4481	Deep Sea Transportation of Passengers, Except by Ferry	500
4482	Ferries	500
4489	Water Transportation of Passengers, N.E.C.	500
4491	Marine Cargo Handling	$18.5
4492	Towing and Tugboat Services	$5.0
4493	Marinas	$5.0
4499	Water Transportation Services, N.E.C.	$5.0
EXCEPT,	Offshore Marine Water Transportation Services	$20.5
	MAJOR GROUP 45 — TRANSPORTATION BY AIR	
4512	Air Transportation, Scheduled	1,500
4513	Air Courier Services	1,500
4522	Air Transportation, Nonscheduled	1,500
EXCEPT,	Offshore Marine Air Transportation Services	$20.5
4581	Airports, Flying Fields, and Airport Terminal Services	$5.0
	MAJOR GROUP 46 — PIPELINES, EXCEPT NATURAL GAS	
4612	Crude Petroleum Pipelines	1,500
4613	Refined Petroleum Pipelines	1,500
4619	Pipelines, N.E.C.	$25.0
	MAJOR GROUP 47 — TRANSPORTATION SERVICES	
4724	Travel Agencies	[6] $1.0
4725	Tour Operators	$5.0
4729	Arrangement of Passenger Transportation, N.E.C.	$5.0
4731	Arrangement of Transportation of Freight and Cargo	$18.5
4741	Rental of Railroad Cars	$5.0
4783	Packing and Crating	$18.5
4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation	$5.0
4789	Transportation Services, N.E.C.	$5.0
	MAJOR GROUP 48 — COMMUNICATIONS	
4812	Radiotelephone Communications	1,500
4813	Telephone Communications, Except Radiotelephone	1,500
4822	Telegraph and Other Message Communications	$5.0
4832	Radio Broadcasting Stations	$5.0
4833	Television Broadcasting Stations	$10.5
4841	Cable and Other Pay Television Services	$11.0
4899	Communications Services, N.E.C.	$11.0

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
	MAJOR GROUP 49 — ELECTRIC, GAS, AND SANITARY SERVICES	
4911	Electric Services	4 million megawatt hrs.
4922	Natural Gas Transmission	$5.0
4923	Gas Transmission and Distribution	$5.0
4924	Natural Gas Distribution	500
4925	Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution	$5.0
4931	Electric and Other Services Combined	$5.0
4932	Gas and Other Services Combined	$5.0
4939	Combination Utilities, N.E.C.	$5.0
4941	Water Supply	$5.0
4952	Sewerage Systems	$5.0
4953	Refuse Systems	$6.0
4959	Sanitary Services, N.E.C.	$5.0
4961	Steam and Air-Conditioning Supply	$9.0
4971	Irrigation Systems	$5.0
	DIVISION F — WHOLESALE TRADE	
	(Not Applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)	
	MAJOR GROUP 50 — WHOLESALE TRADE — DURABLE GOODS	
5012	Automobiles and Other Motor Vehicles	100
5013	Motor Vehicle Supplies and New Parts	100
5014	Tires and Tubes	100
5015	Motor Vehicle Parts, Used	100
5021	Furniture	100
5023	Homefurnishings	100
5031	Lumber, Plywood, Millwork, and Wood Panels	100
5032	Brick, Stone, and Related Construction Materials	100
5033	Roofing, Siding, and Insulation Materials	100
5039	Construction Materials, N.E.C.	100
5043	Photographic Equipment and Supplies	100
5044	Office Equipment	100
5045	Computers and Computer Peripheral Equipment and Software	100
5046	Commercial Equipment, N.E.C.	100
5047	Medical, Dental, and Hospital Equipment and Supplies	100
5048	Ophthalmic Goods	100
5049	Professional Equipment and Supplies, N.E.C.	100
5051	Metals Service Centers and Offices	100
5052	Coal and Other Minerals and Ores	100
5063	Electrical Apparatus and Equipment, Wiring Supplies, and Construction Materials	100
5064	Electrical Appliances, Television and Radio Sets	100
5065	Electronic Parts and Equipment, N.E.C.	100
5072	Hardware	100
5074	Plumbing and Heating Equipment and Supplies (Hydronics)	100
5075	Warm Air Heating and Air-Conditioning Equipment and Supplies	100
5078	Refrigeration Equipment and Supplies	100
5082	Construction and Mining (Except Petroleum) Machinery and Equipment	100
5083	Farm and Garden Machinery and Equipment	100
5084	Industrial Machinery and Equipment	100
5085	Industrial Supplies	100
5087	Service Establishment Equipment and Supplies	100
5088	Transportation Equipment and Supplies, Except Motor Vehicles	100
5091	Sporting and Recreational Goods and Supplies	100
5092	Toys and Hobby Goods and Supplies	100
5093	Scrap and Waste Materials	100
5094	Jewelry, Watches, Precious Stones, and Precious Metals	100
5099	Durable Goods, N.E.C.	100
	MAJOR GROUP 51 — WHOLESALE TRADE — NONDURABLE GOODS	
5111	Printing and Writing Paper	100
5112	Stationery and Office Supplies	100

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
5113	Industrial and Personal Service Paper	100
5122	Drugs, Drug Proprietaries, and Druggists' Sundries	100
5131	Piece Goods, Notions, and Other Dry Goods	100
5136	Men's and Boys' Clothing and Furnishings	100
5137	Women's, Children's, and Infants' Clothing and Accessories	100
5139	Footwear	100
5141	Groceries, General Line	100
5142	Packaged Frozen Foods	100
5143	Dairy Products, Except Dried or Canned	100
5144	Poultry and Poultry Products	100
5145	Confectionery	100
5146	Fish and Seafood	100
5147	Meats and Meat Products	100
5148	Fresh Fruits and Vegetables	100
5149	Groceries and Related Products, N.E.C.	100
5153	Grain and Field Beans	100
5154	Livestock	100
5159	Farm-Product Raw Materials, N.E.C.	100
5162	Plastics Materials and Basic Forms and Shapes	100
5169	Chemical and Allied Products, N.E.C.	100
5171	Petroleum Bulk Stations and Terminals	100
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	100
5181	Beer and Ale	100
5182	Wine and Distilled Alcoholic Beverages	100
5191	Farm Supplies	100
5192	Books, Periodicals, and Newspapers	100
5193	Flowers, Nursery Stock, and Florists' Supplies	100
5194	Tobacco and Tobacco Products	100
5198	Paints, Varnishes, and Supplies	100
5199	Nondurable Goods, N.E.C.	100

DIVISION G — RETAIL TRADE

(Not Applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

	MAJOR GROUP 52 — BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY, AND MOBILE HOME DEALERS	
5211	Lumber and Other Building Materials Dealers	$5.0
5231	Paint, Glass, and Wallpaper Stores	$5.0
5251	Hardware Stores	$5.0
5261	Retail Nurseries, Lawn and Garden Supply Stores	$5.0
5271	Mobile Home Dealers	$9.5
	MAJOR GROUP 53 — GENERAL MERCHANDISE STORES	
5311	Department Stores	$20.0
5331	Variety Stores	$8.0
5399	Miscellaneous General Merchandise Stores	$5.0
	MAJOR GROUP 54 — FOOD STORES	
5411	Grocery Stores	$20.0
5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners	$5.0
5431	Fruit and Vegetable Markets	$5.0
5441	Candy, Nut, and Confectionery Stores	$5.0
5451	Dairy Products Stores	$5.0
5461	Retail Bakeries	$5.0
5499	Miscellaneous Food Stores	$5.0
	MAJOR GROUP 55 — AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	
5511	Motor Vehicle Dealers (New and Used)	$21.0
5521	Motor Vehicle Dealers (Used Only)	$17.0
5531	Auto and Home Supply Stores	$5.0
5541	Gasoline Service Stations	$6.5
5551	Boat Dealers	$5.0
5561	Recreational Vehicle Dealers	$5.0

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
5571	Motorcycle Dealers	$5.0
5599	Automotive Dealers, N.E.C.	$5.0
EXCEPT,	Aircraft Dealers, Retail	$7.5
	MAJOR GROUP 56 — APPAREL AND ACCESSORY STORES	
5611	Men's and Boys' Clothing and Accessory Stores	$6.5
5621	Women's Clothing Stores	$6.5
5632	Women's Accessory and Specialty Stores	$5.0
5641	Children's and Infants' Wear Stores	$5.0
5651	Family Clothing Stores	$6.5
5661	Shoe Stores	$6.5
5699	Miscellaneous Apparel and Accessory Stores	$5.0
	MAJOR GROUP 57 — HOME FURNITURE, FURNISHINGS, AND EQUIPMENT STORES	
5712	Furniture Stores	$5.0
5713	Floor Covering Stores	$5.0
5714	Drapery, Curtain, and Upholstery Stores	$5.0
5719	Miscellaneous Homefurnishings Stores	$5.0
5722	Household Appliance Stores	$6.5
5731	Radio, Television, and Consumer Electronics Stores	$6.5
5734	Computer and Computer Software Stores	$6.5
5735	Record and Prerecorded Tape Stores	$5.0
5736	Musical Instrument Stores	$5.0
	MAJOR GROUP 58 — EATING AND DRINKING PLACES	
5812	Eating Places	$5.0
EXCEPT,	Food Service, Institutional	$15.0
5813	Drinking Places (Alcoholic Beverages)	$5.0
	MAJOR GROUP 59 — MISCELLANEOUS RETAIL	
5912	Drug Stores and Proprietary Stores	$5.0
5921	Liquor Stores	$5.0
5932	Used Merchandise Stores	$5.0
5941	Sporting Goods Stores and Bicycle Shops	$5.0
5942	Book Stores	$5.0
5943	Stationery Stores	$5.0
5944	Jewelry Stores	$5.0
5945	Hobby, Toy, and Game Shops	$5.0
5946	Camera and Photographic Supply Stores	$5.0
5947	Gift, Novelty, and Souvenir Shops	$5.0
5948	Luggage and Leather Goods Stores	$5.0
5949	Sewing, Needlework, and Piece Goods Stores	$5.0
5961	Catalog and Mail-Order Houses	$18.5
5962	Automatic Merchandising Machine Operators	$5.0
5963	Direct Selling Establishments	$5.0
5983	Fuel Oil Dealers	$9.0
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers	$5.0
5989	Fuel Dealers, N.E.C.	$5.0
5992	Florists	$5.0
5993	Tobacco Stores and Stands	$5.0
5994	News Dealers and Newsstands	$5.0
5995	Optical Goods Stores	$5.0
5999	Miscellaneous Retail Stores, N.E.C.	$5.0
	DIVISION H — FINANCE, INSURANCE, AND REAL ESTATE	
	MAJOR 60 — DEPOSITORY INSTITUTIONS	
6021	National Commercial Banks	$100 million in Assets [7]
6022	State Commercial Banks	$100 million in Assets [7]
6029	Commercial Banks, N.E.C.	$100 million in Assets [7]

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
6035	Savings Institutions, Federally Chartered	$100 million in Assets [7]
6036	Savings Institutions, Not Federally Chartered	$100 million in Assets [7]
6061	Credit Unions, Federally Chartered	$100 million in Assets [7]
6062	Credit Unions, Not Federally Chartered	$100 million in Assets [7]
6081	Branches and Agencies of Foreign Banks	$100 million in Assets [7]
6082	Foreign Trade and International Banking Institutions	$100 million in Assets [7]
6091	Deposit Trust Facilities	$5.0
6099	Functions Related to Depository Banking, N.E.C.	$5.0
	MAJOR GROUP 61 — NONDEPOSITORY INSTITUTION	
6141	Personal Credit Institutions	$5.0
6153	Short-Term Business Credit Institutions, Except Agriculture	$5.0
6159	Miscellaneous Business Credit Institutions	$5.0
6162	Mortgage Bankers and Loan Correspondents	$5.0
6163	Loan Brokers	$5.0
	MAJOR GROUP 62 — SECURITY AND COMMODITY BROKERS, DEALERS, EXCHANGES AND SERVICES	
6211	Security Brokers, Dealers and Flotation Companies	$5.0
6221	Commodity Contracts Brokers and Dealers	$5.0
6231	Security and Commodity Exchanges	$5.0
6282	Investment Advice	$5.0
6289	Services Allied With the Exchange of Securities or Commodities, N.E.C.	$5.0
	MAJOR GROUP 63 — INSURANCE CARRIERS	
6311	Life Insurance	$5.0
6321	Accident and Health Insurance	$5.0
6324	Hospital and Medical Service Plans	$5.0
6331	Fire, Marine, and Casualty Insurance	1,500
6351	Surety Insurance	$5.0
6361	Title Insurance	$5.0
6371	Pension, Health and Welfare Funds	$5.0
6399	Insurance Carriers, N.E.C.	$5.0
	MAJOR GROUP 64 — INSURANCE AGENTS, BROKERS, AND SERVICE	
6411	Insurance Agents, Brokers, and Service	$5.0
	MAJOR GROUP 65 — REAL ESTATE	
6512	Operators of Nonresidential Buildings	$5.0
6513	Operators of Apartment Buildings	$5.0
6514	Operators of Dwellings Other Than Apartment Buildings	$5.0
6515	Operators of Residential Mobile Home Sites	$5.0
EXCEPT,	Leasing of Building Space to Federal Government by Owners	[8] $15.0
6517	Lessors of Railroad Property	$5.0
6519	Lessors of Real Property, N.E.C.	$5.0
6531	Real Estate Agents and Managers	[6] $1.5
6541	Title Abstract Offices	$5.0
6552	Land Subdividers and Developers, Except Cemetaries	$5.0
6553	Cemetery Subdividers and Developers	$5.0
	MAJOR GROUP 67 — HOLDING AND OTHER INVESTMENT OFFICES	
6712	Offices of Bank Holding Companies	$5.0
6719	Offices of Holding Companies, N.E.C.	$5.0
6722	Management Investment Offices, Open-End	$5.0
6726	Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices	$5.0
6732	Educational, Religious, and Charitable Trusts	$5.0
6733	Trusts, Except Educational, Religious, and Charitable	$5.0
6792	Oil Royalty Traders	$5.0
6794	Patent Owners and Lessors	$5.0

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
6798	Real Estate Investment Trusts	$5.0
6799	Investors, N.E.C.	$5.0
	DIVISION I — SERVICES	
	MAJOR GROUP 70 — HOTELS, ROOMING HOUSES, CAMPS, AND OTHER LODGING PLACES	
7011	Hotels and Motels	$5.0
7021	Rooming and Boarding Houses	$5.0
7032	Sporting and Recreational Camps	$5.0
7033	Recreational Vehicle Parks and Campsites	$5.0
7041	Organization Hotels and Lodging Houses, on Membership Basis	$5.0
	MAJOR GROUP 72 — PERSONAL SERVICES	
7211	Power Laundries, Family and Commercial	$10.5
7212	Garment Pressing, and Agents for Laundries and Drycleaners	$5.0
7213	Linen Supply	$10.5
7215	Coin-Operated Laundries and Drycleaning	$5.0
7216	Drycleaning Plants, Except Rug Cleaning	$3.5
7217	Carpet and Upholstery Cleaning	$3.5
7218	Industrial Launderers	$10.5
7219	Laundry and Garment Services, N.E.C.	$5.0
7221	Photographic Studios, Portrait	$5.0
7231	Beauty Shops	$5.0
7241	Barber Shops	$5.0
7251	Shoe Repair Shops and Shoeshine Parlors	$5.0
7261	Funeral Service and Crematories	$5.0
7291	Tax Return Preparation Services	$5.0
7299	Miscellaneous Personal Services, N.E.C.	$5.0
	MAJOR GROUP 73 — BUSINESS SERVICES	
7311	Advertising Agencies	[6] $5.0
7312	Outdoor Advertising Services	[6] $5.0
7313	Radio, Television, and Publishers' Advertising Representatives	[6] $5.0
7319	Advertising, N.E.C.	[6] $5.0
7322	Adjustment and Collection Services	$5.0
7323	Credit Reporting Services	$5.0
7331	Direct Mail Advertising Services	$5.0
7334	Photocopying and Duplicating Services	$5.0
7335	Commercial Photography	$5.0
7336	Commercial Art and Graphic Design	$5.0
7338	Secretarial and Court Reporting Services	$5.0
7342	Disinfecting and Pest Control Services	$5.0
7349	Building Cleaning and Maintenance Services, N.E.C.	$12.0
7352	Medical Equipment Rental and Leasing	$5.0
7353	Heavy Construction Equipment Rental and Leasing	$5.0
7359	Equipment Rental and Leasing, N.E.C.	$5.0
7361	Employment Agencies	$5.0
7363	Help Supply Services	$5.0
7371	Computer Programming Services	$18.0
7372	Prepackaged Software	$18.0
7373	Computer Integrated Systems Design	$18.0
7374	Computer Processing and Data Preparation and Processing Services	$18.0
7375	Information Retrieval Services	$18.0
7376	Computer Facilities Management Services	$18.0
7377	Computer Rental and Leasing	$18.0
7378	Computer Maintenance and Repair	$18.0
7379	Computer Related Services, N.E.C.	$18.0
7381	Detective, Guard, and Armored Car Services	$9.0
7382	Security Systems Services	$9.0
7383	News Syndicates	$5.0
7384	Photofinishing Laboratories	$5.0
7389	Business Services, N.E.C.	$5.0
EXCEPT,	Map Drafting Services, Mapmaking (Including Aerial) and Photogrammetric Mapping Services	$4.0

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
	MAJOR GROUP 75 — AUTOMOTIVE REPAIR, SERVICES, AND PARKING	
7513	Truck Rental and Leasing, Without Drivers	$18.5
7514	Passenger Car Rental	$18.5
7515	Passenger Car Leasing	$18.5
7519	Utility Trailer and Recreational Vehicle Rental	$5.0
7521	Automobile Parking	$5.0
7532	Top, Body, and Upholstery Repair Shops and Paint Shops	$5.0
7533	Automotive Exhaust System Repair Shops	$5.0
7534	Tire Retreading and Repair Shops	$10.5
7536	Automotive Glass Replacement Shops	$5.0
7537	Automotive Transmission Repair Shops	$5.0
7538	General Automotive Repair Shops	$5.0
7539	Automotive Repair Shops, N.E.C.	$5.0
7542	Carwashes	$5.0
7549	Automotive Services, Except Repair and Carwashes	$5.0
	MAJOR GROUP 76 — MISCELLANEOUS REPAIR SERVICES	
7622	Radio and Television Repair Shops	$5.0
7623	Refrigeration and Air-Conditioning Service and Repair Shops	$5.0
7629	Electrical and Electronic Repair Shops, N.E.C.	$5.0
7631	Watch, Clock, and Jewelry Repair	$5.0
7641	Reupholstery and Furniture Repair	$5.0
7692	Welding Repair	$5.0
7694	Armature Rewinding Shops	$5.0
7699	Repair Shops and Related Services, N.E.C.	[9] $5.0
	MAJOR GROUP 78 — MOTION PICTURES	
7812	Motion Picture and Video Tape Production	$21.5
7819	Services Allied to Motion Picture Production	$21.5
7822	Motion Picture and Video Tape Distribution	$21.5
7829	Services Allied to Motion Picture Distribution	$5.0
7832	Motion Picture Theaters, Except Drive-In	$5.0
7833	Drive-In Motion Picture Theaters	$5.0
7841	Video Tape Rental	$5.0
	MAJOR GROUP 79 — AMUSEMENT AND RECREATION SERVICES	
7911	Dance Studios, Schools, and Halls	$5.0
7922	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services	$5.0
7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups	$5.0
7933	Bowling Centers	$5.0
7941	Professional Sports Clubs and Promoters	$5.0
7948	Racing, Including Track Operation	$5.0
7991	Physical Fitness Facilities	$5.0
7993	Coin-Operated Amusement Devices	$5.0
7996	Amusement Parks	$5.0
7997	Membership Sports and Recreation Clubs	$5.0
7999	Amusement and Recreation Services, N.E.C.	$5.0
	MAJOR GROUP 80 — HEALTH SERVICES	
8011	Offices and Clinics of Doctors of Medicine	$5.0
8021	Offices and Clinics of Dentists	$5.0
8031	Offices and Clinics of Doctors of Osteopathy	$5.0
8041	Offices and Clinics of Chiropractors	$5.0
8042	Offices and Clinics of Optometrists	$5.0
8043	Offices and Clinics of Podiatrists	$5.0
8049	Offices and Clinics of Health Practitioners, N.E.C.	$5.0
8051	Skilled Nursing Care Facilities	$5.0
8052	Intermediate Care Facilities	$5.0
8059	Nursing and Personal Care Facilities, N.E.C.	$5.0
8062	General Medical and Surgical Hospitals	$5.0
8063	Psychiatric Hospitals	$5.0
8069	Specialty Hospitals, Except Psychiatric	$5.0
8071	Medical Laboratories	$5.0
8072	Dental Laboratories	$5.0
8082	Home Health Care Services	$5.0

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
8092	Kidney Dialysis Centers	$5.0
8093	Specialty Outpatient Facilities, N.E.C.	$5.0
8099	Health and Allied Services, N.E.C.	$5.0
	MAJOR GROUP 81 — LEGAL SERVICES	
8111	Legal Services	$5.0
	MAJOR GROUP 82 — EDUCATIONAL SERVICES	
8211	Elementary and Secondary Schools	$5.0
8221	Colleges, Universities, and Professional Schools	$5.0
8222	Junior Colleges and Technical Institutes	$5.0
8231	Libraries	$5.0
8243	Data Processing Schools	$5.0
8244	Business and Secretarial Schools	$5.0
8249	Vocational Schools, N.E.C.	$5.0
8299	Schools and Educational Services, N.E.C.	$5.0
EXCEPT,	Flight Training Services	$18.5
	MAJOR GROUP 83 — SOCIAL SERVICES	
8322	Individual and Family Social Services	$5.0
8331	Job Training and Vocational Rehabilitation Services	$5.0
8351	Child Day Care Services	$5.0
8361	Residential Care	$5.0
8399	Social Services, N.E.C.	$5.0
	MAJOR GROUP 84 — MUSEUMS, ART GALLERIES, AND BOTANICAL AND ZOOLOGICAL GARDENS	
8412	Museums and Art Galleries	$5.0
8422	Arboreta and Botanical or Zoological Gardens	$5.0
	MAJOR GROUP 86 — MEMBERSHIP ORGANIZATIONS	
8611	Business Associations	$5.0
8621	Professional Membership Organizations	$5.0
8631	Labor Unions and Similar Labor Organizations	$5.0
8641	Civic, Social, and Fraternal Associations	$5.0
8651	Political Organizations	$5.0
8661	Religious Organizations	$5.0
8699	Membership Organizations, N.E.C.	$5.0
	MAJOR GROUP 87 — ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT, AND RELATED SERVICES	
8711	Engineering Services	$4.0
EXCEPT,	Military and Aerospace Equipment and Military Weapons	$20.0
EXCEPT,	Contracts and Subcontracts for Engineering Services Awarded Under the National Energy Policy Act of 1992	$20.0
EXCEPT,	Marine Engineering and Naval Architecture	$13.5
8712	Architectural Services (Other than Naval)	$4.0
8713	Surveying Services	$4.0
8721	Accounting, Auditing, and Bookkeeping Services	$6.0
8731	Commercial Physical and Biological Research	[10] 500
EXCEPT,	Aircraft	1,500
EXCEPT,	Aircraft Parts, and Auxiliary Equipment, and Aircraft Engine Parts	1,000
EXCEPT,	Space Vehicles and Guided Missiles, their Propulsion Units, their Propulsion Units Parts, and their Auxiliary Equipment and Parts	1,000
8732	Commercial Economic, Sociological, and Educational Research	$5.0
8733	Noncommercial Research Organizations	$5.0
8734	Testing Laboratories	$5.0
8741	Management Services	$5.0
EXCEPT,	Conference Management Services	[6] $5.0
8742	Management Consulting Services	$5.0
8743	Public Relations Services	$5.0
8744	Facilities Support Management Services	[11] $5.0
EXCEPT,	Base Maintenance	[12] $20.0
EXCEPT,	Environmental Remediation Services	[13] 500
8748	Business Consulting Services, N.E.C.	$5.0

SIC	Size standards by SIC industry description (N.E.C. = not elsewhere classified) (see endnotes, where indicated)	Size standards in number of employees or millions of dollars
	MAJOR GROUP 89 — SERVICES, NOT ELSEWHERE CLASSIFIED	
8999	Services, N.E.C.	$5.0
	DIVISION K — NONCLASSIFIABLE ESTABLISHMENTS	
9999	Nonclassifiable Establishments	$5.0

Endnotes

1. SIC code 1629—Dredging: To be considered small for purposes of Government procurement, a firm must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern.

2. SIC Division D—Manufacturing: For rebuilding machinery or equipment on a factory basis, or equivalent, use the SIC code for a newly manufactured product. Concerns performing major rebuilding or overhaul activities do not necessarily have to meet the criteria for being a ''manufacturer'' although the activities may be classified under a manufacturing SIC code. Ordinary repair services or preservation are not considered rebuilding.

3. SIC code 2033: For purposes of Government procurement for food canning and preserving, the standard of 500 employees excludes agricultural labor as defined in § 3306(k) of the Internal Revenue Code, 26 U.S.C. 3306(k).

4. SIC code 2911: For purposes of Government procurement, the firm may not have more than 1,500 employees nor more than 75,000 barrels per day capacity of petroleum-based inputs, including crude oil or bona fide feedstocks. Capacity includes owned or leased facilities as well as facilities under a processing agreement or an arrangement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

5. SIC code 3011: For purposes of Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification codes 30111 and 30112, provided that:

(1) The value of tires within Census Classification codes 30111 and 30112 which it manufactured in the United States during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture,

(2) the value of pneumatic tires within Census Classification codes 30111 and 30112 comprising its total worldwide manufacture during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during that period, and

(3) the value of the principal product which it manufactured or otherwise produced, or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during that period.

6. SIC codes 4724, 6531, 7311, 7312, 7313, 7319, and 8741 (part): As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

7. A financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. *Assets* for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 034 call report form.

8. SIC code 6515: Leasing of building space to the Federal Government by Owners: For Government procurement, a size standard of $15.0 million in gross receipts applies to the owners of building space leased to the Federal Government. The standard does not apply to an agent.

9. SIC codes 7699 and 3728: Contracts for the rebuilding or overhaul of aircraft ground support equipment on a contract basis are classified under SIC code 3728.

10. SIC code 8731: For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(1) Research and Development means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(2) For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by law. See § 121.701 of these regulations.

(3) Research and development for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

11. Facilities Management, a component of SIC code 8744, includes establishments, not elsewhere classified, which provide overall management and the personnel to perform a variety of related support services in operating a complete facility in or around a specific building, or within another business or Government establishment. Facilities management means furnishing three or more personnel supply services which may include, but are not limited to, secretarial services, typists, telephone answering, reproduction or mimeograph service, mailing service, financial or business management, public relations, conference planning, travel arrangements, word processing, maintaining files and/or libraries, switchboard operation, writers, bookkeeping, minor office equipment maintenance and repair, or use of information systems (not programming).

12. SIC code 8744

(1) If one of the activities of base maintenance, as defined in paragraph 2) of this endnote, can be identified with a separate industry and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard is that of the particular industry, and not the base maintenance size standard.

(2) ''Base Maintenance'' requires the performance of three or more separate activities in the areas of service or special trade construction industries. If services are performed, these activities must each be in a separate SIC code including, but not limited to, Janitorial and Custodial Service, Fire Prevention Service, Messenger Service, Commissary Service, Protective Guard Service, and Grounds Maintenance and Landscaping Service. If the contract requires the use of special trade contractors (plumbing, painting, plastering, carpentry, etc.), all such special trade construction activities are considered a single activity and classified as Base Housing Maintenance. Since Base Housing Maintenance is only one activity, two additional activities are required for a contract to be classified as ''Base Maintenance.''

13. SIC code 8744

(1) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for Government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action, removal of contaminated

materials, storage of contaminated materials and security and site closeouts. If one of such activities accounts for 50 percent or more of a concern's total revenues, employees, or other related factors, the concern's primary industry is that of the particular industry and not the Environmental Remediation Services Industry.

(2) For purposes of classifying a Government procurement as Environmental Remediation Services, the general purpose of the procurement must be to restore a contaminated environment and also the procurement must be composed of activities in three or more separate industries with separate SIC codes or, in some instances (e.g., engineering), smaller sub-components of SIC codes with separate, distinct size standards. These activities may include, but are not limited to, separate activities in industries such as: Heavy Construction; Special Trade Construction; Engineering Services; Architectural Services; Management Services; Refuse Systems; Sanitary Services, Not Elsewhere Classified; Local Trucking Without Storage; Testing Laboratories; and Commercial, Physical and Biological Research. If any activity in the procurement can be identified with a separate SIC code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

Dated: June 16, 1999.

Gary M. Jackson,

Assistant Administrator for Size Standards.

[FR Doc. 99–17003 Filed 8–17–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCGD08–99–050]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) will meet to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. The meeting will be open to the public.

DATES: LMRWSAC will meet on Wednesday, September 8, 1999, from 9 a.m. to 12 noon. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before August 31, 1999. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before August 31, 1999.

ADDRESSES: LMRWSAC will meet in the basement conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. Send written material and requests to make oral presentations to M. M. Ledet, Committee Administrator, c/o Commander, Eighth Coast Guard District (m), 501 Magazine Street, New Orleans, LA 70130–3396. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact M. M. Ledet, Committee Administrator, telephone (504) 589–6271, Fax (504) 589–4999.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC). The agenda includes the following:

(1) Introduction of committee members.

(2) Remarks by RADM P. Pluta, Committee Sponsor.

(3) Approval of the March 31, 1999 minutes.

(4) Old Business:

a. VTS update.

b. Bridge Clearance Gauge.

c. South Pass Dredging.

d. Southwest Pass Wingdam.

e. Soft Dikes Working Group Report.

(5) New Business:

(6) Next meeting.

(7) Adjournment.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Committee Administrator no later than August 31, 1999. Written material for distribution at the meeting should reach the Coast Guard no later than August 31, 1999. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of the meeting, please submit 28 copies to the Committee Administrator at the location indicated under Addresses no later than August 31, 1999.

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 Committee Administrator at the location indicated under **ADDRESSES** as soon as possible.

Dated: July 29, 1999.

Paul J. Pluta,

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

[FR Doc. 99–21377 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–27]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before September 8, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. __, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 12, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29462.
Petitioner: Dallas Airmotive, Inc.
Section of the FAR Affected: 14 CFR 21.325(b)(3).
Description of Relief Sought: To allow DAI to issue export airworthiness approvals for Class II products that are located but not manufactured in the United States.

Docket No.: 29539.
Petitioner: City College of San Francisco.
Section of the FAR Affected: 14 CFR 65.3.
Description of Relief Sought: To permit mechanic certificats to be issued under subpart D of part 65, outside the United States, to persons trained by CCSF who are neither U.S. citizens nor resident aliens when the certificate is not needed for the operation or continued airworthiness of U.S.-registered aircraft.

Dispositions of Petitions

Docket No.: 18881.
Petitioner: International Aerobatic Club.
Sections of the FAR Affected: 14 CFR 91.151(a)(1).
Description of Relief Sought/ Disposition: To permit IAC and IAC members participating in IAC-sponsored and/or sanctioned aerobatic competitions conducted in accordance with IAC Official Contest Rules, to begin flight in an airplane, considering local conditions effecting fuel consumption, when there is enough fuel on board the aircraft to take off, complete the planned flight maneuvers, and land at the same airport with enough fuel to fly for an additional 10 minutes at normal cruising speed.
Grant, 07/15/99, Exemption No. 5745C.

Docket No.: 26160.
Petitioner: Massachusetts Institute of Technology.
Section of the FAR Affected: 14 CFR 91.319(c).
Description of Relief Sought/ Disposition: To permit MIT to operate certain multiengine and single-engine aircraft certficated in the experimental category, over densely populated areas or in congested airways.
Grant, 7/15/99, Exemption No. 5210E.

Docket No.: 26608.
Petitioner: ARCO/BPX Aviation and Alaska Airlines.
Section of the FAR Affected: 14 CFR 43.3(a), 43.7(a), 91.407(a)(2), 91.417(a)(2)(v), and 121.379.
Description of Relief Sought/ Disposition: To permit (1) ARCO Alaska and BPX to use ASA's approved maintenance recordkeeping procedures for Boeing 737–200 aircraft leased and operated by ARCO Alaska and BPX and (2) ASA to perform maintenance, preventative maintenance, alterations, inspections, major repairs, and major alterations, and subsequently return to service Boeing 737–200 aircraft leased and operated by ARCO Alaska and BPX in accordance with ASA's continuous airworthiness maintenance program and maintenance procedures.
Grant, 6/30/99, Exemption No. 5667C.

Docket No.: 27143.
Petitioner: Columbia Helicopters, Inc.
Section of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit CHI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in each aircraft.
Grant, 6/18/99, Exemption No. 6905.

Docket No.: 27306.
Petitioner: NockAir Helicopter, Inc.
Section of the FAR Affected: 14 CFR 133.43(a).
Description of Relief Sought/ Disposition: To permit NockAir to use its helicopters to perform aerial trapeze acts without using an approved external-load attachment or quick-release device for carrying a person or trapeze bar.
Grant, 7/15/99, Exemption No. 6685A.

Docket No.: 27601.
Petitioner: Austral Lineas Aereas.
Section of the FAR Affected: 14 CFR 145.47(b).
Description of Relief Sought/ Disposition: To permit ALA to use the calibration standards of the Instituto Nacional de Tecnologia Industrial (INTI), Argentina's national standards organization, for the calibration of standards of the U.S. National Institute of Standards and Technology (NIST), formerly the National Bureau of Standards (NBS), to test its inspection and test equipment.
Grant, 6/30/99, Exemption No. 6651A.

Docket No.: 28834.
Petitioner: LifePort, Inc.
Section of the FAR Affected: 14 CFR 25.562 and 25.785(b).
Description of Relief Sought/ Disposition: To permit certification of medical stretchers for transport of persons whose medical condition dictates such accommodations. This exemption is for an installation on a Dassault Model Falcon 2000 airplane.
Grant, 7/13/99, Exemption No. 69–20.

Docket No.: 28884.
Petitioner: Aero Sky.
Section of the FAR Affected: 14 CFR 145.37(b).
Description of Relief Sought/ Disposition: To permit Aero Sky to continue to hold a FAA repair station certificate (certificate No. KQ7R556N) without having suitable permanent housing facilities for at least one of the heaviest aircraft within the weight class of the rating it holds.
Grant, 7/15/99, Exemption No. 6673A.

Docket No.: 29174.
Petitioner: Hawaii Helicopters, Inc.
Section of the FAR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit HHI to operate its Sikorsky S–61N (U.S. Registration No. N29111, Serial No. 61711) and its Sikorsky S–76A (Canadian Registration No. C–GHJG, Serial No. 760015) helicopters under part 135 without an approved DFDR.
Grant, 7/15/99, Exemption No. 6789A.

Docket No.: 29654.
Petitioner: Michigan City Aviators-EAA chapter 966.
Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I & J of part 121.
Description of Relief Sought/ Disposition: To allow Michigan City Aviators-EAA chapter 966 to conduct local sightseeing flights at an airport in the Michigan City, Indiana, area for its annual pancake breakfast event on July 18, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 7/14/99, Exemption No. 69222.

[FR Doc. 99–21457 Filed 8–17–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airport Improvement Program Grant Assurances; Proposed Modifications and Opportunity to Comment

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

ACTION: Notice of modification of Airport Improvement Program grant assurances and of the opportunity to comment.

SUMMARY: The FAA proposes to modify the standard grant assurances that are required of a sponsor before receiving a grant under the Airport Improvement Program (AIP). Pursuant to applicable law, the Secretary of Transportation is required to provide notice in the **Federal Register** of, and to provide an opportunity for public comment on, proposals to modify the assurances and on proposals for additional AIP assurances.

Modifications to the AIP grant assurances are being made for three reasons: To address the public comments received subsequent to the last publication of the assurances on June 2, 1997; to reflect new regulatory and Office of Management and Budget requirements incorporated in Assurance 1; and to more accurately reflect applicable statutory requirements.

For ease of reading, Title 49, Subtitle VII, as amended by the 1996 Act, will be cited throughout the remainder of this notice as Title 49, U.S.C., as amended. In the actual assurance, however, the reference further specifies Subtitle VII.

DATES: These modifications to the Grant Assurances will be effective September 1, 1999. Comments, however, are invited. Comments must be submitted at or before 30 calendar days after publication in the **Federal Register**. Any necessary or appropriate revision to the assurances resulting from the comments received will be adopted as of the date of a subsequent publication in the **Federal Register**.

ADDRESSES: Comments may be delivered or mailed to the FAA, Airports Financial Assistance Division, APP–500, Room 619, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. James Borsari, Manager, Program Guidance Branch, Airports Financial Assistance Division, APP 500, Room 619, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–8822.

SUPPLEMENTARY INFORMATION: The Secretary must receive certain assurances from a sponsor (applicant) seeking financial assistance for airport planning, airport development, noise compatibility planning or noise mitigation under Title 49, U.S.C., as amended. These assurances are submitted as part of a sponsor's application for Federal assistance and are incorporated into all grant agreements. As need dictates, these assurances are modified to reflect new Federal requirements. Notice of such proposed modifications is published in the **Federal Register** and an opportunity is provided for comment by the public.

The current assurances were published on February 3, 1988, at 53 FR 3104 and amended on September 6, 1988, at FR 34361, on August 29, 1989, at 54 FR 35748 on June 10, 1994 at 59 FR 30076, on January 4, 1995, at 60 FR 521, and on June 2, 1997, at 62 FR 29761.

Discussion of Comments Received in Response to the Notice of Modification of Airport Improvement Grant Assurances

On June 2, 1997, the Federal Aviation Administration published in the **Federal Register** (62 FR 29761) modifications to the Airport Improvement Program grant assurances. The agency asked for public comment by July 2, 1997.

The FAA received a total of four comments on the notice of proposed modifications of the grant assurances. Only one of the four comments was received prior to the close of the comment period on July 2. However, because only a few comments were received and this process is not a formal rulemaking procedure, the FAA has decided to consider all comments. Comments were received from Airports Council International, North America (ACI–NA); the City of Houston Airport System, Houston, Texas; the City of Mesa, Arizona; and the Perry County Airport Authority, Tell City, Indiana.

ACI–NA recommended that Assurance 3, Sponsor Fund Availability, be modified to read ''has or will have sufficient funds''. The ACI–NA recommendation would allow the sponsor more time to accumulate the local matching share for Airport Improvement Program (AIP) projects. This would give the airport sponsor until the date of the grant award to have local funds available. The statute requires airport sponsors to have sufficient funds available at the time the grant application is submitted. Title 49 Section 47106(a)(3) states, ''The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that enough money is available to pay the project costs that will not be paid by the United States Government under this subchapter''. We believe that it is reasonable for an airport to affirm the availability of funds at the time of grant request. Therefore, the final notice retains the existing language in the assurance.

The City of Mesa, Arizona, requested clarification about the need for public hearings required by Assurance 9, Public Hearings. The City of Mesa wanted to know what constitutes a major runway extension, and how much of an increase in either runway length or runway weight bearing capacity requires a public hearing. Assurance 9 requires that the sponsor conduct a public hearing for projects involving the location of an airport, an airport runway, or a major runway extension. The assurance, as currently written, satisfies the provisions of Title 49 United States Code, Section 47106(c)(1) regarding environmental requirements, and does not need to be revised. Section 1506.6 of the Council on Environmental Quality (CEQ) Regulations sets forth procedures for public involvement in projects affecting the environment. FAA Order 5050.4A describes environmental requirements in detail, including the definition of a major runway extension. These orders should be consulted regarding public hearing requirements.

The City of Houston, Texas expressed concerns about the change in language of Assurance 22(a), Economic Non-Discrimination, effective June 2, 1997. The City of Houston maintained that the change in language may encourage more complaints being filed against the airport operator for violation of the Assurance 22(a). As an example, the city cited situations in which individuals have attempted to fuel general aviation aircraft from the back of pick-up trucks while asserting their right to do so under Assurance 22(a). Houston suggested that the assurance be revised to require all parties engaging in aeronautical activity be qualified and meet applicable safety standards.

The purpose of the revision to Assurance 22(a) was to clarify the assurance's application to the full range of aeronautical activities. The comment has caused the FAA to review the new wording of the assurance and the FAA believes that the new wording is not clear. We have decided to change the language to eliminate any confusion. The revised assurances will read as follows: ''It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.'' Furthermore, the FAA believes that an airport sponsor's minimum standards should reflect local safety requirements and quality of service requirements so long as these are reasonable, relevant to the activity, and applied without unjust discrimination.

The typographical error in Assurance 22(b)(2), Economic Non-Discrimination, has been noted and corrected. The sentence will be changed to read,

''charge reasonable, and not unjustly discriminatory, prices . . .''

ACI–NA also requested that Assurance 26, Reports and Inspections, be revised to permit airports to file their intergovernmental transfer reports as soon as practicable instead of leaving the filing deadline to the Secretary's discretion. Title 49 Section 47107(k) requires that the Secretary provide Congress with an annual summary of the reports submitted under 47107(a)(19). The ACI–NA proposed change would pose problems for the FAA in fulfilling its reporting requirements to Congress. Establishing the filing deadline at the Secretary's discretion will provide the flexibility for the Agency to collect the reports while assisting those airports who need more time to prepare their financial statements. FAA has not been convinced that the filing requirement of Assurance 26 needs to be changed.

ACI–NA suggested that Assurance 27, Use by Government Aircraft, be revised to redefine the term aircraft movement as both a landing and a takeoff. This would conform to standard industry usage. For the purpose of Assurance 27, the FAA has defined an aircraft movement as a landing. This methodology has been in place for many years. Changing the definition to include takeoffs would require the FAA to assess the number of movements in light of this change and the FAA believes that the change would not have an overall benefit. Therefore, the FAA retains the original language of the assurance.

ACI–NA also maintained that Assurance 31(a), Disposal of Land, is too restrictive regarding the disposal of land originally purchased for noise mitigation purposes. The existing assurance requires the sponsor to dispose of the land at fair market value when it is no longer needed for noise mitigation purposes. ACI–NA suggests that the assurance be revised to permit the airport to pursue land disposal as part of a commercial and development program. Such development programs tend to offer a higher financial contribution than fair market value. The existing assurance conforms to the statutory requirements of 49 U.S.C. 47107(c)(2)(A)(i), which directs an airport sponsor to dispose of the land as soon as practicable after the land is no longer needed for noise mitigation. The change proposed by ACI–NA is not consistent with this statutory provision. Therefore, the FAA will retain the original language of the assurance.

Perry County Airport Authority, Tell City, Indiana suggested changes to the Airport Improvement Program (AIP) priority system to consider the off airport economic benefits of AIP grant funded projects. Since revisions to the AIP grant assurances, and not the priority system, are the subject of this notice, no changes to the assurances are warranted to address this comment.

Discussion of Modifications

FAA uses three separate sets of standard assurances: Airport Sponsors (owners/operators); Planning Agency sponsors; and Non-Airport Sponsors Undertaking Noise Compatibility Program Projects (hereinafter referred to as Non-Airport Sponsor Assurances). FAA is modifying the assurances currently in effect to incorporate the below-noted changes. To simplify the discussion, the modifications are grouped based upon the sets of assurances that are affected.

The changes contained in this paragraph affect all three sets of assurances. Section C, Subsection 1, ''General Federal Requirements'' is amended in each set of assurances to add references to 49 CFR Part 26 ''Participation by Disadvantaged Business Enterprises in Department of Transportation Programs''. Part 26 was issued on February 2, 1999 and is the new rule covering the DOT DBE program. In addition, the reference to OMB Circular A–128 ''Audits of State and Local Governments'' is changed to A–133 ''Audits of States, Local Governments, and Non-Profit Organizations''. These changes reflect recent modifications to the referenced regulations and OMB guidelines.

References to 49 CFR Part 23 remain in the Airport Sponsor Assurances, since portions of the DBE rule were retained in Part 23. The title of Part 23 is changed to ''Participation by Disadvantaged Business Enterprise in Airport Concessions.''

The following changes affect only the Airport Sponsor Assurances:

(a) In Assurance 4, subparagraph a., the beginning is changed to read: ''It, a public agency or the Federal government, holds good title . . .''

(b) In Assurance 21, Compatible Land Use, the words ''to the extent reasonable'' are placed directly after the words ''appropriate action''.

(c) In Assurance 22, subparagraph a is deleted in its entirety and replaced with the following: ''a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.''

(d) Assurance 22, subparagraph B.(2), is revised to begin: ''charge reasonable, and not unjustly discriminatory . . .''

(e) For Subsection B1, ''Duration and Applicability'', the second sentence is replaced with: ''However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue, so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions and assurances with respect to real property acquired with Federal funds.''

Modification (c) is made in response to comments, as discussed above. The other modifications are made to more accurately reflect current statutory language. The following changes affect only the Airport Sponsor Assurances, and the Non-Airport Sponsors Undertaking Noise Compatibility Program Projects Assurances:

(a) In Assurance 6, the second sentence beginning ''For noise compatibility program projects,'' and ending with ''reasonably consistent with the agency's plans regarding the property'' is deleted.

This modification is made to more accurately reflect current statutory language.

The following assurance affects, and is added to the Airport Sponsor Assurances (as new Assurance 37), Planning Agency Sponsor Assurances (as new Assurance 13) and the Non-Airport Sponsors Undertaking Noise Compatibility Program Projects Assurances (as new Assurance 22). This assurance is added to reflect regulatory modifications.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

These assurances are issued pursuant to the authority of Title 49, United States Code.

Complete Text of Modified Provisions

tTe complete text of each provision, as modified, appears below.

(a) Airport Sponsor Assurance 4, ''Good Title'', subparagraph a.—

''It, a public agency or the Federal government, holds good title,

satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.''

(b) Airport Sponsor Assurance 21—''Compatible Land Use''.

''It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.''

(c). Airport Sponsor Assurance 22, ''Economic Nondiscrimination'', subparagraph a.

''It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.''

(d). Airport Sponsor Assurance 22, ''Economic Nondiscrimination'', subparagraph b. (2)

''charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.''

(e) Airport Sponsor Assurances, Section B, ''Duration and applicability'', subsection 1, ''Airport Development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor''.

''The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit to the duration of the assurance regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions and assurances with respect to real property acquired with Federal funds. Furthermore, the duration of the Civil Rights Assurance shall be specified in the assurances.''

(f) Airport Sponsor Assurance 6 and Non-Airport Sponsors Undertaking Noise Compatibility Program Project Assurance 6. ''Consistency with Local Plans''

''The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the state in which the project is located to plan for the development of the area surrounding the airport.''

(g). Airport sponsor Assurance 37, Planning Agency Sponsor Assurance 13 and Non-Airport Sponsors Undertaking Noise Compatibility Program Project Assurance 22. ''Disadvantaged Business Enterprises.''

''The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carryout its approved program, the Department may impose sanctions as provided under Part 26, and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).''

Upon acceptance of the AIP grant by an airport sponsor, the assurances become a contractual obligation between the airport sponsor and the Federal government.

Issued in Washington, DC on August 6, 1999.

Catherine M. Lang,

Acting Director, Office of Airport Planning and Programming.

[FR Doc. 99–21458 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 195; Flight Information Services Communications (FISC)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)–195 meeting to be held September 14–16, starting at 8:30 a.m. each day. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW, Suite 1020, Washington, DC 20036.

The agenda will include: September 14: (1) Welcome and Introductions; (2) Final Review of Automet Minimum Operational Performance Standards; (3) Review of FIS–B Minimum Aviation System Performance Standards (MASPS) Section 4.0 Procedures for Performance Requirement Verification, Work Plan; (4) Detailed review of FIS–B MASPS. September 15: (5) Continue Detailed review of FIS–B MASPS. September 16: (6) Review FIS–B MASPS actions and address future work; (7) Date and location of next meeting; (8) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 12, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–21453 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 192; National Airspace Review Planning and Analysis

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 192 meeting to be held September 14, 1999, starting at 9:00 a.m. The meeting will be held at RTCA, Inc., 1140

Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will be as follows: (1) Welcome and Introductory Remarks; (2) Review/Approval of Meeting Agenda; (3) Review/Approval of Summary of the Previous Meeting; (4) Brief out of Working Group 1; (5) Brief out of Working Group 2; (6) Discussion of Review Group for FAA Order 7400; (7) High Altitude Airspace Concept Discussion; (8) Set Agenda for Next Meeting; (9) Date and Location of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; (202) 833–9339 (phone), (202) 833–9434 (fax), or http://www.rtca.org (web site).

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 12, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–21454 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Joint Special Committee 190/ Eurocae Working Group 52

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Joint Special Committee (SC)–190/EUROCAE Working Group (WG)–52 meeting to be held September 20–24, 1999, starting at 11:00 a.m. on Monday, September 20. The meeting will be held at EUROCONTROL Headquarters, Rue de la Fusee 96, B–1130, Brussels, Belgium.

The agenda will include the following: Monday, September 20: 11:00 a.m.–5:00 p.m. (1) Plenary Session; (a) Welcome and Introductory Remarks; (b) Review and Approve Agenda; (c) Review Schedule; (d) Review and Approve Minutes of Previous Meeting; (e) Status of EUROCAE/RTCA Annual Report Publications; (f) EUROCONTROL Overview; (g) Reports of CNS/ATM, Executive, Development and Verification Committees; (h) Review papers for Plenary Approval. Tuesday, Wednesday, Thursday, September 21–23: 8:00 a.m.-5:30 p.m. (2) Working Group Breakout Sessions including preparation for Plenary. Friday, September 24: 8:00 a.m.–1:00 p.m. (3) Plenary Session; (a) Working Group Reports; (b) Executive Committee Report; (c) Review of Actions Items; (d) Date and Location of Next Meeting; (e) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 12, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–21455 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Joint RTCA Special Committee 180 and EUROCAE Working Group 46 Meeting; Design Assurance Guidance for Airborne Electronic Hardware

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee 180 and EUROCAE Working Group 46 meeting to be held September 14–16, 1999, starting at 8:30 a.m. on September 14. The meeting will be held at EUROCAE, 15 Rue Hamelin, Paris, FRANCE.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes of Previous Joint Meeting; (4) Editorial Team Meeting Report; (5) Leadership Team Meeting Report; (6) Review Action Items; (7) Plenary Disposition of Document Comments; (8) New Items for Consensus; (9) Special Committee 190 Committee Activity Report; (10) Other Business; (11) Establish Agenda for Next Meeting: (12) Date and Location of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 12, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–21456 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Jefferson, Chambers, and Galveston Counties, Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Jefferson, Chambers, and Galveston Counties, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. John Mack, District Engineer, Federal Highway Administration, 826 Federal Office Building, 300 E. 8th Street, Austin, Texas 78701, Telephone: (512) 916–5516.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas Department of Transportation (TxDOT) and Jefferson County, will prepare an environmental impact statement (EIS) on a proposal to reconstruct State Highway 87 (SH 87) within a corridor between Sea Rim State park and High Island, a distance of approximately 17 miles, in Jefferson, Chambers and Galveston Countries, Texas. Improvements to the facility are considered necessary after this section of SH 87 was closed to through traffic after it was extensively damaged by Hurricane Jerry in October 1989. This proposed project would restore the roadway connection between the two communities of Sabine Pass and High Island as well as provide improved access to the area beaches and wildlife refuges.

Alternatives under consideration include (1) Taking no action; and (2) constructing a roadway on one of several proposed new alignments at more inland locations. Jefferson Country initiated environmental studies while

applying for a Section 404 permit for a roadway easement through the McFaddin National Wildlife Refugee in 1997. This resulted in a determination by the U.S. Army Corps of Engineers that an EIS should be prepared. The project study limits for the EIS are from the northward turn of SH 87 in Sabine Pass, Jefferson County, to SH 124 in High Island, Galveston County. A section of SH 87 presently exists within these study limits for a distance of about 15 miles from Sabine Pass to approximately three miles west of Sea Rim State Park. The existing roadway is an undivided two-lane highway.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interested in this proposal. A scoping meeting to discuss the proposed SH 87 project, as well as, other public meetings and a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities that apply to this program.)

John Mack,

District Engineer, Austin, Texas.

[FR Doc. 99–21373 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 7, 1999 [64 FR 30374].

DATES: Comments must be submitted on or before September 17, 1999.

FOR FURTHER INFORMATION CONTACT: Kenneth Willis, Office of Sealift Support, MAR–630, Maritime Administration, MAR–630, Room 7307, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone 202–366–2323 or FAX 202–366–3889. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Application and Reporting Elements for participation in the Maritime Security Program.

OMB Control Number: 2133–0525.

Type of Request: Extension of currently approved collection.

Affected Public: Operators of U.S.-flag vessels who are interested in participating in the Maritime Security Fleet.

Form (s): None.

Abstract: The Maritime Security Act of 1996 established the Maritime Security Program which supports the operations of U.S.-flag vessels in the foreign commerce of the United States through assistance payments. Participating vessel operators receive assistance payments and are required to make their ships and other commercial transportation resources available to the Government during times of war or national emergency. The vessel operators who are interested in participating in the Maritime Security Fleet are required to submit an application to MARAD for its review and approval.

Annual Estimated Burden Hours: Approximately four to six hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention MARAD Desk Officer.

Comments Are Invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, D.C. on August 13, 1999.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 99–21447 Filed 8–17–99; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Senior Executive Service Combined Performance Review Board (PRB)

AGENCY: Treasury Department.

ACTION: Notice of members of Combined Performance Review Board (PRB).

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Combined PRB for the Bureau of Engraving and Printing, the Financial Management Service, the U.S. Mint and the Bureau of the Public Debt. The Board reviews the performance appraisals of career senior executives below the level of bureau head and principal deputy in the four bureaus, except for the executives below the Assistant Commissioner level in the Financial Management Service. The Board makes recommendations regarding proposed performance appraisals, ratings, bonuses and other appropriate personnel actions.

Composition of Combined PRB

The Board shall consist of at least three voting members. In case of an appraisal of a career appointee, more than half of the members shall consist of career appointees. The names and titles of the Combined PRB members are as follows:

Primary Members

Joel C. Taub, Associate Director (Management), E&P
Constance E. Craig, Assistant Commissioner, Information Resources, FMS
Jackqueline Fletcher, Associate Director for Information Resources/CIO, Mint
Theodore P. Langlois, Deputy Executive Director (Marketing and Sales), PD

Alternate Members

Gregory D. Carper, Associate Director (Chief Financial Officer), E&P

Larry D. Stout, Assistant Commissioner, Federal Finance, FMS

Jay M. Weinstein, Associate Director for Policy and Management & CFO, Mint

Debra Hines, Associate Commissioner (Public Debt Accounting), PD

Date

Membership is effective on the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Constance E. Craig, Financial Management Service, Assistant Commissioner, Information Resources, 3700 East-West Highway, Room 1026D, Hyattsville, MD 20782, (202) 874–8000.

This notice does not meet the Department's criteria for significant regulations.

Constance E. Craig,

Assistant Commissioner, Information Resources, Financial Management Service.

[FR Doc. 99–21243 Filed 8–17–99; 8:45 am]

BILLING CODE 4840–01–M

federal register

Wednesday
August 18, 1999

Part II

Department of Health and Human Services

Health Resources and Services Administration

Availability of the HRSA Preview; Notice

DEPARTMENT OF HEALTH ANDHUMAN SERVICES

Health Resources and Services Administration

Availability of the HRSA Preview

AGENCY: Health Resources and Services Administration, HHS.

ACTION: General notice.

SUMMARY: HRSA announces the availability of the HRSA Preview for summer 1999. This edition of the HRSA Preview is a comprehensive review of HRSA's Fiscal Year 2000 programs. The next edition of the HRSA Preview is scheduled to be published by early winter 1999.

The purpose of the HRSA Preview is to provide the general public with a single source of program and application information related to the Agency's competitive grant reviews. The HRSA Preview is designed to replace multiple **Federal Register** notices which traditionally advertised the availability of HRSA's discretionary funds for its various programs. In this edition of the HRSA Preview, HRSA's programs which provide funding for loan repayments and scholarships to individuals have been included in the section ''Other HRSA Programs.'' It should be noted that other program initiatives responsive to new or emerging issues in the health care area and unanticipated at the time of publication of the HRSA Preview may be announced through the **Federal Register** from time to time. Deadlines or other requirements appearing in the **Federal Register** are not changed by this notice.

The HRSA Preview contains a description of competitive and additional programs scheduled for review in Fiscal Year 2000 and includes instructions on how to access the Agency for information and receive application kits for all programs announced. Specifically, the following information is included in the HRSA Preview: (1) Program Title; (2) Legislative Authority; (3) Purpose; (4) Eligibility; (5) Estimated Amount of Competition; (6) Estimated Number of Awards; (7) Funding Priorities and/or Preferences; (8) Application Deadline; (9) Projected Award Date; (10) Application Kit Availability; (11) Catalog of Federal Domestic Assistance (CFDA) program identification number; and (12) Programmatic contact. Certain other information, including how to obtain and use the HRSA Preview and grant terminology, also may be found in the HRSA Preview.

This issue of the HRSA Preview includes funding for HRSA discretionary authorities and programs as follows:

Maternal and Child Health Programs

Genetic Services-National Genetic Consumer Center
Genetic Services-State Planning Grants
Improvement of Perinatal Health: The Collaborative Ambulatory Research Network
Maternal and Child Health Research Program
Maternal and Child Health Training in Pediatric Pulmonary Centers
Maternal and Child Health Training in Schools of Public Health
Continuing Education and Development
Continuing Education/Dynamic Learning (Distance Education)
SPRANS—Ph.D. Epidemiology—MCH/SPH Fellows Training Program
National Center for Cultural Competence
Partnership for Information and Communication MCH Cooperative Agreements
Adolescent Health Center for State Maternal and Child Health Personnel
Training and Technical Assistance Centers for Mental Health in Schools
National Training Institute for Child Care Health Consultants
National Health and Safety in Child Care Health Resource Center
Health Care Information and Education for Families of Children with Special Health Care Needs
SPRANS—State and Local Data Utilization and Enhancement Cooperative Agreements
Center for School Health Care
Integrated Health Care Programs for Children and Adolescents
Innovative Approaches to Promoting Positive Health Behaviors in Women
Health and Welfare Technical Advisory Group
Healthy Child Care America State Systems Development Grants
Community Integrated Service Systems Community Organization Grants Program
Universal Newborn Hearing Screening
Emergency Medical Services for Children, Implementations Grants
Emergency Medical Services for Children, Partnership Grants
Emergency Medical Services for Children, Targeted Issue Grants
Emergency Medical Services for Children, Native American Project
Traumatic Brain Injury, State Implementation Grants
Traumatic Brain Injury, State Planning Grants
Healthy Start: Eliminating Disparities in Perinatal Health
Healthy Start: Infrastructure/Capacity Building Projects
National Fetal and Infant Mortality Review Resource Center
Maternal and Child Health Provider Partnerships
Improving Systems of Care for Pregnant Women Experiencing Domestic Violence

HIV/AIDS Programs

Special Projects of National Significance (SPNS)
Ryan White Title III Funding for Early Intervention Services Grants: Existing Geographic Areas
Ryan White Title III Funding for Early Intervention Services Grants: New Geographic Areas
Ryan White Title III Funding for Early Intervention Services Planning Grants
Ryan White Title III HIV Funding for Early Intervention Services Planning Grants
Ryan White Title IV: Existing Geographic Areas
Ryan White Title IV: New Geographic Areas

Rural Health Programs

Rural Health Research Centers
Rural Health Outreach Grant
Rural Health Network Development
State Rural Hospital Flexibility Program

Primary Health Care Programs

Community and Migrant Health Centers
Health Care for the Homeless
Public Housing Primary Care
State Primary Care Offices
State Primary Care Associations
Grants to States for Loan Repayment Programs
Migrant Health Centers

Health Professions Programs

Academic Administrative Units in Primary Care (Family Medicine, General Internal Medicine and General Pediatrics)
Predoctoral Training in Primary Care (Family Medicine, General Internal Medicine and General Pediatrics)
Physician Assistant Training in Primary Care
Residency Training in Primary Care (Family Medicine, General Internal Medicine and General Pediatrics)
Faculty Development in Primary Care (Family Medicine, General Internal Medicine and General Pediatrics)
Podiatric Residency in Primary Care
Model State-Supported Area Health Education Centers
Basic/Core Area Health Education Centers
Health Careers Opportunity Program
Centers of Excellence
Allied Health Projects
Residencies in the Practice of Pediatric Dentistry
Chiropractic Demonstration Project Grants
Dental Public Health Residency Training Grants
Residencies and Advanced Education in the Practice of General Dentistry
Quentin N. Burdick Program for Rural Interdisciplinary Training
Public Health Training Centers Grant Program
Geriatric Education Centers
Geriatric Training Regarding Physicians and Dentists
Health Administration Traineeships & Special Projects
Nursing Workforce Diversity Grants
Basic Nurse Education and Practice Grants
Public Health Nursing Experiences in State and Local Health Departments for Baccalaureate Nursing Students
Advanced Education Nursing Grants
Advanced Education Nursing Traineeship Grants
Advanced Education Nursing—Nurse Anesthetist Traineeship Grant Program

Advancement of Telehealth

Rural Telemedicine Grant Program

Other HRSA Programs

Faculty Loan Repayment Program
Scholarships for Disadvantaged Students
Nursing Education Loan Repayment Program

FOR MORE INFORMATION CONTACT: Individuals may obtain the HRSA Preview by calling the toll free number, 1–888–333–HRSA until September 12, 1999. After September 12, the new toll free number will be 1–877–HRSA (4772)–123. The HRSA Preview may also be accessed on the World Wide Web on the HRSA Home Page at: http://www.hrsa.dhhs.gov/.

Dated: August 11, 1999.

Claude Earl Fox,

Administrator.

How To Obtain and Use the HRSA Preview

It is recommended that you read the introductory materials, terminology section, and individual program category descriptions before contacting the general number 1–888–333–HRSA until September 12, 1999. After September 12, the new toll free number will be 1–877–HRSA (4772)–123. Likewise, we urge applicants to fully assess their eligibility for grants before requesting kits. As a general rule, no more than one kit per category will be mailed to applicants.

To Obtain a Copy of the HRSA Preview

To have your name and address added to or deleted from the HRSA Preview mailing list, please call the toll free number 1–888–333–HRSA until September 12, 1999 or e-mail us at hrsa.gac@hrsa.gov. After September 12, the new toll free number will be 1–877–HRSA (4772)–123. If you need special accommodations in accessing this information please call Jeanellen Kallevang, of the Grants Policy Branch, at 301–443–6507.

To Obtain an Application Kit

Upon review of the program descriptions, please determine which category or categories of application kit(s) you wish to receive and contact the 1–888–333–HRSA number, until September 12, 1999, to register on the specific mailing list. After September 12, the new toll free number will be 1–877–HRSA (4772)–123. Application kits are generally available 60 days prior to application deadline. If kits are already available, they will be mailed immediately.

World Wide Web Access

The HRSA Preview is available, under the grants section, on the HRSA Homepage via the World Wide Web at: http://www.hrsa.dhhs.gov/.

Application materials are currently available for downloading in the current cycle for some HRSA programs. HRSA's goal is to post application forms and materials for all programs in future cycles. You can download this issue of the HRSA Preview in Adobe Acrobat format (.pdf) from HRSA's web site.

Also, you can register on-line to be sent specific grant application materials by following the instructions on the web page. Your mailing information will be added to our database and material will be sent to you as it becomes available.

Grant Terminology

Application Deadlines

Applications will be considered ''on time'' if they are either received on or before the established deadline date or postmarked on or before the deadline date given in the program announcement or in the application kit materials.

Authorizations

The citations of provisions of the laws authorizing the various programs are provided immediately preceding groupings of program categories.

CFDA Number

The Catalog of Federal Domestic Assistance (CFDA) is a Government-wide compendium of Federal programs, projects, services, and activities which provide assistance. Programs listed therein are given a CFDA Number.

Cooperative Agreement

A financial assistance mechanism (grant) used when substantial Federal programmatic involvement with the recipient is anticipated by the funding agency during performance of the project.

Eligibility

Authorizing legislation and programmatic regulations specify eligibility for individual grant programs. In general, assistance is provided to nonprofit organizations and institutions, State and local governments and their agencies, and occasionally to individuals. For-profit organizations are eligible to receive awards under financial assistance programs unless specifically excluded by legislation.

Estimated Amount of Competition

The funding level listed is provided for planning purposes and is subject to the availability of funds.

Funding Priorities and/or Preferences

Special priorities or preferences are those which the individual programs have identified for the funding cycle. Some programs give preference to organizations which have specific capabilities such as telemedicine networking or established relationships with managed care organizations. Preference also may be given to achieve an equitable geographic distribution and other reasons to increase the effectiveness of the programs.

Key Offices

The Grants Management Office serves as the focal point for business matters. A ''key'' symbol indicates the appropriate office for each program area and the main telephone number for the office.

Matching Requirements

Several HRSA programs require a matching amount, or percentage of the total project support, to come from sources other than Federal funds. Matching requirements are generally mandated in the authorizing legislation for specific categories. Also, matching requirements may be administratively required by the awarding office. Such requirements are set forth in the application kit.

Project Period

The total time for which support of a discretionary project has been programmatically approved. The project period usually consists of a series of budget periods of one-year duration. Once approved through initial review, continuation of each successive budget period is subject to satisfactory performance, availability of funds and program priorities.

Review Criteria

The following are generic review criteria applicable to HRSA programs:

- That the estimated costs to the Government of the project is reasonable considering the level and complexity of activity and the anticipated results.
- That project personnel or prospective fellows are well qualified by training and/or experience for the support sought, and the applicant organization or the organization to provide training to a fellow has adequate facilities and manpower.
- That, insofar as practical, the proposed activities (scientific or other), if well executed, are capable of attaining project objectives.
- That the project objectives are capable of achieving the specific program objectives defined in the

program announcement and the proposed results are measurable.

- That the method for evaluating proposed results includes criteria for determining the extent to which the program has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the program.
- That, in so far as practical, the proposed activities, when accomplished, are replicable, national in scope and include plans for broad dissemination.

The specific review criteria used to review and rank applications are included in the individual guidance material provided with the application kits. Applicants should pay strict attention to addressing these criteria as they are the basis upon which their applications will be judged.

Technical Assistance

A contact person is listed for each program and his/her e-mail address and telephone number provided. Some programs have scheduled workshops and conference calls as indicated by the ''magnifying glass'' in the HRSA Preview. If you have questions concerning individual programs or the availability of technical assistance, please contact the person listed. Also check your application materials and the HRSA web site http://www.hrsa.dhhs.gov/ for the latest technical assistance information.

Frequently Asked Questions

1. Where do I submit grant applications?

The address for submitting your grant application will be shown in the guidance document included in the application kit.

2. HRSA lists many telephone numbers and e-mail addresses. Who do I phone or e-mail and when?

Phone 1–888–333–HRSA until September 12, 1999, to register for application kits. After September 12, the new toll free number will be 1–877–HRSA (4772)–123. It will be helpful to the information specialist if you have the CFDA Number and title of the program handy for reference.

If, before you register, you want to know more about the program, an e-mail/telephone contact is listed. This contact can provide information concerning the specific program's purpose, scope and goals, and eligibility criteria. Usually, you will be encouraged to request the application kit so that you will have clear, comprehensive and accurate information available to you. The application kit lists telephone numbers for a program expert and a grants management specialist who will provide technical assistance concerning your specific program, if you are unable to find the information within the materials provided.

3. The dates listed in the HRSA Preview and the dates in the application kit do not agree. How do I know which is correct?

First, register at 1–888–333–HRSA until September 12, 1999 for each program that you are interested in as shown in the HRSA Preview. After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

HRSA Preview dates for application kit availability and application receipt deadline are based upon the best known information at the time of publication, often nine months in advance of the competitive cycle. Occasionally, the grant cycle does not begin as projected and dates must be adjusted. The deadline date stated in your application kit is correct. If the application kit has been made available and subsequently the date changes, notification of the change will be mailed to known recipients of the application kit. Therefore, if you are registered at 1–888–333–HRSA or 1–877–HRSA (4772)–123 after September 12, you will receive the most current information.

4. Are programs announced in the HRSA Preview ever canceled?

Infrequently, programs announced may be withdrawn from competition. If this occurs, a cancellation notice will be provided through the HRSA Preview at the HRSA Homepage http://www.hrsa.dhhs.gov/.

If you still have unanswered questions, please contact John Gallicchio of the Grants Policy Branch at 301–443–6507 (jgallicchio@hrsa.gov).

HRSA PROGRAMS AT A GLANCE

Program name	CFDA No.	Deadline
Maternal and Child Health Programs		
Genetic Services—National Genetic Consumer Center	93.110A	02/29/2000
Genetic Services—State Planning Grants	93.110A	02/29/2000
Improvement of Perinatal Health: The Collaborative Ambulatory Research Network	93.110RA	04/01/2000
Maternal and Child Health Research Program	93.110RS	10/01/1999 & 03/01/2000
Maternal and Child Health Training in Pediatric Pulmonary Centers	93.110TJ	12/15/1999
Maternal and Child Health Training in Schools of Public Health	93.110TK	10/01/1999
Continuing Education and Development	93.110TO	01/15/2000
Continuing Education/Dynamic Learning (Distance Education)	93.110TQ	01/15/2000
SPRANS—Ph.D. Epidemiology—MCH/SPH Fellows Training Program	93.110TS	02/15/2000
National Center for Cultural Competence	93.110F	12/31/1999
Partnership for Information and Communication MCH Cooperative Agreements	93.110G	01/15/2000
Adolescent Health Center for State Maternal and Child Health Personnel	93.110J	01/15/2000
Training and Technical Assistance Centers for Mental Health in Schools	93.110M	01/15/2000
National Training Institute for Child Care Health Consultants	93.110P	01/15/2000
National Health and Safety in Child Care Health Resource Center	93.110P	01/15/2000
Health Care Information and Education for Families of Children with Special Health Care Needs (CSHCN)	93.110S	12/01/1999
SPRANS—State and Local Data Utilization and Enhancement (DUE) Cooperative Agreements	93.110U	03/15/2000
Center for School Health Care	93.110AE	01/15/2000
Integrated Health Care Programs for Children and Adolescents	93.110AF	01/15/2000
Innovative Approaches to Promoting Positive Health Behaviors in Women	93.110AH	01/17/2000
Health and Welfare Technical Advisory Group	93.110AI	01/15/2000
Healthy Child Care America State Systems Development Grants	93.110AQ	03/08/2000
Community Integrated Service Systems (CISS) Community Organization Grants Program	93.110AR	03/10/2000
Universal Newborn Hearing Screening	93.110ZZ	01/15/2000
Emergency Medical Services for Children (EMSC), Implementations Grants	93.127A	11/01/1999
Emergency Medical Services for Children (EMSC), Partnership Grants	93.127C	11/15/1999

HRSA PROGRAMS AT A GLANCE—Continued

Program name	CFDA No.	Deadline
Emergency Medical Services for Children (EMSC), Targeted Issue Grants	93.127D	11/01/1999
Emergency Medical Services for Children (EMSC), Native American Project	93.127G	11/01/1999
Traumatic Brain Injury (TBI), State Implementation Grants	93.234A	12/01/1999
Traumatic Brain Injury (TBI), State Planning Grants	93.234B	12/01/1999
Healthy Start: Eliminating Disparities in Perinatal Health	93.926E	03/01/2000
Healthy Start: Infrastructure/Capacity Building Projects	93.926F	03/15/2000
National Fetal and Infant Mortality Review (FIMR) Resource Center	93.926H	04/01/2000
Maternal and Child Health Provider Partnerships	93.926I	03/03/2000
Improving Systems of Care for Pregnant Women Experiencing Domestic Violence	93.926J	02/11/2000
HIV/AIDS Programs		
Special Projects of National Significance (SPNS)	93.928	06/01/2000
Ryan White Title III Funding for Early Intervention Services Grants: Existing Geographic Areas	93.918A	10/01/1999
Ryan White Title III Funding for Early Intervention Services Grants: New Geographic Areas	93.918B	07/17/2000
Ryan White Title III HIV Funding for Early Intervention Services Planning Grants	93.918C	06/02/2000
Ryan White Title III HIV Funding for Early Intervention Services Planning Grants	93.918D	06/02/2000
Ryan White Title IV: Existing Geographic Areas	93.153A	03/01/2000
Ryan White Title IV: New Geographic Areas	93.153B	03/01/2000
Rural Health Programs		
Rural Health Research Centers	93.155	05/01/2000
Rural Health Outreach Grant	93.912A	11/01/1999
Rural Health Network Development	93.912B	11/08/1999
State Rural Hospital Flexibility Program	93.241	06/01/2000
Primary Health Care Programs		
Community and Migrant Health Centers	93.224 and 93.246	Varies
Health Care for the Homeless	93.151	Varies
Public Housing Primary Care	93.927	10/01/1999
State Primary Care Offices	93.130	12/01/1999
State Primary Care Associations	93.129	12/01/1999
Grants to States for Loan Repayment Programs	93.165	05/01/2000
Migrant Health Centers	93.246	02/01/2000
Health Professions Programs		
Academic Administrative Units in Primary Care (Family Medicine, General Internal Medicine and General Pediatrics).	93.984A	01/06/2000
Predoctoral Training in Primary Care (Family Medicine, General Internal Medicine and General Pediatrics)	93.896A	11/29/1999
Physician Assistant Training in Primary Care	93.886A	11/15/1999
Residency Training in Primary Care (Family Medicine, General Internal Medicine and General Pediatrics)	93.884A	09/27/1999
Faculty Development in Primary Care (Family Medicine, General Internal Medicine and General Pediatrics)	93.895A	10/22/1999
Podiatric Residency in Primary Care	93.181	09/30/1999
Model State-Supported Area Health Education Centers	93.107	01/14/2000
Basic/Core Area Health Education Centers	93.824	01/14/2000
Health Careers Opportunity Program (HCOP)	93.822	01/10/2000
Centers of Excellence	93.157	01/15/2000
Allied Health Projects	93.191	02/22/2000
Residencies in the Practice of Pediatric Dentistry	93.897A	11/01/1999
Chiropractic Demonstration Project Grants	93.212	02/22/2000
Dental Public Health Residency Training Grants	93.236	11/01/1999
Residencies and Advanced Education in the Practice of General Dentistry	93.897	11/01/1999
Quentin N. Burdick Program for Rural Interdisciplinary Training	93.192	10/22/1999
Public Health Training Centers Grant Program	93.188A	12/06/1999
Geriatric Education Centers	93.969	12/09/1999
Geriatric Training Regarding Physicians and Dentists	93.156	12/09/1999
Health Administration Traineeships & Special Projects	93.962	10/15/1999
Nursing Workforce Diversity Grants	93.178A	12/17/1999
Basic Nurse Education and Practice Grants	93.359A	02/22/2000
Public Health Nursing experiences in State and Local Health Departments for Baccalaureate Nursing Students.	93.359B	11/17/1999
Advanced Education Nursing Grants	93.299A	01/28/2000
Advanced Education Nursing Traineeship Grants	93.299B	12/03/1999
Advanced Education Nursing—Nurse Anesthetist Traineeship Grant Program	93.299C	12/03/1999
Advancement of Telehealth		
Rural Telemedicine Grant Program	93.211	03/01/2000

HRSA PROGRAMS AT A GLANCE—Continued

Program name	CFDA No.	Deadline
Other HRSA Programs		
Faculty Loan Repayment Program (FLRP)	93.923	03/31/2000
Scholarships for Disadvantaged Students (SDS)	93.925	03/15/2000
Nursing Education Loan Repayment Program	93.908	05/01/2000

Maternal and Child Health Programs

Grants Management Office: 1–301–443–1440.

Genetic Services—National Genetic Consumer Center.

CFDA Number: 93.110A.
Application Availability: 12/15/1999.

To Obtain This Application Kit

Contact: 1–888–333-HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877-HRSA (4772)-123.

Letter of Intent Deadline: 01/15/2000.
Application Deadline: 02/29/2000.
Projected Award Date: 06/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

The purpose of this cooperative agreement is to support a national consumer center for the establishment of a national network to provide genetic information and education for consumers of genetic services and to outline national policy to improve the quality, accessibility and utilization of genetic services. The center's activities would include: (1) The involvement of national membership of consumer, family, professional, and support group organizations, with the acknowledgment of the need for membership representation to include geographic and ethnic diversity; (2) the development of support groups and consumer organizations by providing technical assistance, resources and training for consumer leaders; (3) a forum for interaction between consumers, the Maternal and Child Health Bureau (MCHB) and other relevant Federal, State and community organizations on issues related to genetic medicine, services and technology; (4) facilitate public, provider and consumer access to centralized resources, support and referral services that enhance the general public's ability to make informed decisions about genetic services; and (5) provide an effective and proactive consumer voice, facilitating representation of consumer perspectives and issues in public policy discussions and throughout the public policy decision-making processes.

Eligibility

42 CFR Part 51a.3*

(a) With the exception of training and research, as described in paragraph (b) of this section, any public or private entity, including Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b) is eligible to apply for Federal funding under this Part; (b) Only public or nonprofit private institutions of higher learning may apply for training grants. Only public or nonprofit institutions of higher learning and public or private nonprofit agencies engaged in research or in programs relating to maternal and child health and/or services for children with special health care needs may apply for grants, contracts or cooperative agreements for research in maternal and child health services or in services for children with special health care needs.

Funding Priorities and/or Preferences

Preference will be given to nationally recognized consumer organizations with clearly demonstrated national expertise and capacity for addressing genetic medicine, services and technology issues related to consumers of genetic services and their families and to applicants building upon current family and professional partnerships, family training and empowerment activities in collaboration with the Title V discretionary grant efforts.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$400,000.

Estimated Number of Awards

1.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: Michele Puryear, M.D.
Phone Number: 1–301–443–1080.
E-mail: mpuryear@hrsa.gov.

Genetic Services-State Planning Grants

CFDA Number: 93.110A.
Application Availability: 12/15/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 1/15/2000.
Application Deadline: 2/29/2000.
Projected Award Date: 6/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

Projects that develop and demonstrate the use of information systems for the integration of State newborn screening programs with population based, community based and family centered early intervention programs that are tied to outcome driven systems of service to children with special health needs and families.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

A funding preference will be given to community/State agency partnerships in coalition with public and private community based providers.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$750,000.

Estimated Number of Awards

10.

Estimated Project Period

2 Years.

For Programmatic Questions

Contact Person: Michele Puryear, M.D.
Phone Number: 1–301–443–1080.
E-mail: mpuryear@hrsa.gov.

Improvement of Perinatal Health: The Collaborative Ambulatory Research Network

CFDA Number: 93.110RA.
Application Availability: 01/01/2000.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 02/01/2000.
Application Deadline: 04/01/2000.
Projected Award Date: 07/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

The purpose of this program is to establish a nationwide structure (network) for conducting research on ambulatory health care practices to improve perinatal health care. The goals of this program include examining and describing existing obstetrician-gynecologist knowledge base and practices. Information from this network should be used to develop better informed educational strategies and to disseminate information to physicians in areas where there is a knowledge deficit. The project will cooperate and work collaboratively with other MCHB funded projects in perinatal and women's health.

Eligibility

The American College of Obstetricians and Gynecologists (ACOG) is eligible to apply.

Sole Source

ACOG is the primary organization representing Ambulatory Obstetrics and Gynecology in the Nation and is the only organization which represents the majority of practitioners necessary to establish an adequate structural network.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$200,000.

Estimated Number of Awards

1.

Estimated Project Period

Up to 5 Years.

For Programmatic Questions

Contact Person: Gontran Lamberty, Dr. P.H. or Maurice Bryant.
Phone Number: 1–301–443–0765.
E-mail: glamberty@hrsa.gov or mbryant@hrsa.gov.

Maternal and Child Health Research Program

CFDA Number: 93.110RS.
Application Availability: 06/14/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 10/01/1999 & 03/01/2000.
Projected Award Date: 01/01/2000 & 07/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

The purpose of this program is to support applied research relating to maternal and child health services, which show promise of substantial contribution in knowledge, that when used in States and communities will result in health status and health services improvements.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Fifteen issues/questions selected from 11 priority areas, and keyed to goals and objectives of the Bureau and HRSA strategic plans, will be given special consideration for funding. The special consideration consists of a 0.5 points favorable adjustment to the funding score assigned to an application, on a range of 1.0 to 5.0, when recommended for approval by the MCH Research Review Committee. The 15 issues/questions selected from the 11 priority areas are detailed in the guidance material contained in the application kit.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,900,000.

Estimated Number of Awards

10.

Estimated Project Period

1 to 4 Years.

For Programmatic Questions

Contact Person: Gontran Lamberty, Dr. P.H.
Phone Number: 1–301–443–2190.
E-mail: glamberty@hrsa.gov.

Maternal and Child Health Training in Pediatric Pulmonary Centers

CFDA Number: 93.110TJ.
Application Availability: 10/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 11/15/1999.
Application Deadline: 12/15/1999.
Projected Award Date: 07/01/2000.

Authorization

Social Security Act, Title V, Section 502, 42 U.S.C. 702.

Purpose

To provide interdisciplinary leadership training for several health professional disciplines, at the graduate and post graduate levels, to prepare them for leadership roles, including teaching, in the care of, research on, or development of organized systems of health care delivery for children with chronic respiratory conditions and their families.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

A preference will be given to Departments of Pediatrics in accredited medical schools that meet the special requirements for training programs in pediatric pulmonology.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$2,150,175.

Estimated Number of Awards

Approximately 7.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: Shelley Benjamin, M.S.W.
Phone Number: 1–301–443–2190.
E-mail: sbenjamin@hrsa.gov.

Maternal and Child Health Training in Schools of Public Health

CFDA Number: 93.110TK.

Application Availability: 07/29/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 09/01/1999.
Application Deadline: 10/01/1999.
Projected Award Date: 06/01/2000.

Authorization

Social Security Act, Title V, Section 502, 42 U.S.C. 702.

Purpose

To support and strengthen MCH Programs through long term training of a wide range of health professionals who serve children. Training is at the graduate and post graduate levels, with a special focus on family centered, community-based care. The programs are designed to develop leadership personnel to provide for comprehensive health care including health promotion and disease prevention and related services to mothers and children.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

A preference will be given to Schools of Public Health, accredited by the Council on Education for Public Health, with an established Maternal and Child Health Program.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$4,425,965.

Estimated Number of Awards

12–13.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: Nanette Pepper, BSRN, M.Ed.
Phone Number: 1–301–443–2190.
E-mail: npepper@hrsa.gov.

Continuing Education and Development

CFDA Number: 93.110TO.
Application Availability: 11/08/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 12/08/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 06/01/2000.

Authorization

Social Security Act, Title V, Section 502, 42 U.S.C. 702.

Purpose

Continuing Education and Development (CED) focuses on increasing leadership skills of MCH professionals; facilitating timely transfer and application of new information, research findings and technology related to MCH; and updating and improving the knowledge and skills of health and related professionals in programs serving mothers and children. CED programs will support conduct of short-term, non-degree related courses, workshops, conferences, symposia, institutes, and distance learning strategies and/or development of curricula, guidelines, standards of practice, and educational tools/strategies intended to assure quality health care for the MCH population.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$250,000.

Estimated Number of Awards

10.

Estimated Project Period

1–3 Years.

For Programmatic Questions

Contact Person: Diana Rule, M.P.H.
Phone Number: 1–301–443–2190.
E-mail: drule@hrsa.gov.

Continuing Education/Dynamic Learning (Distance Education)

CFDA Number: 93.110TQ.
Application Availability: 11/08/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 12/15/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 06/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

Alternative education methodologies provide an effective and economical means for professional staff to enhance and advance their skills while continuing to meet their daily on-site responsibilities. MCH managers need timely and available information to complete the functions for assessing need, developing policies and programs, addressing and resolving problems, monitoring progress and evaluating performance. Analytical skills are needed to convert data to information to better serve mothers and children living in high risk circumstances. This grant program encourages the development, implementation, creative utilization and application of distance education opportunities for the State and local MCH communities to improve the delivery of health care services to mothers and children. Courses will be developed and given annually using distance learning modalities and delivered to State and local MCH staffers. Technical support for specific analytical tasks will be provided via the Internet, compact discs and via satellite broadcasts to State and local agencies. Projects will work collaboratively with each other and the MCH Bureau to develop common formats, tools and approaches.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$715,000.

Estimated Number of Awards

Estimated Project Period

2 Years.

For Programmatic Questions

Contact Person: Aaron Favors, Ph.D.
Phone Number: 1–301–443–0392.
E-mail: afavors@hrsa.gov.

SPRANS—Ph.D. Epidemiologic-MCH/SPH Fellows Training Program

CFDA Number: 93.110TS.
Application Availability: 12/01/1999.

To obtain this application kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 01/01/2000.

Application Deadline: 02/15/2000.
Projected Award Date: 04/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

The Ph.D. Fellows grant was established to develop and promote epidemiologic analysis as a part of MCH health training program operations. It is intended to attract MCH doctoral students to the field of epidemiologic analysis and produce publications that further policy and program development. Currently, literature on the application of epidemiology to children's health is scarce. Little data and analysis is available on the effectiveness and benefits of child health services and information needed to improve resource allocation decisions. The purpose of this program is to increase the number of doctoral candidates and postdoctoral fellows who elect a relevant MCH epidemiologic analysis issue, applied to MCH service delivery, as the basis for their research and dissertation. Candidates and fellows are to produce creative, well thought out, dissertation subjects of interest that reflect the current trend of MCH and how the field of economic and epidemiologic analysis impacts upon it. This funding will support:

1. Recruitment and enrollment of 6 doctoral students who will develop dissertations with an emphasis on epidemiologic analysis.
2. Enhancement of student analytic capability as well as improved understanding of the epidemiologic of MCH services.
3. Development of publishable materials for distribution to the broader MCH community.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

A preference will be given to Schools of Public Health with MCH programs.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$150,000.

Estimated Number of Awards

6.

Estimated Project Period

1 Year.

For Programmatic Questions

Contact Person: Russ Scarato.
Phone Number: 1–301–443–0701.
E-mail: rscarato@hrsa.gov.

National Center for Cultural Competence

CFDA Number: 93.110F.
Application Availability: 09/30/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 10/30/1999.
Application Deadline: 12/31/1999.
Projected Award Date: 06/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

The purpose of this cooperative agreement competition is to assist State and local Title V Children with Special Health Care Needs (CSHCN) programs to plan, implement and evaluate culturally competent policies, procedures and practices in partnership with the Federal Central and Field Office MCHB/DSCSHCN staff, other Federal/State and local programs and consumers by assisting State programs: (1) Conduct agency cultural competency assessments; (2) incorporate cultural competence in their strategic and Title V Block Grant annual plans; (3) assist in the development of an evaluation of cultural competence activities, e.g., develop performance measures and outcome indicators related to access, health outcomes and consumer/provider satisfaction for CSHCN programs; and (4) promote the principles, values, skills and knowledge of culturally competent, family-centered care in related CSHCN programs, such as other SPRANS discretionary grants and State Child Health Insurance Programs.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Funding preference will be given to an organization with demonstrated capability and experience in the area of cultural competence and with Title V CSHCN programs

Review Criteria

Final criteria are included in the application kit.

Estimated amount of this competition

$255,000.

Estimated Number of Awards

1.

Estimated Project Period

5 Year.

For Programmatic Questions

Contact Person: Diana Denboba.
Phone Number: 1–301–443–9332.
E-mail: ddenboba@hrsa.gov.

Partnership for Information and Communication (PIC) MCH Cooperative Agreements

CFDA Number: 93.110G.
Application Availability: 11/15/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 12/15/1999.
Application Deadline: 1/15/2000.
Projected Award Date: 4/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

To provide cooperative agreements with governmental, professional and private organizations represented by leaders concerned with issues related to maternal and child health and involved in sustaining systems of care and/or providing family support to persons affected by severe illness or injury. Specifically, this program is designed to facilitate the dissemination of new information in a format that will be most useful to them when developing MCH policies and programs in the private and public sectors at local, State and national levels, and understanding by the MCHB of the maternal and child health concerns held by these policy makers.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

A preference will be given to organizations currently receiving support as part of this cooperative agreement representing State governors and their staffs; county health policymakers, municipal health policymakers, nonprofit and/or for-profit managed care organizations and coalitions of organizations promoting the health of mothers and infants, national membership organizations representing survivors of traumatic brain injury (TBI), providing emergency medical care for children, and

representing State TBI and Emergency Medical Services programs, as well as national membership organizations representing groups or constituencies listed below.

To ensure continuity, membership for the organizations participating in PIC is rotated so that not all project periods coincide. For this year, only national membership organizations representing the following groups will be considered for funding: State legislators; private businesses, particularly self-insured businesses; philanthropic organizations; parent organizations; State Title V Directors; and State Head Injury Program Directors.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$2,351,840.

Estimated Number of Awards

7.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: David Heppel, M.D.
Phone Number: 1–301–443–2250.
E-mail: dheppel@hrsa.gov.

Adolescent Health Center for State Maternal and Child Health Personnel

CFDA Number: 93.110J.
Application Availability: 11/15/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.
Letter of Intent Deadline: 12/15/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 04/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

To assist States in promoting State core capacity in adolescent health by developing and implementing adolescent health action plans based on needs assessments, implementation of adolescent State interagency task forces, convening of expert advisory councils, and convening of youth advisory groups. Such a Center, to strengthen States' abilities to address adolescent health issues, was first established in 1995. States will set targets for Healthy People 2010 adolescent health objectives, develop and implement action plans to meet them, and will improve the measurable health status of adolescents.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$200,000.

Estimated Number of Awards

1.

Estimated Project Period

4 Years.

For Programmatic Questions

Contact Person: Trina Anglin, M.D., Ph.D.
Phone Number: 1–301–443–4026.
E-mail: tanglin@hrsa.gov.

Training and Technical Assistance Centers for Mental Health in Schools

CFDA Number: 93.110M.
Application Availability: 11/15/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.
Letter of Intent Deadline: 12/15/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 04/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

The intent of this category is to provide a mechanism for assistance for programs whose goal is to provide and enhance mental health resources and services for the school-age population. Centers funded under this category will provide assistance to targeted needs identified by those organizations and institutions requesting the training or technical assistance. Assistance should utilize, as much as possible, existing materials and training models that have demonstrated success and impact in the past. Methods utilized will also be adapted to suit the particular circumstances.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$590,000.

Estimated Numbers of Award

2.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: Trina Anglin, M.D., Ph.D.
Phone Number: 1–301–443–4291.
E-mail: tanglin@hrsa.gov.

National Training Institute for Child Care Health Consultants

CFDA Number: 93.110P.
Application Availability: 11/15/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.
Letter of Intent Deadline: 12/15/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 04/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

Quality Child Care, which pays attention to health and safety and protecting children from harm, is often a function of quality State licensure regulations and guidelines as well as local support. This support is best carried out by child care health consultants at the local level who train and support child care providers and families and assure that the child care guidelines are carried out. Child care health consultants are a new type of health professional. They view child care as a focal point for identifying children in need of health coverage including Medicaid and CHIP, and as a place to help families identify a medical home for their child. The MCHB funded the National Training Institute (NTI) for Child Care Healthy Consultants in 1996 to provide standardized training using Caring for Our Children and Stepping Stones as a basis of the curriculum. The model is ''train the trainer,'' and there

is a distance learning component as well as on-site. The expected outcome is statewide networks of child care health consultants to the local level in every State.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

The current grantee is the University of North Carolina School of Public Health in collaboration with the Frank Porter Graham Child Development Center. They will apply, as well as organizations and universities which have expertise and an interest in health and safety in child care and the ability to create systems for training child care health consultants and technology transfer related to distance learning.

Special Consideration

Ability to conduct a training program for child care health consultants which is national in focus, and ability to conduct distance learning using state-of-the-art technology transfer.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$225,000.

Estimated Number of Awards

1.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: Phyllis Stubbs, M.D.
Phone Number: 1–301–443–6600.
E-mail: pstubbs@hrsa.gov.

National Health and Safety in Child Care Health Resource Center

CFDA Number: 93.110P.
Application Availability: 11/15/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 12/15/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 04/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

The National Resource Center (NRC) for Health and Safety in Child Care supports States in the development of quality child care health and safety programs through the performance of the following activities: maintain and update on the World Wide Web the computerized National Child Care standards database which contains the National Health and Safety Performance Standards; annually update health and safety standards for all States and territories and Stepping Stones to Caring for our Children; provide consultation, training and technical assistance to States on child care health and safety; maintain child care health and safety references collections; develop and maintain child care databases; arrange conferences and workshops; convene annual meetings of the NRC Advisory Committee; disseminate information to the public and to professional organizations; analysis of special issues; and develop programmatic approaches and participation/presentation at key child care conferences.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$350,000.

Estimated Number of Awards

1.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: Phyllis Stubbs, M.D.
Phone Number: 1–301–443–6600.
E-mail: pstubbs@hrsa.gov.

Health Care Information and Education for Families of Children With Special Health Care Needs (CSHCN)

CFDA Number: 93.110S.
Application Availability: 08/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 10/01/1999.
Application Deadline: 12/01/1999.
Projected Award Date: 03/01/2000.

Authorization

Public Health Service Act, Title III, Section 301, 42 U.S.C. 241

Purpose

The purpose of this competition is to support a cooperative agreement for implementation of a piloted national strategy to establish a national network of centers that will provide health care information and education to families of children with special health care needs. These centers will be planned and administered by families and will be built upon existing collaborative relationships with State Title V–CSHCN programs, providers and family advocates.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Funding preference will be given to nationally recognized family organizations with clearly demonstrated national expertise and capacity in addressing health issues related to CSHCN and their families.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$500,000 pending availability of funds.

Estimated Number of Awards

1.

Estimated Project Period

5 years.

For Programmatic Questions

Contact Person: Diana Denboba.
Phone Number: 1–301–443–9332.
E-mail: ddenboba@hrsa.gov.

SPRANS—State and Local Data Utilization and Enhancement (DUE) Cooperative Agreements

CFDA Number: 93.11OU.
Application Availability: 01/03/2000.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 02/15/2000.
Application Deadline: 03/15/2000.
Projected Award Date: 05/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

Cooperative Agreements to State and local agencies, each of whom will contribute equal matching funds to:

support, develop and implement MCH State and local data activities, which may include developing standardized integrated data and communication systems within and between States; develop standardized mechanisms to better monitor managed care; and/or develop common data elements/model approaches to key emerging MCH data issues, including support for innovation in health systems and community assessment indicators; conduct a cost-effective analysis of MCH services, performance measures and outcome reporting; develop methods to measure unmet needs, gaps in services, and needs of special populations; propose new measures of morbidities and health; examine the quality of care and implementation of community health initiatives. Projects will work collaboratively with each other and the MCH Bureau to develop common definitions and data elements, model tools and approaches and performance standards.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$428,000.

Estimated Number of Awards

6.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Alicia Scott-Wright or Russ Scarato.
Phone Number: 1–301–443–0700 or 1–301–443–0701.
E-mail: ascottwright@hrsa.gov or rscarato@hrsa.gov.

Note: These six cooperative agreements represent a pilot effort to actively work with and support State and local development of integrated data systems and analytical models. Additional funds are needed to expand this effort beyond the restriction mandated by the current budget.

Center for School Health Care

CFDA Number: 93.110AE.
Application Availability: 11/15/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.
Letter of Intent Deadline: 12/15/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 04/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

To provide a means of providing up-to-date information on approaches to improving school-based health care. To enhance State and community level capacity for school health planning, policy development, and quality assurance; to promote growth in school health infrastructure; to identify and promote models of interdisciplinary training and team development for health and education personnel; to identify and disseminate state-of-the-art practices in school health and school based health care; and to identify and disseminate information on sustainability of school based health services, particularly concerning third party reimbursements.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Funding preference will be given to any public or private organization that can function on a national level, demonstrate knowledge and experience with the issues to be addressed, and can demonstrate credibility in the health and education communities is eligible to apply.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$200,000.

Estimated Number of Awards

1.

Estimated Project period

4 Years.

For Programmatic Questions

Contact Person: Trina Anglin, M.D., Ph.D.
Phone Number: 1–301–443–4026.
E-mail: tanglin@hrsa.gov.

Integrated Health Care Programs for Children and Adolescents

CFDA Number: 93.110AF.
Application Availability: 11/15/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.
Letter of Intent Deadline: 12/15/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 04/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

These two year planning grants are designed to initiate and formalize a working relationship among community resources, in order to detail arrangements for establishing an integrated program of health service delivery for children and adolescents, in a targeted area with a total population of 100,000 to 250,000. The combined services are to include physical and psychosocial primary health care, comprehensive mental health services, and substance abuse prevention and treatment services. The plan that is produced is to include attention to organizational structure, staffing, facilities, information systems including protection of confidentiality, and fiscal arrangements.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$210,000.

Estimated Number of Awards

4.

Estimated Project Period.

2 years.

For Programmatic Questions

Contact Person: Trina Anglin, M.D., Ph.D.
Phone Number: 1–301–443–4291.
E-mail: tanglin@hrsa.gov.

Innovative Approaches to Promoting Positive Health Behaviors in Women

CFDA Number: 93.110AH.
Application Availability: 11/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999 .
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.
Letter of Intent Deadline: 12/17/1999.

Application Deadline: 01/17/2000.
Projected Award Date: 04/03/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

This three year demonstration program will develop and demonstrate innovative approaches that are effective in promoting positive health behaviors in women, particularly behaviors influencing preconceptional health (nutrition, smoking cessation, STD prevention, etc.) through partnerships with other organizations (business, child care, religious, etc.) in a variety of community settings. These approaches should target women who currently have limited access to health promotion services and should link women with Title V and other relevant health resources and services.

Eligibility

42 CFR Part 51a.3*.

Funding Priorities and/or Preferences

None.

Special Considerations

There may be only one application per State.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$450,000.

Estimated Number of Awards

3.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Ellen Hutchins, Ph.D.
Phone Number: 1–301–443–9534.
E-mail: ehutchins@hrsa.gov.

Health and Welfare Technical Advisory Group

CFDA Number: 93.110AI.
Application Availability: 11/15/1999.

To obtain this application kit

Contact: 1–888–333-HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 12/15/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 04/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701

Purpose

The Health and Welfare Technical Advisory Group is intended to: promote communication among State-level program directors in the areas of maternal and child health, Medicaid, Child Care, Child Welfare, Mental Health, and Head Start and their Federal counterparts; to collaborate on approaches to address family health and welfare issues; identify Federal and/or State actions which inhibit a coherent approach to meeting family health and welfare needs; and promote mechanisms to improve functioning across programs. These purposes are to be accomplished through development of an ongoing forum of representatives of these programs and a mechanism to provide information to and receive information from all State program directors. Specific topics of concern will be jointly selected. Items of particular concern to HRSA include child care, oral health, and school health issues.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

A funding preference will be given to any organization which can demonstrate a linkage with at least one and preferably more than one of the organizations representing the State-level programs listed in the Purpose section.

REview Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$200,000.

Estimated Number of Awards

1.

Estimated Project Period

2 years.

For Programmatic Questions

Contact Person: Stuart Swayze.
Phone Number: 1–301–443–2917.
E-mail: sswayze@hrsa.gov.

Healthy Child Care America State Systems Development Grants

CFDA Number: 93.110AQ.
Application Availability: 11/01/1999.

To Obtain this Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 01/10/2000.
Application Deadline: 03/08/2000.
Projected Award Date: 06/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

MCHB is currently funding 51 State Health Systems Development in Child Care-Healthy Child Care America (HSDCC) Grants. These grants were awarded in FY 1996 and are serving as State focal points for health and safety in child care, and are developing integrated health, child care and social service systems in their respective States. They are instituting measures to both improve the quality of child care and assure that children in child care settings receive the health services which they need. Building upon MCHB's investment, and based upon State Title V and Child Care program suggestions, a Phase II is planned. Healthy Child Care America-the Year 2000 Quality Initiative will focus on the development and implementation of State programs which address quality assurance (improved State regulations); infrastructure building (networks of child care health consultants); and outreach (related to Medicaid and CHIP).

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

A preference will be given to State and/or private nonprofit health or child care entities which can carry out programmatic expectations in relation to quality assurance, infrastructure development and outreach on a statewide basis. The current grants will apply vis-a-vis a limited competition. In addition, an entity from the States of New Jersey and Mississippi will be asked to apply.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$3,842,500.

Estimated number of Awards

1 per 53 States/Territories.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Phyllis Stubbs, M.D.
Phone Number: 1–301–443–6600.
E-mail: pstubbs@hrsa.gov.

Community Integrated Service Systems (CISS) Community Organization Grants Program

CFDA Number: 93.110AR.
Application Availability: 01/10/2000.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 02/08/2000.
Application Deadline: 03/10/2000.
Projected Award Date: 05/01/2000.

Authorization

Social Security Act, Title V, 42 U.S.C. 701.

Purpose

The CISS program is designed to enhance the development of service systems at the community level to address the physical, psychological, social well-being, and related needs of pregnant women, infants, and children, including children with special health care needs and their families. CISS programs should be designed to assist communities to better meet consumer identified needs, fill gaps in services, reduce duplication of effort, coordinate activities, increase availability of services, improve efficiency, and enhance quality of care. Programs must be developed in collaboration and coordination with the State MCH Services Block Grant programs and State efforts in community systems development.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

In keeping with the goals of advancing the development of human potential, strengthening the Nation's capacity to provide high quality education by broadening participation in MCHB programs of institutions that may have perspectives uniquely reflecting the Nation's cultural and linguistic diversity, and increasing opportunities for all Americans to participate in and benefit from Federal public health programs, HRSA will place a funding priority on projects from Historically Black Colleges and Universities (HBCU) or Hispanic Serving Institutions (HSI) in all categories and subcategories in this notice for which applications from academic institutions are encouraged. This is in conformity with the Federal Government's policies in support of White House Initiatives on Historically Black Colleges and Universities (Executive Order 12876) and Educational Excellence for Hispanic Americans (Executive Order 12900).

An approved proposal from an HBCU or HSI will receive a 0.5 point favorable adjustment of the priority score in a 4 point range before funding decisions are made.

Special Considerations

In the interest of equitable geographic distribution, special consideration for funding will be given to projects from communities without a currently funded CISS project.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$1,250,000.

Estimated Number of Awards

25.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Joseph A. Zogby, M.S.W.
Phone Number: 1–301–443–4393.
E-mail: jzogby@hrsa.gov.

Universal Newborn Hearing Screening

CFDA Number: 93.110ZZ.
Application Availability: 11/15/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 12/15/1999.
Application Deadline: 01/15/2000.
Projected Award Date: 04/01/2000.

Authorization

Public Health Service Act, Title III, Section 301, 42 U.S.C. 241.

Purpose

This program will fund: (1) Grants to States for the implementation of universal newborn hearing screening prior to hospital discharge with linkage to a medical home, and diagnostic evaluation and enrollment in a program of early intervention by 6 months of age for those infants identified with hearing loss. Applicants should describe relationships with both the Title V programs and the Early Intervention Program (Part C of IDEA) as well as systems for data collection and tracking of infants identified with hearing loss. Applicants should also describe mechanisms to assure sustainability of the program by engaging public and private payors and implementation of a fee for service plan. (2) One grant to an organization to provide technical assistance to States on a nationwide basis in the implementation of statewide universal newborn hearing screening, diagnosis and entry into early intervention.

States where newborn hearing screening is not being carried out at the present time may submit a plan for phase-in of statewide universal newborn screening to be completed by the end of year three of a four year project period.

Funding is contingent upon the availability of funds.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

A funding preference, for the national technical assistance award, will be given to an organization with demonstrated capability and experience in this area.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$4,000,000.

Estimated Number of Awards

30.

Estimated Project Period

4 Years.

For Programmatic Questions

Contact Person: Irene Forsman, M.S., R.N.
Phone Number: 1–301–443–9023.
E-mail: iforsman@hrsa.gov.

Emergency Medical Services for Children (EMSC), Implementation Grants

CFDA Number: 93.127A.
Application Availability: 09/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 09/30/1999.
Application Deadline: 11/01/1999.
Projected Award Date: 03/01/2000.

Authorization

Public Health Service Act, Title XIX, Section 1910, 42 U.S.C. 300w–9.

Purpose

Implementation grants will improve the capacity of a State's EMS program to address the particular needs of children. Implementation grants are used to assist States in integrating research-based knowledge and state-of-the-art systems development approaches into the existing State EMS, MCH, and CSHCN systems, using the experience and products of previous EMSC grantees. Applicants are encouraged to consider activities that: (1) Address identified needs within their State EMS system and that lay the groundwork for permanent changes in that system; (2) develop or monitor pediatric EMS capacity; and (3) will be institutionalized within the State EMS system.

Eligibility

States and accredited schools of medicine are eligible applicants.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$500,000.

Estimated Number of Awards

2.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: David E. Heppel, M.D.
Phone Number: 1–301–443–2250.
E-mail: dheppel@hrsa.gov.

Emergency Medical Services for Children (EMSC), Partnership Grants

CFDA Number: 93.127C.
Application Availability: 09/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 09/30/1999.
Application Deadline: 11/15/1999.
Projected Award Date: 03/01/2000.

Authorization

Public Health Service Act, Title XIX, Section 1910, 42 U.S.C. 300w–9.

Purpose

State partnership grants will fund activities that represent the next logical step or steps to take to institutionalize EMSC within EMS and to continue to improve and refine EMSC. Proposed activities should be consistent with documented needs in the State and should reflect a logical progression in enhancing pediatric capabilities. For example, funding might be used to address problems identified in the course of a previous implementation grant; to increase the involvement of families in EMSC; to improve linkages between local, regional, or State agencies; to promulgate standards developed for one region of the State under previous funding to include the entire State; to devise a plan for coordinating and funding poison control centers; or to assure effective field triage of the child in physical or emotional crisis to appropriate facilities and/or other resources.

Eligibility

States and accredited schools of medicine are eligible applicants.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,900,000.

Estimated Number of Awards

19.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: David E. Heppel, M.D.
Phone Number: 1–301–443–2250.
E-mail: dheppel@hrsa.gov.

Emergency Medical Services for Children (EMSC), Targeted Issue Grants

CFDA Number: 93.127D.
Application Availability: 09/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 09/30/1999.
Application Deadline: 11/01/1999.
Projected Award Date: 03/01/2000.

Authorization

Public Health Service Act, Title XIX, Section 1910, 42 U.S.C. 300w–9.

Purpose

Targeted issue grants are intended to address specific, focused issues related to the development of EMSC knowledge and capacity with the intent of advancing the state-of-the-art, and creating tools or knowledge that will be helpful nationally. Proposals must have well-conceived methodology for analysis and evaluation. Targeted issue priorities have been identified based on the EMSC Five Year Plan. The targeted issue priorities are: cost-benefit analysis related to EMSC, implications of managed care for EMSC, evaluations of EMSC components, models for improving the care of culturally distinct populations, evaluation of systems for provision of emergency health care within day care and/or school settings, and evaluation of family-centered care models. Proposals may be submitted on emerging issues that are not included in the identified priorities. However, any such proposal must demonstrate relevance to the Plan and must make a persuasive argument that the issue is particularly critical.

Eligibility

States and accredited schools of medicine are eligible applicants.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$450,000.

Estimated Number of Awards

3.

Estimated Project Period

2 Years.

For Programmatic Questions

Contact Person: David E. Heppel, M.D.
Phone Number: 1–301–443–2250.
E-mail: dheppel@hrsa.gov.

Emergency Medical Services for Children (EMSC), Native American Project

CFDA Number: 93.127G.
Application Availability: 10/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 11/01/1999.
Projected Award Date: 12/01/1999.

Authorization

Public Health Service Act, Title XIX, Section 1910, 42 U.S.C. 300w–9.

Purpose

Project will stimulate the development and enhancement of EMSC for Native Hawaiians.

Applicants are encouraged to consider activities that: (a) Identify needs of Native Hawaiian populations; (b) develop or monitor pediatric EMS capability, especially as it relates to provisions of services to isolated populations; and (c) develop and evaluate special projects designed to address problems related to emergency medical care for Native Hawaiian and Alaska Native populations, including prevention, prehospital care, hospital services, rehabilitation, and linkages with primary care.

Eligibility

States and accredited schools of medicine are eligible applicants.

Funding Priorities and/or Preferences

Competition is limited to the State of Hawaii.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$250,000.

Estimated Number of Awards

1.

Estimated Project Period

2 Years.

For Programmatic Questions

Contact Person: David E. Heppel, M.D.
Phone Number: 1–301–443–2250.
E-mail: dheppel@hrsa.gov.

Traumatic Brain Injury (TBI), State Implementation Grants.

CFDA Number: 93.234A.
Application Availability: 09/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 11/01/1999.
Application Deadline: 12/01/1999.
Projected Award Date: 04/01/2000.

Authorization

Public Health Service Act, Title XII, Section 1242, 42 U.S.C. 300d–42.

Purpose

The purpose of this grant program is to improve health and other services for people who have sustained a traumatic brain injury (TBI). Implementation grants provide funding to assist States in moving toward statewide systems that assure access to comprehensive and coordinated TBI services.

Eligibility

State governments are eligible applicants.

Funding Priorities and/or Preferences

None.

Matching Requirement

The State is required to contribute, in cash, not less than $1 for each $2 of Federal funds provided under the grant.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,200,000.

Estimated Number of Awards

6.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: David E. Heppel, M.D.
Phone Number: 1–301–443–2250.
E-mail: dheppel@hrsa.gov.

Traumatic Brain Injury (TBI), State Planning Grants

CFDA Number: 93.234B.
Application Availability: 09/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 11/01/1999.
Application Deadline: 12/01/1999.
Projected Award Date: 04/01/2000

Authorization

Public Health Service Act, Title XII, Section 1242, 42 U.S.C. 300d–42.

Purpose

The purpose of this grant program is to improve health and other services for people who have sustained a traumatic brain injury (TBI). Implementation grants provide funding to assist States in moving toward statewide systems that assure access to comprehensive and coordinated TBI services.

Eligibility

State governments are eligible applicants.

Funding Priorities and/or Preferences

None

Matching Requirement

The State is required to contribute, in cash, not less than $1 for each $2 of Federal funds provided under the grant.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$300,000.

Estimated Number of Awards

4.

Estimated Project Period

2 Years.

For Programmatic Questions

Contact Person: David E. Heppel, M.D.
Phone Number: 1–301–443–2250.
E-mail: dheppel@hrsa.gov.

Healthy Start: Eliminating Disparities in Perinatal Health

CFDA Number: 93.926E.
Application Availability: 12/21/1999.

To Obtain This Application Kit

Contact: 1–888–333-HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 01/28/2000.
Application Deadline: 03/01/2000.
Projected Award Date: 06/01/2000.

Authorization

Public Health Service Act, Title III, Section 301, 42 U.S.C. 241.

Purpose

To enhance a community's service system to address significant disparities in perinatal health indicators. Funding would be made available for up to 15 community projects which have: (1) Significant infant mortality and morbidity rates among one or more subpopulations; (2) existing active consortia of stakeholders with over one year's experience in infant mortality reduction initiatives; and (3) a feasible plan to reduce barriers, improve the local perinatal system of care, and work towards eliminating existing disparities in perinatal health. These sites must have or plan to implement/adapt Healthy Start models of consortium, case management, outreach and

enhanced clinical services. In addition, they must demonstrate established linkages with key State and local services and resource systems such as Title V, Title XIX, Title XXI, WIC, Enterprise Communities/Empowerment Zones, federally-funded Community and Migrant Health Centers, and Indian/Tribal Health Services. For this competition, ''community'' is broadly defined so that a statewide or multi-county project serving racial/ethnic groups (e.g., Hmongs, Mexican Hispanics, African American, etc.) would be eligible.

Eligibility

Public or nonprofit organizations are eligible to apply.

Estimated Amount of This Competition

$14,800,000.

Estimated Number of Awards

Up to 15.

Estimated Project Period

4 Years.

Funding Priorities and/or Preferences

Preference will be given to: (1) Past (FY 1999) projects of HSI-Infrastructure/Capacity Building grants, and (2) communities in States and territories which do not have a currently federally-funded Healthy Start project. Priority will be given to: (1) Communities with significant racial/ethnic disparities in perinatal indicators for three years (1995–1997); (2) border communities (within 62 miles of the Mexican border); and (3) proposals with emphasis/specific activities addressing qualitative issues (e.g., social/economic, violence, psychological services) for its perinatal populations.

Special Considerations

Current Healthy Start implementation grantees are not eligible to apply.

Review Criteria

Final criteria are included in the application kit.

For Programmatic Questions

Contact Person: Maribeth Badura.
Phone Number: 1–301–443–0543.
E-mail: mbadura@hrsa.gov.

Healthy Start: Infrastructure/Capacity Building Projects

CFDA Number: 93.926F.
Application Availability: 01/04/2000.

To Obtain This Application Kit

Contact: 1–888–333-HRSA until September 12, 1999.
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.
Letter of Intent Deadline: 02/28/2000.
Application Deadline: 03/15/2000.
Projected Award Date: 06/01/2000.

Authorization

Public Health Service Act, Title III, Section 301, 42 U.S.C. 241.

Purpose

The purpose of this program is to build infrastructure/capacity in targeted communities/areas of the State where racial disparities in perinatal indicators exist, including among Hispanics, American Indians, African Americans, Alaska Natives, Asian/Pacific Islanders, immigrant populations, particularly those living in border counties. Funding would be made available to up to 15 communities to support the development of local plans to fill gaps in/or expand data systems to identify and monitor perinatal outcomes, train personnel and strengthen local reporting systems, establish networks and links to other systems, assist in needs assessment, and consortium/coalition development.

Eligibility

Public or nonprofit organizations are eligible to apply.

Funding Priorities and/or Preferences

Preference will be given to communities in States and territories which do not have a current federally-funded Healthy Start project. Priority will be given to: (1) Communities with significant racial/ethnic disparities in perinatal indicators for three years (1995–1997); (2) States with (national) border communities; and (3) communities applying as or on behalf of an existing community-based consortium which have infant mortality reduction initiatives already underway.

Special Considerations

Current Healthy Start implementation grantees are not eligible to apply.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$2,250,000.

Estimated Number of Awards

Up to 15.

Estimated Project Period

2 Years.

For Programmatic Questions

Contact Person: Maribeth Badura.
Phone Number: 1–301–443–0543.
E-mail: mbadura@hrsa.gov.

National Fetal and Infant Mortality Review (FIMR) Resource Center

CFDA Number: 93.926H.
Application Availability: 01/24/2000.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.
Letter of Intent Deadline: 02/28/2000.
Application Deadline: 04/01/2000.
Projected Award Date: 07/01/2000.

Authorization

Public Health Service Act, Title III, Section 301, 42 U.S.C. 241.

Purpose

The purpose of the resource center is to provide technical support to States and communities, particularly Healthy Start communities, as they develop and implement the community-based fetal and infant mortality review process. The resource center will be responsible for working with the MCHB to promote the FIMR process, provide assistance to communities setting up the process, share pertinent information among communities and States, develop refinements and new approaches to the FIMR process to make it more responsive and efficient, and expand the use of FIMR as a needs assessment and quality improvement tool to build capacity in the State Title V program.

Eligibility

Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 405b), is eligible to apply.

Funding Priorities and/or Preferences

Preference will be given to national organizations with expertise in the provision of FIMR training and technical assistance and with an existing infrastructure to respond to requests for technical assistance, technology transfer and information sharing from States and communities that are developing, coordinating and/or sustaining FIMRs.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$500,000.

Estimated Number of Awards

1.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: Ellen Hutchins, Ph.D.
Phone Number: 1–301–443–9534.
E-mail: ehutchins@hrsa.gov.

Maternal and Child Health Provider Partnerships

CFDA Number: 93.926I.
Application Availability: 01/03/2000.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 02/07/2000.
Application Deadline: 03/03/2000.
Projected Award Date: 06/01/2000.

Authorization

Public Health Service Act, Title III, Section 301, 42 U.S.C. 241.

Purpose

This program will support Cooperative Agreements with MCH providers' membership organizations to advance the field of perinatal and women's health and ultimately improve the health status of women through improved health care services and systems. The Partners will be expected to identify relevant needs in perinatal and women's health from their perspective, develop and/or implement organizational and collective strategies, and facilitate information sharing and communication within the field. Particular attention of the Partnership will be to address health promotion/risk reduction behaviors among women through coordinated and culturally competent services and systems of care. Projects will cooperate and work collaboratively with each other and with other MCHB funded projects in perinatal and women's health.

Eligibility

Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 405b), is eligible to apply.

Funding Priorities and/or Preferences

Preference will be given to national membership organizations representing providers of obstetrical, gynecological, and general women's health services.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$400,000.

Estimated Number of Awards

2.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Brenda Lisi.
Phone Number: 1–301–443–9991.
E-mail: blisi@hrsa.gov.

Improving Systems of Care for Pregnant Women Experiencing Domestic Violence

CFDA Number: 93.926J.
Application Availability: 12/03/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 01/14/2000.
Application Deadline: 02/11/2000.
Projected Award Date: 05/01/2000.

Authorization

Public Health Service Act, Title III, Section 301, 42 U.S.C. 241.

Purpose

This three year demonstration program will develop/enhance systems of care that identify pregnant women who are experiencing domestic violence/abuse and provide appropriate information, referrals, and linkages to interventions.

Eligibility

Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 405b), is eligible to apply.

Funding Priorities and/or Preferences

Preference will be given to State/Territorial MCH Title V Agencies, tribal health agencies or their designees.

Special Consideration

There may be only one application per State.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$600,000.

Estimated Number of Awards

4.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Brenda Lisi.
Phone Number: 1–301–443–9991.
E-mail: blisi@hrsa.gov.

HIV/AIDS Programs

Grants Management Office: 1–301–443–2280.

Special Projects of National Significance (SPNS)

CFDA Number: 93.928.
Application Availability: 04/01/2000.

To Obtain This Application Kit

Contact: 1–888–333-HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 06/01/2000.
Projected Award Date: 09/15/2000.

Authorization

Public Health Service Act, Title XXVI, Section 2691, as amended by the Ryan White Care Act Amendments of 1996, Public Law 104–146, 42 U.S.C. 300ff-10

Purpose

Development, demonstration and assessment of innovative and potentially replicable HIV service delivery models that address a continually changing epidemic, the quality of emerging HIV therapies, changes in the economies of health care affecting HIV care networks, and interventions that can document outcomes.

Eligibility

Public and nonprofit entities are eligible to apply.

Funding Priorities and/or Preferences

None.

Special Considerations

Special consideration will be given to certain populations referenced in the statute: Native Americans, the homeless, adolescents, hemophiliacs, and the incarcerated.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,500,000.

Estimated Number of Awards

5–6.

Estimated Project Period

2–5 Years.

For Programmatic Questions

Contact Person: Steven Young.
Phone Number: 1–301–443–7136.
E-mail: syoung@hrsa.gov.

Ryan White Title III Funding for Early Intervention Services Grants: Existing Geographic Areas

CFDA Number: 93.918A.
Application Availability: 06/18/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 10/01/1999.
Projected Award Date: 01/01/2000 and 06/30/2000.

Authorization

Public Health Service Act, Title XXVI, Part C, Section 2641, as amended by the Ryan White Care Act Amendments of 1996, Public Law 104–146, 42 U.S.C. 300ff-41.

Purpose

The purpose of Title III funding is to provide, on an outpatient basis, high quality early intervention services/primary care to individuals with HIV infection. This is accomplished by increasing the present capacity and capability of eligible ambulatory health service entities. These expanded services become a part of a continuum of HIV prevention and care for individuals who are at risk for HIV infection or are HIV infected. All Title III programs must provide: HIV counseling and testing; counseling and education on living with HIV; appropriate medical evaluation and clinical care; and other essential services such as oral health care, outpatient mental health services and nutritional services, and appropriate referrals for specialty services.

Eligibility

Eligible applicants are public or nonprofit private entities that are Section 330 Health Centers, grantees funded under Section 1001 regarding Family Planning, Comprehensive Hemophilia Diagnostic and Treatment Centers, Federally Qualified Health Centers, or nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV disease.

Limited Competition

Eligible applicants are public or nonprofit private entities that are currently funded Title III programs whose project periods expire in FY 2000 and new organizations proposing to serve the same populations currently being served by these existing projects. These areas are:

State	Areas
AL	Jefferson County, Mobile County.
AZ	Pima County.
CA	Los Angeles County, San Diego County, Mendocino County, Sonoma County, Santa Barbara County.
CO	Denver County.
CT	New Haven County.
DC	Washington.
DE	Counties statewide.
FL	Dade County.
GA	Counties of Baker, Calhoun, Dougherty, Lee, Mitchell, Worthy, Terrell, Colquitt, Thomas, Grady, Seminole, Miller, Early, Decatur, Counties of Glynn, Camden, McIntosh, Long, Liberty, Bryan.
IA	Woodbury County.
IL	Counties of Peoria, Taylwell, McLean, Fulton, Know, Bureau, Henry, Marshall, Putnam, Woodford, Schuyler, McDonough, LaSalle, Livingston, Mason, Warren, Stark, Cook County.
LA	Parishes of Calcasieu, Cameron, Beauregard, Jeff Davis, Allen, Parishes of Orleans, Jefferson, East Baton Rouge, St. Tammany, Washington, Iberville, St. Bernard.
MA	Middlesex County, Suffolk County, Essex County.
MD	Counties of Harford, Carroll, Dorchester, Caroline, Talbot, Cecil, Baltimore, Anne Arundel, Frederick, Howard, Montgomery, Baltimore City.
MI	Counties of Washtenau, Livingston, Jackson, Wayne, Lenawee, Oakland,. MaComb, St. Claire, Monroe, Counties of Ionia, Kent, Manistee, Mason,. Mecosta, Muskegon, Newaygo, Oceana, Ottawa.
MO	Counties of North, South, West and St. Louis City.
MS	Counties of Coahoma, Tate, Tallahatchie, Leflore, Lowdens, Bolivar, Tunica, Quitman, Panola, Desoto, Marshall.
NJ	Counties of Essex, Union, Hudson, Bergen, Passaic, Morris, Middlesex County, Mercer County, Hudson County.
NY	Counties of Ulster, Dutchess, Orange, Sullivan, New York City,. Weschester County, Suffolk County.
OH	Ross County.
OR	Counties of Multnomah, Clackamas, Washington, Yamhill, Columbia.
OK	Oklahoma County.
PA	Philadelphia County.
PR	Territory of Puerto Rico.
SC	Counties of Richland, Sumter, Fairfield.
TX	El Paso County, Counties of Willaey, Cameron, Hidalgo.
VA	Counties of Fairfax, Prince William, Loudoun.
WA	King County, Yakima County.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$29,866,051.

Estimated Number of Awards

69.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Andrew Kruzich.
Phone Number: 1–301–443–0735.
E-mail: akruzich@hrsa.gov.

Ryan White Title III Funding for Early Intervention Services Grants: New Geographic Areas

CFDA Number: 93.918B.
Application Availability: 04/17/2000.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 07/17/2000.
Projected Award Date: 09/30/2000.

Authorization

Public Health Service Act, Title XXVI, Part C, Section 2641, as amended by the Ryan White Care Act Amendments of 1996, Public Law 104–146, 42 U.S.C. 300ff-41.

Purpose

The purpose of Title III funding is to provide, on an outpatient basis, high quality early intervention services/primary care to individuals with HIV infection. This is accomplished by increasing the present capacity and capability of eligible ambulatory health service entities. These expanded services become a part of a continuum of HIV prevention and care for individuals who are at risk for HIV infection or are HIV infected. All Title III programs must provide: HIV counseling and testing; counseling and education on living with HIV; appropriate medical evaluation and clinical care; and other essential services such as oral health care, outpatient mental health services and nutritional services, and appropriate referrals for specialty services.

Eligibility

Eligible applicants are public or nonprofit private entities that are Section 330 Health Centers, grantees funded under Section 1001 regarding Family Planning, Comprehensive

Hemophilia Diagnostic and Treatment Centers, federally Qualified Health Centers, or nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV disease.

Funding Priorities and/or Preferences

In awarding these grants, preference will be given to approved/unfunded applicants who submitted an application for funding in FY 1999 and to applicants who previously received Title III planning grants. Preference for funding may also be given to applicants which help to achieve an equitable geographic distribution of programs across all States and Territories, especially programs that provide services in rural or underserved communities where the HIV/AIDS epidemic is increasing.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$23,400,000.

Estimated Number of Awards

78.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Andrew Kruzich.
Phone Number: 1–301–443–0735.
E-mail: akruzich@hrsa.gov.

Ryan White Title III HIV Funding for Early Intervention Services Planning Grants

CFDA Number: 93.918C.
Application Availability: 02/04/2000.

To Obtain This Application Kit

Contact: 1–888–333-HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 06/02/2000.
Projected Award Date: 09/30/2000.

Authorization

Public Health Service Act, Title XXVI, Part C, Section 2641, as amended by the Ryan White Care Act Amendments of 1996, Public Law 104–146, 42 U.S.C. 300ff-41.

Purpose

The purpose of this grant program is to support communities and health care service entities in their planning efforts to develop a high quality and broad scope of primary health care services for people in their service areas who are living with HIV or at risk of infection. Applications must propose planning activities which will lead to the establishment of comprehensive outpatient HIV primary care services. This grant program supports activities of the planning process and does not fund any service delivery or patient care.

Eligibility

Eligible applicants must be public or nonprofit private entities that are, or intend to become, eligible to apply for the Title III Early Intervention Services grant.

Limited Competition

Applicants for these funds cannot be current Ryan White Title III Early Intervention Services Program grant recipients and must be located in rural or underserved communities where HIV primary health care resources remain insufficient to meet the need for services or plan for such services.

Funding Priorities and/or Preferences

In awarding these grants, preference will be given to applicants located in rural or underserved areas where emerging or ongoing HIV primary health care needs have not been adequately met.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,234,000.

Estimated Number of Awards

24.

Estimated Project Period

1 Year.

For Programmatic Questions

Contact Person: Andrew Kruzich.
Phone Number: 1–301–443–0735.
E-mail: akruzich@hrsa.gov.

Ryan White Title III HIV Funding for Early Intervention Services Planning Grants

CFDA Number: 93.918D.
Application Availability: 02/04/2000.

To Obtain an Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 06/02/2000.
Projected Award Date: 09/30/2000.

Authorization

Public Health Service Act, Title XXVI, Section 2641, as amended by the Ryan White Care Act Amendments of 1996, Public Law 104–146, 42 U.S.C. 300ff–41.

Purpose

The purpose of this grant program is to support communities and health care service entities in their planning efforts to develop a high quality and broad scope of primary health care services for people in their service areas who are living with HIV or at risk of infection. Applications must propose planning activities which will lead to the establishment of comprehensive outpatient HIV primary care services. This grant program supports activities of the planning process and does not fund any service delivery or patient care.

Eligibility

Eligible applicants must be public or nonprofit private entities that are, or intend to become, eligible to apply for the Title III Early Intervention Services grant.

Limited Competition

Applicants for these funds cannot be current Ryan White Title III Early Intervention Service Program grant recipients unless they propose to open a new site in their current service area or in a new service area to serve African American communities highly impacted by HIV/AIDS. Applicants must also be organizations indigenous to the African American community which is defined as a community-based or public organization local to and supported by the African American population proposed to be served.

Funding Priorities and/or Preferences

In awarding these grants, preference will be given to applicants located in rural or underserved areas where there are many HIV+ African Americans and ongoing HIV primary health care needs have not been adequately met. Preference will also be given to applicants that are not currently Ryan White Title III Early Intervention Service Program grant recipients.

Special Considerations

Building HIV primary care capacity of indigenous organizations serving African American communities.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$3,000,000.

Estimated Number of Awards

Up to 60.

Estimated Project Period

Up to 2 Years.

For Programmatic Questions

Contact Person: Andrew Kruzich.
Phone Number: 1–301–443–0735.
E-mail: akruzich@hrsa.gov.

Ryan White Title IV: Existing Geographic Areas

CFDA Number: 93.153A.
Application Availability: 12/13/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 1/31/2000.
Application Deadline: 3/01/2000.
Projected Award Date: 8/01/2000.

Authorization

Public Health Service Act, Title XXVI, Section 2671, 42 U.S.C. 300ff–71.

Purpose

The purpose of the Title IV funding is to improve access to primary medical care, research, and support services for children, youth, women and families infected with HIV. Funded projects will link clinical research and other research with comprehensive care systems and improve and expand the coordination of a system of comprehensive care for women, infants, children and youth who are infected/affected by HIV. Funds will be used to support programs that: (1) Cross established systems of care to coordinate service delivery, HIV prevention efforts, and clinical research and other research activities; and (2) address the intensity of service needs, high costs, and other complex barriers to comprehensive care and research experienced by underserved at-risk and limited populations. Activities under these grants should address the goals of enrolling and maintaining clients in HIV primary care; increase client access to research by linking development and support of comprehensive, community-based and family centered care infrastructures, and emphasize prevention within the care system, particularly the prevention of perinatal HIV transmission.

Eligibility

Eligible organizations are public or private nonprofit entities that provide or arrange for primary care.

Limited Competition

Applicants are limited to currently funded Title IV programs whose project periods expire in FY 2000 and new organizations proposing to serve the same populations currently being served by these existing projects. These areas are:

State	Areas
CA	Oakland.
FL	Miami, Fort Lauderdale.
IL	Chicago.
LA	New Orleans.
MA	Boston, Holyoke, Brockton, Lowell, Lawrence, New Bedford.
NJ	Statewide.
NY	Northern Manhattan.
OH	Columbus.
PR	Statewide.
RI	Statewide.
TX	Fort Worth, Houston, San Antonio.
WA	Seattle.

Funding Priorities and/or Preferences

Preference for funding will be given to projects that support a comprehensive, coordinated system of HIV care serving children, youth, women and families and are linked with or have initiated activities to link with clinical trials or other research.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$15,663,000.

Estimated Number of Awards

16.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Lydia Soto-Torres, MD.
Phone Number: 1–301–443–9051.
E-mail: lsoto-torres@hrsa.gov.

Ryan White Title IV: New Geographic Areas

CFDA Number: 93.153B.
Application Availability: 12/13/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 01/31/2000.
Application Deadline: 03/01/2000.
Projected Award Date: 08/01/2000.

Authorization

Public Health Act, Title XXVI, Section 2671, 42 U.S.C. 300ff–71.

Purpose

Organizations should be able to demonstrate expertise in the coordination or provision of comprehensive medical and social services to children, youth, women and families. The purpose of the Title IV funding is to improve access to primary medical care, research and support services for children, youth, women and families infected with HIV. Funded projects will link clinical research and other research with comprehensive care systems and improve and expand the coordination of a system of comprehensive care for women, infants, children and youth who are infected/affected by HIV. Funds will be used to support programs that: (1) Cross established systems of care to coordinate service delivery, HIV prevention efforts, and clinical research and other research activities; and (2) address the intensity of service needs, high costs, and other complex barriers to comprehensive care and research experienced by underserved, at-risk and limited populations. Activities under these grants should address the goals of: enrolling and maintaining clients in HIV primary care; increasing client access to research by linking HIV/AIDS clinical research trials and activities with comprehensive care; fostering the development and support of comprehensive, community-based and family centered care infrastructures; and emphasizing prevention within the care system, particularly the prevention of perinatal HIV transmission

Eligibility

Eligible organizations are public or private nonprofit entities that provide or arrange for primary care.

Limited Competition

Applicants are limited to geographic areas where the HIV/AIDS epidemic is increasing among women, children and adolescents and where other resources targeted to these populations are limited or non-existent. These grants are for geographic areas *not* listed below.

State	Areas
AL	Statewide.
AZ	Phoenix.
CA	San Francisco; La Jolla, Los Angeles.
CO	Denver.
CT	Bridgeport, New Haven, Stamford, Hartford.
DC	Statewide.
FL	Orlando; Jacksonville, Tampa.
MD	Statewide.
MI	Lansing.
MO	St. Louis.
NH	Statewide.

State	Areas
NV	Las Vegas.
NY	Elmhurst; New York City (except Northern Manhattan), Bronx, Brooklyn, Albany, Stonybrook.
NC	Charlotte; Washington.
PA	Philadelphia.
SC	Statewide.
TN	Memphis.
TX	Dallas.
WI	Milwaukee.

Note: Additional sites may be added to this list in FY 2000 after the HRSA Preview publication date. Be sure to use the list provided in your application kit for eligibility purposes.

Funding Priorities and/or Preferences

Preference for funding may be given to applicants who help to achieve an equitable geographical distribution of programs across all States and Territories, especially programs that provide services in rural or underserved communities where the HIV/AIDS epidemic is increasing.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$800,000.

Estimated Number of Awards

3.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Lydia Soto-Torres, MD.
Phone Number: 1–301–443–9051.
E-mail: lsoto-torres@hrsa.gov.

Rural Health Programs

Grants Management Office: 1–301–594–4235.

Rural Health Research Centers

CFDA Number: 93.155.
Application Availability: 02/01/2000.

To Obtain an Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 04/01/2000.
Application Deadline: 05/01/2000.
Projected Award Date: 08/30/2000.

Authorization

Public Health Service Act, Title III, Section 301, 43 U.S.C. 241.

Purpose

The purpose of this program is to fund Rural Health Research Centers to conduct and disseminate policy relevant research on issues of multi-state and national significance in the area of rural health services. The centers study critical issues facing rural communities in their quest to secure adequate, affordable, high quality health services. Research findings are published in appropriate referred journals and disseminated to a national audience.

Eligibility

All public and private research oriented entities, both nonprofit and for-profit, are eligible to apply.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$2,500,000.

Estimated Number of Awards

5.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Joan F. Van Nostrand.
Phone Number: 1–301–443–0613.
E-mail: jvan__nostrand@hrsa.gov.

Rural Health Outreach Grant

CFDA Number: 93.912A.
Application Availability: 08/01/1999.

To Obtain an Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 11/01/1999.
Projected Award Date: 05/01/2000.

Authorization

Public Health Service Act, Title III, Section 330A, 42 U.S.C. 254c.

Purpose

The purpose of this grant program is to expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services through the development of integrated health care delivery systems or networks in rural areas and regions. Funds are available for projects to support the direct delivery of health care and related services, to expand existing services, or to enhance health service delivery through education, promotion, and prevention programs. The emphasis is on the actual delivery of specific services rather than the development of organizational capabilities. Projects may be carried out by networks of the same providers (e.g. all hospitals) or more diversified networks.

Eligibility

A rural public or nonprofit private organization, that is part of a network of at least three entities that support the delivery of health care services and will work together to complete the proposed project, is eligible to apply. The administrative headquarters of the organization must be located in a rural county or in a rural census tract of an urban county, or the applicant organization must be constituted exclusively to provide services to migrant and seasonal farmworkers in rural areas and supported under Section 330(g) of the Public Health Service (PHS) Act. Organizations that provide services to migrant and seasonal farmworkers in rural areas and are supported under Section 330(g) of the PHS Act are eligible regardless of the urban or rural location of the administrative headquarters.

Funding Priorities and/or Preferences

Funding preference may be given to applicant networks that include: (1) A majority of the health care providers serving in the area or region to be served by the network; (2) any Federally Qualified Health Center, Rural Health Clinic, and local public health department serving in the area or region; (3) outpatient mental health providers serving in the area or region; or (4) appropriate social service providers, such as agencies on aging, school systems, and providers under the women, infants, and children (WIC) program, to improve access to and coordination of health care services.

Special Considerations

An applicant organization's central headquarters must be located in a rural area. (A list of eligible rural areas is included in the application kit.)

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$10,000,000.

Estimated Number of Awards

50.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Eileen Holloran.
Phone Number: 1–301–443–0835.
E-mail: eholloran@hrsa.gov.

Rural Health Network Development

CFDA Number: 93.912B.
Application Availability: 08/01/1999.

To Obtain an Application Kit

Contact: 1–888–333–HRSA until September 12, 1999 .

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 11/08/1999.
Projected Award Date: 05/01/2000.

Authorization

Public Health Service Act, Title III, Section 330A, 42 U.S.C. 254c.

Purpose

The purpose of this program is to support the planning and development of vertically integrated health care networks in rural areas. Vertically integrated networks must be composed of three different types of providers. The emphasis of the program is on projects to develop the organizational capabilities of these networks. The network is a tool for overcoming the fragmentation of health care delivery services in rural areas. As such, the network provides a range of possibilities for structuring local delivery systems to meet health care needs of rural communities.

Eligibility

A rural public or nonprofit private organization that is or represents a network which includes three or more health care providers or other entities that provide or support the delivery of health care services is eligible to apply. The administrative headquarters of the organization must be located in a rural county or in a rural census tract of an urban county, or an organization constituted exclusively to provide services to migrant and seasonal farmworkers in rural areas and supported under Section 330(g) of the Public Health Service Act. These organizations are eligible regardless of the urban or rural location of the administrative headquarters.

Funding Priorities and/or Preferences

A funding preference may be given to applicant networks that include: (1) A majority of the health care providers serving in the area or region to be served by the network; (2) any Federally Qualified Health Center, Rural Health Clinic, and local public health department serving in the area or region; (3) outpatient mental health providers serving in the area or region; or (4) appropriate social service providers, such as agencies on aging, school systems, and providers under the women, infants, and children (WIC) program to improve access to and coordination of health care services.

Special Considerations

An applicant organization's central headquarters must be located in a rural area. (A list of eligible rural areas is included in the application kit.)

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$4,000,000.

Estimated Number of Awards

23.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Sahira Rafiullah.
Phone Number: 1–301–443–0835.
E-mail: srafiullah@hrsa.gov.

State Rural Hospital Flexibility Program

CFDA Number: 93.241.
Application Availability: 03/01/2000.

To Obtain an Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 06/01/2000.
Projected Award Date: 08/31/2000.

Authorization

Social Security Act, Title XVIII, Section 1820, as amended by Public Law 105–33 Section 4201, 42 U.S.C. 1395I–4.

Purpose

The purpose of this grant program is to help States work with rural communities and hospitals to develop and implement a rural health plan, develop integrated networks of care, improve emergency medical services and designate critical access hospitals (CAHs).

Eligibility

Five States are eligible to apply: Connecticut, Delaware, Oregon, Pennsylvania and Utah. These are grants to States and only one application will be accepted from each eligible State.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$2,500,000.

Estimated Number of Awards

5.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Sahira Rafiullah or Jerry Coopey.
Phone Number: 1–301–443–0835.
E-mail: srafiullah@hrsa.gov or jcoopey@hrsa.gov.

Primary Health Care Programs

Grants Management Office: 1–301–594–4235.

Community and Migrant Health Centers

CFDA Number: 93.224 and 93.246.
Application Availability: Continuous.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: Varies.
Projected Award Date: Varies.

Authorization

Public Health Service Act, Title III, Section 330, 42 U.S.C. 254b and 254b(g).

Purpose

The Community Health Center and Migrant Health Center (C/MHC) programs are designed to promote the development and operation of community-based primary health care service systems in medically underserved areas for medically underserved populations. It is the intent of HRSA to continue to support health services in these areas, given the unmet need inherent in their provision of services to medically underserved populations. HRSA is committed to 100 percent access to primary care services with zero percent health disparities for the underserved. HRSA will open competition for awards under Section 330 of the Public Health Service Act (U.S.C. 254b for CHCs and U.S.C. 254b(g) for MHCs) to support health services in the areas currently served by

these grants. Two hundred-twenty C/MCH grantees will reach the end of their project periods during FY 2000. Applications are due 120 days before the expiration date.

Eligibility

Applicants are limited to currently funded programs whose project periods expire during FY 2000 and new organizations proposing to serve the same populations currently being served by these existing programs.

Funding Priorities and/or Preferences

None.

Special Considerations

Communication with Field Office staff is essential for interested parties in deciding whether to pursue Federal funding as a C/MHC. Technical assistance and detailed information about each service area, such as census grants, can be obtained by contacting the HRSA Field Office.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$220,000,000.

Estimated Number of Awards

220.

Estimated Project Period

1–5 Years.

For Programmatic Questions

Contact Person: Richard Bohrer.
Phone Number: 1–301–594–4300.
E-mail: rbohrer@hrsa.gov.

City	State	Deadline
HRSA Boston Field Office—(617) 565–1482		
Boston	MA	12/31/1999
Hartford	CT	12/31/1999
Bridgeport	CT (2)	01/31/2000
New Haven	CT	03/31/2000
Worcester	MA	03/31/2000
Salem	MA	03/31/2000
Lowell	MA	03/31/2000
Mattapan	MA	03/31/2000
New Haven	CT	05/31/2000
Boston	MA	05/31/2000
Worthington	MA	05/31/2000
Worcester	MA	05/31/2000
North Quincy	MA	05/31/2000
New Bedford	MA	05/31/2000
Lawrence	MA	05/31/2000
Burlington	VT	06/30/2000
Middletown	CT	06/30/2000
HRSA New York Field Office—(212) 264–2664		
New York	NY	11/30/1999
Newark	NJ	11/30/1999
White Plains	NY	11/30/1999
Brockport	NY	12/31/1999
Rushville	NY	12/31/1999
Brooklyn	NY	12/31/1999
Warrensburg	NY	12/31/1999
Rochester	NY	12/31/1999
Jersey City	NJ	01/31/2000
Bronx	NY	01/31/2000
Brooklyn	NY	01/31/2000
Naranjito	PR	05/31/2000
Schenectady	NY	05/31/2000
St. Thomas	VI (2)	05/31/2000
Arroyo	PR	06/30/2000
New York	NY	06/30/2000
Bronx	NY	06/30/2000
HRSA Philadelphia Field Office—(215) 861–4422		
Baltimore	MD	11/30/1999
Hancock	MD	11/30/1999
McKees Rocks	PA	11/30/1999
Scranton	PA	11/30/1999
Scarbro	WV	11/30/1999
Clay	WV	11/30/1999
Rock Cave	WV	11/30/1999
Arrington	VA	12/31/1999
Richmond	VA	12/31/1999
Fairmont	WV	01/31/2000
Saltville	VA	01/31/2000
Aylett	VA	01/31/2000
Bastian	VA	01/31/2000
Spencer	WV	01/31/2000
Chester	PA	01/31/2000
Harrisburg	PA	03/31/2000
New Canton	VA	03/31/2000
Beckley	WV	03/31/2000
Coalport	PA	03/31/2000
Onancock	VA	05/31/2000
Dungannon	VA	05/31/2000
Philadelphia	PA	05/31/2000
Baltimore	MD	05/31/2000
Laurel Fork	VA	05/31/2000
Man	WV	06/30/2000
Baltimore	MD	06/30/2000
Wilmington	DE	06/30/2000
Brandywine	MD	06/30/2000
Portsmouth	VA	06/30/2000
HRSA Atlanta Field Office—(404) 562–2996		
Palatka	FL	11/30/1999
Savannah	GA	11/30/1999
Louisville	KY	11/30/1999
Manson	NC	11/30/1999
Orangeburg	SC	11/30/1999
Parrish	FL	11/30/1999
Mound Bayou	MS	11/30/1999
Kinston	NC	11/30/1999
Fellsmere	FL	12/31/1999
Lexington	KY	12/31/1999
Fort Myers	FL	12/31/1999
Savannah	TN	12/31/1999
Eutaw	AL	01/31/2000
Montgomery	AL	01/31/2000
Miami	FL (3)	01/31/2000
Jellico	TN	01/31/2000
Pearl	MS	01/31/2000
Rock Hill	SC	01/31/2000
Eastover	SC	01/31/2000
Covington	KY	01/31/2000
Trenton	GA	01/31/2000
Liberty	MS	01/31/2000
Olanta	SC	01/31/2000
Laurel	MS	03/31/2000
Hendersonville	NC	03/31/2000
Columbia	SC	03/31/2000
Charleston	SC	03/31/2000
Tampa	FL	03/31/2000
Meridian	MS	03/31/2000
Conway	SC	03/31/2000
Washburn	TN	03/31/2000
Troy	AL	03/31/2000
Tallahassee	FL	03/31/2000
Atlanta	GA	05/31/2000
Durham	NC	05/31/2000
Memphis Hlth Ctr	TN	05/31/2000
Huntsville	TN	05/31/2000
Greenwood	SC	05/31/2000
Selma	AL	05/31/2000
Palmetto	GA	05/31/2000
Hollister	NC	05/31/2000
Roxboro	NC	05/31/2000
Mobile	AL	05/31/2000
Fayette	MS	05/31/2000
Shubuta	MS	05/31/2000
Jefferson	SC	05/31/2000
Bolivar	TN	06/30/2000
Greenville	KY	06/30/2000
HRSA Chicago Field Office—(312) 353–1715		
Toledo	OH	11/31/1999
St. Paul	MN	11/31/1999
Indianapolis	IN	11/31/1999
Columbus	OH	11/31/1999
Cleveland	OH	12/31/1999
Chicago	IL	12/31/1999
East St. Louis	IL	12/31/1999
Lisbon	OH	12/31/1999
Moorhead	MN	01/31/2000
Anna	IL	01/31/2000
Kalamazoo	MI	01/31/2000
Traverse City	MI	03/31/2000
Wautoma	WI	03/31/2000
Fremont	OH	03/31/2000
Sterling	MI	03/31/2000
Temperence	MI	03/31/2000
Milwaukee	WI	03/31/2000
Lincoln	MI	05/31/2000
Grand Marais	MN	05/31/2000
Cook	MN	05/31/2000
Indianapolis	IN	06/30/2000
Cashton	WI	06/30/2000
Minneapolis	MN	06/30/2000
Waukegan	IL	06/30/2000
Beloit Area	WI	06/30/2000
HRSA Dallas Field Office—(214) 767–3872		
De Leon	TX	11/30/1999
Augusta	AR	12/31/1999
Pecos	NM	12/31/1999
Pharr	TX	12/31/1999
Houston	TX	12/31/1999
Greenville	TX	01/31/2000
San Antonio	TX (2)	01/31/2000
Lake Charles	LA	01/31/2000
La Marque	TX	03/31/2000
Port Arthur	TX	03/31/2000
Laredo	TX	03/31/2000
Cotulla	TX	03/31/2000
San Antonio	TX	03/31/2000
Tulsa	OK	03/31/2000
Levelland	TX	05/31/2000

City	State	Deadline
New Iberia	LA	05/31/2000
Konawa	OK	05/31/2000
Baton Rouge	LA	05/31/2000
Newton	TX	05/31/2000
Benavides	TX	05/31/2000
El Rito	NM	06/30/2000
HRSA Kansas Field Office—(816) 426–5296		
Richland	MO	11/30/1999
Junction City	KS	12/31/1999
Cape Girardeau	MO	12/31/1999
St. Louis	MO	01/31/2000
Omaha	NE	01/31/2000
New Madrid	MO	03/31/2000
Des Moines	IA	05/31/2000
Ellington	MO	05/31/2000
Topeka	KS	06/30/2000
HRSA Denver Field Office—(303) 844–3203		
Lamar	CO	12/31/1999
Salt Lake City	UT	12/31/1999
Norwood	CO	01/31/2000
Butte	MT	01/31/2000
Isabel	SD	03/31/2000
Enterprise	UT	03/31/2000
Fort Lupton	CO	05/31/2000
Bicknell	UT	05/31/2000
Boulder	CO	06/30/2000
HRSA San Francisco Field Office—(415) 437–8090		
San Fernando	CA	11/30/1999
Phoenix	AZ	11/30/1999
Madera	CA	11/30/1999
San Francisco	CA	12/31/1999
Union City	CA	12/31/1999
Salinas	CA	12/31/1999
Los Angeles	CA	12/31/1999
Arcata	CA	12/31/1999
Marana	AZ	12/31/1999
Las Vegas	NV	12/31/1999
Palikir	FM	12/31/1999
San Francisco	CA	01/31/2000
Porterville	CA	01/31/2000
Los Angeles	CA	01/31/2000
Alviso	CA	03/31/2000
San Francisco	CA	03/31/2000
Oakland	CA	03/31/2000
Ventura	CA	03/31/2000
Brawley	CA	05/31/2000
Olivehurst	CA	05/31/2000
Page	AZ	05/31/2000
Susanville	CA	05/31/2000
Nipomo	CA	05/31/2000
Santa Ana	CA	05/31/2000
San Joaquin	CA	06/30/2000
Ukiah	CA	06/30/2000
Reno	NV	06/30/2000
Redding	CA	06/30/2000
Elfrida	AZ	06/30/2000
HRSA Seattle Field Office—(206) 615–2491		
Wenatchee	WA	03/31/2000
Seattle	WA	03/31/2000
Cornelius	OR	03/31/2000
Kent	WA	03/31/2000
Okanogan	WA	03/31/2000
Medford	OR	05/31/2000
Glenns Ferry	ID	05/31/2000
Cave Junction	OR	06/30/2000
Plummer	ID	06/30/2000
Fairbanks	AK	06/30/2000
Tillamook	OR	06/30/2000

Health Care for the Homeless

CFDA Number: 93.151.
Application Availability: Continuous.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: Varies.
Projected Award Date: Varies.

Authorization

Public Health Service Act, Title III, Section 330(h), 42 U.S.C. 254b(h).

Purpose

The Health Care for the Homeless (HCH) program is designed to increase the access of homeless populations to cost-effective, case managed, and integrated primary care and substance abuse services provided by existing community-based programs/providers. It is the intent of HRSA to continue to support health services to the homeless people in these areas/locations given the continued need for cost-effective, community-based primary care services. Thirty-four HCH grantees will reach the end of their project periods during FY 2000. Applications are due 120 days before the expiration date.

Eligibility

Applicants are limited to currently funded programs whose project periods expire during FY 2000 and new organizations proposing to serve the same populations currently being served by these existing programs.

Funding Priorities and/or Preferences

None.

Special Considerations

Communication with Field Office staff is essential for interested parties in deciding whether to pursue Federal funding an HCH. Technical assistance and detailed information about each service area, such as census grants, can be obtained by contacting the HRSA Field Office.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$15,207,000.

Estimated Number of Awards

34.

Estimated Project Period

1–5 Years.

For Programmatic Questions

Contact Person: Monica Toomer.
Phone Number: 1–301–594–4430.
E-mail: mtoomerz@hrsa.gov.

City	State	Deadline
HRSA Boston Field Office—(617) 565–1482		
Hartford	CT	12/31/1999
New Haven	CT	05/31/2000
Burlington	VT	06/30/2000
HRSA New York Field Office—(212) 264–2664		
New York	NY	10/31/1999
Rochester	NY	10/31/1999
Camden	NJ	10/31/1999
White Plains	NY	11/30/1999
Jersey City	NJ	03/31/2000
HRSA Philadelphia Field Office—(215) 861–4422		
Richmond	VA	10/31/1999
HRSA Atlanta Field Office—(404) 562–2996		
Miami	FL	10/31/1999
Tampa	FL	03/31/2000
Durham	NC	05/31/2000
Memphis	TN	05/31/2000
HRSA Chicago Field Office—(312) 353–1715		
Grand Rapids	MI	10/31/1999
Evansville	IN	10/31/1999
Toledo	OH	11/30/1999
Indianapolis	IN	11/30/1999
Columbus	OH	11/30/1999
Kalamazoo	MI	01/31/2000
HRSA Dallas Field Office—(214) 767–3872		
Tulsa	OK	03/31/2000
San Antonio	TX	03/31/2000
HRSA Kansas Field Office—(816) 426–5296		
Omaha	NE	01/31/2000
Des Moines	IA	05/31/2000
HRSA Denver Field Office—(303) 844–3203		
Salt Lake City	UT	10/31/1999
Cheyenne	WY	10/31/1999
HRSA San Francisco Field Office—(415) 437–8090		
San Mateo	CA (2)	10/31/1999
San Fernando	CA	11/30/1999
Las Vegas	NV	12/31/1999
Alviso	CA	03/31/2000

City	State	Deadline
Nipomo	CA	05/31/2000
Reno	NV	06/30/2000
HRSA Seattle Field Office—(206) 615–2491		
Seattle	WA	10/31/1999
Seattle	WA	03/31/2000

Public Housing Primary Care

CFDA Number: 93.927.
Application Availability: 06/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 10/01/1999.
Projected Award Date: 02/01/2000.

Authorization

Public Health Service Act, Title III, Section 330(I), 42 U.S.C. 254D.

Purpose

The mission of the Public Housing Primary Care (PHPC) program is to increase access to comprehensive primary and preventive health care and to improve the physical, mental and economic well-being of public housing residents. The Bureau of Primary Health Care (BPHC) is opening competition for Federal funds to provide services to residents of public housing. The goal of this open competition is to provide the best possible health care services to residents of public housing, to ensure that Federal funds are utilized most effectively and efficiently, and to ensure that PHPC grantees are prepared and equipped to handle the challenges of the future. The three priorities for promoting access to primary care and improving the well being of residents of public housing are: resident involvement and participation in program development and implementation, innovative service delivery systems that address the special health needs of public housing residents, and collaborations with other health, education and community-based organizations. Central to the programs' past and future success is the commitment to the provision of health care that emphasizes improving the availability, accessibility, comprehensiveness, continuity and quality of health services to residents of public housing.

Eligibility

Public and private nonprofit organizations are eligible to apply.

Funding Priorities and/or Preferences

Final administrative funding preferences are included in the application materials.

Special Considerations

Communication with Field Office staff is essential for interested parties in deciding whether to pursue Federal funding as a PHPC. Technical assistance and detailed information about each service area, such as census grants, can be obtained by contacting the HRSA Field Office.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$11,000,000.

Estimated Number of Awards

20–25.

Estimated Project Period

1–5 Years.

For Programmatic Questions

Contact Person: Sherilyn Pruitt.
Phone Number: 1–301–594–4473.
E-mail: spruitt@hrsa.gov.

State Primary Care Offices

CFDA Number: 93.130.
Application Availability: 10/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 12/01/1999.
Projected Award Date: 04/01/2000.

Authorization

Public Health Service Act, Title III, Section 330, 42 U.S.C. 254b.

Purpose

The BPHC promotes partnerships with State Primary Care Offices (PCOs) to achieve the vision of 100 percent access to preventive and primary care services and zero percent health disparities in every community across this country. PCOs were established to improve primary care access of underserved and vulnerable populations in the State and enhance collaboration between the State, Federal, local, and private sector. PCOs are federally-supported entities within State government, located within the State health department, developed to implement a written primary care cooperative agreement within the State and Federal Government. PCOs have a statewide perspective on the public and private infrastructure needed to support primary care for the underserved. The PCO is expected to collaborate with the PCA to assist BPHC-supported and other community-based primary care delivery sites to the maximum degree possible, directly and through their influence on State programs. The PCO is responsible for identifying and working with underserved communities/populations and for working with all types of primary care providers, regardless of whether they receive BPHC resources. The purpose of this grant program is to improve primary care access of underserved and vulnerable populations in the State, and reduce health disparities and enhance collaboration between the State, Federal, local, and private sector. They promote, build and support community-based systems of comprehensive preventive primary care.

Eligibility

The 50 States are eligible to apply, as well as U.S. territories.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$10,500,000.

Estimated Number of Awards

52.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: James Macrae.
Phone Number: 1–301–594–4488.
E-mail: jmacrae@hrsa.gov.

State Primary Care Associations

CFDA Number: 93.129.
Application Availability: 10/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 12/01/1999.
Projected Award Date: 04/01/2000.

Authorization

Public Health Service Act, Title III, Section 330, 42 U.S.C. 254b.

Purpose

The BPHC promotes partnerships with State/Regional Primary Care

Associations (PCAs) to achieve the vision of 100 percent access to preventive and primary care services and zero percent health disparities in every community across this country. PCAs are private, nonprofit membership associations that represent BPHC-supported programs and other community-based providers of preventive and primary care to the underserved. PCAs are supported by grants from the Bureau to provide direct technical assistance to Bureau-supported programs, as well as to other community-based providers with similar missions. The Bureau's partnership strategy between its HRSA Field Office, the Primary Care Association and Primary Care Organization is to mobilize resources and assure that people receive access to needed primary and preventive care. PCAs are membership organizations, including both BPHC-supported and other community-based providers, and they have distinct responsibilities to their members. PCAs are expected to represent BPHC-supported programs and practices, as well as Federally Qualified Health Center ''Look-Alikes'' in the State. PCAs are expected to have a membership policy open to all BPHC-supported entities, public as well as private nonprofit. PCAs are also strongly encouraged to have a membership policy that includes other entities with similar missions and governance. The purpose of this grant program is to increase access to preventive and primary care services and reduce health disparities in the State. Through support to PCAs, the Bureau provides direct assistance to Bureau-supported and other community-based providers to build and maintain primary care capacity in underserved communities with an inadequate supply of primary care providers. PCAs also help to facilitate, coordinate and develop BPHC relationships with States and organizations that represent State, community and national interests.

Eligibility

The 50 States are eligible to apply, as well as U.S. territories.

Funding Prioities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$13,000,000.

Estimated Number of Awards

47.

Estimated Project Period

5 Years.

For Programmatic Questions.

Contact Person: James Macrae.
Phone Number: 1–301–594–4488.
E-mail: jmacrae@hrsa.gov.

Grants to States for Loan Repayment Programs

CFDA Number: 93.165.
Application Availability: 01/03/2000.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 05/01/2000.
Projected Award Date: 09/30/2000.

Authorization

Public Health Service Act, Title III, Section 338I, 42 U.S.C. 254Q–1.

Purpose

The purpose of these grant funds is to assist States in operating programs for the repayment of educational loans of health professionals in return for their practice in federally-designated Health Professional Shortage Areas to increase the availability of primary health services in health professional shortage areas.

Eligibility

Any State is eligible to apply for funding.

Funding Priorities and/or Preferences

None.

Special Considerations

States seeking support must provide adequate assurance that, with respect to the costs of making loan repayments under contracts with health professionals, the State will make available (directly or through donations from public or private entities) non-Federal contributions in cash in an amount equal to not less than $1 for $1 of Federal funds provided in the grant. In determining the amount of non-Federal contributions in cash that a State has to provide, no Federal funds may be used in the State's match.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$3,000,000.

Estimated Number of Awards

8.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Susan Salter.
Phone Number: 1–301–594–4400.
E-mail: ssalter@hrsa.gov.

City	State	Deadline
HRSA Boston Field Office—(617) 565–1482		
Boston	MA	08/31/2000
Concord	NH	08/31/2000
HRSA Atlanta Field Office—(404) 562–2996		
Tallahassee	FL	08/31/2000
HRSA Chicago Field Office—(312) 353–1715		
St. Paul	MN	08/31/2000
HRSA Kansas Field Office—(816) 426–5296		
Des Moines	IA	08/31/2000
HRSA San Francisco Field Office—(415) 437–8090		
Sacramento	CA	08/31/2000

Migrant Health Centers

CFDA Number: 93.246.
Application Availability: 11/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 02/01/2000.
Projected Award Date: 05/01/2000.

Authorization

Public Health Service Act, Title III, Section 330, 42 U.S.C. 254b(k).

Purpose.

The Migrant Health Center program is designed to meet the total health and well-being of migrant and seasonal farmworkers, including the environmental/occupational health of this population. To this end, HRSA supports technical and non-financial assistance to federally-funded Migrant Health Centers to assist in this effort. It is the intent of HRSA to continue to support this technical assistance in the area of environmental/occupational health for migrant and seasonal farmworkers. HRSA will open competition for an award under Section 330 of the Public Health Service Act, 42 U.S.C. 254b(k) to support a cooperative

agreement which will address environmental/occupational health issues for this population.

Eligibility

Public and private nonprofit entities are eligible to apply.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$45,000.

Estimated Number of Awards

1.

Estimated Project Period

1–5 Years.

For Programmatic Questions

Contact Person: George Ersek.
Phone Number: 1–301–594–4303.
E-mail: gersek@hrsa.gov.

Health Professions Programs

Grants Management Office: 1–301–443–6960.

Academic Administrative Units in Primary Care (Family Medicine, General Internal Medicine/General Pediatrics)

CFDA Number: 93.984A.
Application Availability: 09/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent: 11/06/1999.
Application Deadline: 01/06/2000.
Projected Award Date: 09/30/2000.

Authorization

Public Health Service Act, Title VII, Section 747, 42 U.S.C. 293k.

Purpose

Title VII authorizes funds to establish or expand teaching capacity in family medicine, general internal medicine and general pediatrics. Grant support is awarded to meet the costs of projects to establish, maintain or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine, general internal medicine, or general pediatrics. An academic unit in family medicine means a department or division of a school. Applications are being solicited for projects to address one or more of the following program purposes: (1) Establishment of an academic unit, (2) expansion of an academic unit, and (3) research infrastructure development within the academic unit.

Eligibility

Public or private nonprofit accredited schools of allopathic medicine or osteopathic medicine are eligible to apply.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

A second preference is offered to qualified applicants for the establishment or the substantive expansion of an academic unit.

A priority will be available to those applicants that present collaborative projects between departments of primary care. The collaboration should involve the academic units of any two disciplines of family medicine, general internal medicine, and general pediatrics. There is a second priority (administrative) for establishment or expansion of research infrastructure proposals.

Special Considerations

Special consideration will be given to projects which prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV/AIDS, substance abusers, homeless, and victims of domestic violence.

Review Criteria

Final criteria are included in the application kit.

Family Medicine

Estimated Amount of This Competitiion

$5,435,300.

Estimated Number of Awards

35.

Estimated Project Period

3 Years.

General Internal Medicine/General Pediatrics

Estimated Amount of This Competition

$1,500,000.

Estimated Amount of Awards

10.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Lafayette Gilchrist.
Phone Number: 1–301–443–1467.
E-mail: lgilchrist@hrsa.gov.
Technical Assistance Group Conference Calls: November 16, 1999 and November 18, 1999.

To participate call Mr. Lafayette Gilchrist at 1–301–443–1467. You may also fax the following information: name, title, institutional affiliation, telephone and fax numbers to 1–301–443–1945, or E-mail the program specialist at lgilchrist@hrsa.gov.

Predoctoral Training in Primary Care (Family Medicine, General Internal Medicine/General Pediatrics)

CFDA Number: 93.896A.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 10/15/1999.
Application Deadline: 11/29/1999.
Projected Award Date: 06/30/2000.

Authorization

Public Health Service Act, Title VII, Section 747, 42 U.S.C. 293k.

Purpose

Grants are awarded to assist schools of medicine or osteopathic medicine to promote predoctoral training. The program assists schools in meeting the costs of projects to plan, develop and operate or participate in an approved predoctoral training program in the field of family medicine, general internal medicine, and general pediatrics. Proposed projects should seek to expand and enhance the quality of predoctoral initiatives: (1) Innovation, (2) Comprehensive Models, and (3) Establishment and Expansion of Required Clerkships.

Eligibility

Any accredited public or nonprofit private school of allopathic medicine or osteopathic medicine is eligible to apply.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Special Considerations

Special consideration will be given to projects which prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV/AIDS, substance abusers, homeless, and victims of domestic violence.

Review Criteria

Final criteria are included in the application kit.

Family Medicine

Estimated Amount of This Competition

$5,435,300.

Estimated Number of Awards

35.

Estimated Project Period

3 Years.

General Internal Medicine/General Pediatrics

Estimated Amount of This Competition

$750,000.

Estimated Number of Awards

5.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Betty M. Ball.
Phone Number: 1–301–443–1467.
E-mail: bball@hrsa.gov.
Technical Assistance Group Conference Call: October 15, 1999 and October 20, 1999.

To participate call Ms. Betty Ball at 1–301–443–1467. You may also fax the following information: name, title, institutional affiliation, telephone and fax numbers to 1–301–443–1945, or E-mail the program specialist at bball@hrsa.gov.

Physician Assistant Training in Primary Care

CFDA Number: 93.886A.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 11/15/1999.
Projected Award Date: 06/30/2000.

Authorization

Public Health Service Act, Title VII, Section 747, 42 U.S.C. 293k.

Purpose

Grants are awarded for projects for the training of physician assistants, and for the training of individuals who will teach in programs to provide such training. The program assists schools to meet the costs of projects to plan, develop and operate or maintain such programs.

Eligibility

Accredited schools of medicine, osteopathic medicine or other public or private nonprofit entities are eligible to apply. Eligible physician assistant programs are those which are either accredited by the American Medical Association's Committee on Allied Health Education and Accreditation (AMA–CAHEA) or its successor organization, the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

A priority will be offered to applicants that can demonstrate a record of training individuals from disadvantaged backgrounds (including racial/ethnic minorities under-represented in primary care practice).

Special Considerations

A special consideration will be given in awarding grants to projects which prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV/AIDS, substance abusers, homeless, and victims of domestic violence.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$2,872,340.

Estimated Number of Awards

19.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: CAPT Ed Spirer, MSW, MPH.
Phone Number: 1–301–443–1467.
E-mail: espirer@hrsa.gov.
Technical Assistance Group Conference Call: October 07, 1999. To participate call CAPT Ed Spirer, MSW, MPH at 1–301–443–1467. You may also fax the following information: name, title, institutional affiliation, telephone and fax numbers to 1–301–443–1945, or E-mail the program specialist at espirer@hrsa.gov.

Residency Training in Primary Care (Family Medicine, General Internal Medicine, General Pediatrics)

CFDA Number: 93.884A.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 09/27/1999.
Projected Award Date: 06/30/2000.

Authorization

Public Health Service Act, Title VII, Section 747, 42 U.S.C. 293k

Purpose

Grants are awarded to assist graduate training programs in family medicine, general internal medicine and general pediatrics to expand and improve the quality of residency training programs that prepare graduates to enter primary care practice. Residency training programs should emphasize national innovations aimed at primary care residency education across disciplines.

Eligibility

Applicant must be an accredited public or private nonprofit school of allopathic medicine or osteopathic medicine or a public or private nonprofit hospital or other public or private nonprofit entity. Each allopathic program must be fully or provisionally accredited by the Accreditation Council for Graduate Medical Education. Each osteopathic program must be approved by the American Osteopathic Association.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

A funding priority will be made available for applicants that can demonstrate training the greatest percentage of providers or demonstrating significant improvements in the percentage of providers which enter and remain in primary care practice. A second priority will be offered to applicants who can demonstrate a record of training individuals from disadvantaged backgrounds (including racial/ethnic minorities, under-represented in primary care practice).

Special Considerations

Special consideration will be given to projects that prepare practitioners to care for underserved populations and other high risk groups (i.e., elderly, HIV, AIDS, substance abusers, homeless and victims of domestic violence).

Review Criteria

Final criteria are included in the application kit.

Family Medicine

Estimated Amount of This Competition

$5,435,300.

Estimated Number of Awards

34.

Estimated Project Period

3 Years.

General Internal Medicine/General Pediatrics

Estimated Amount of This Competition

$3,350,756.

Estimated Number of Awards

35.

Estimated Project Period

3 Years.

For Programmatic Questions

Family Medicine

Contact Person: Ellie Grant.
Phone Number: 1–301–443–1467.
E-mail: egrant@hrsa.gov.

General Internal Medicine/General Pediatrics

Contact Person: Brenda Williamson.
Phone Number: 1–301–443–1467.
E-mail: bwilliamson@hrsa.gov.
Technical Assistance Group Conference Call: August 24, 1999 and August 26, 1999. To participate call or e-mail Ms. Brenda Williamson or Ms. Ellie Grant by August 18 at phone and e-mail listed above. You may also fax the following information: name, title, institutional affiliation, telephone and fax numbers to 1–301–443–1945.

Faculty Development in Primary Care (Family Medicine, General Internal Medicine, General Pediatrics)

CFDA Number: 93.895A.
Application Availability: 08/06/1999

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 10/22/1999.
Projected Award Date: 06/30/2000.

Authorization

Public Health Service Act, Title VII, Section 747, 42 U.S.C. 293k.

Purpose

Grants are awarded to plan, develop and operate a program for the training of physicians who plan to teach in family medicine (including geriatrics), general internal medicine, general pediatrics, and to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participating in any such program.

Eligibility

Accredited schools of medicine or osteopathic medicine, public or private nonprofit hospitals, or other public or private nonprofit entities are eligible to apply.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Special Considerations

Special consideration will be given to projects which prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV/AIDS, substance abusers, homeless, and victims of domestic violence.

Review Criteria

Final criteria are included in the application kit.

Family Medicine

Estimated Amount of this Competition

$5,435,366.

Estimated Number of Awards

38.

Estimated Project Period

3 Years.

General Internal Medicine/General Pediatrics

Estimated Amount of This Competition

$3,350,757.

Estimated Number of Awards

20.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Elsie Quinones.
Phone Number: 1–301–443–1467.
E-mail: equinones@hrsa.gov.
Technical Assistance Group Conference Call: September 10, 1999 and September 17, 1999. To participate call Ms. Elsie Quinones at 1–301–443–1467. You may also fax the following information: name, title, institutional affiliation, telephone and fax numbers to 1–301–443–1945, or E-mail the program specialist at equinones@hrsa.gov.

Podiatric Residency in Primary Care

CFDA Number: 93.181.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 09/30/1999.
Projected Award Date: 06/30/2000.

Authorization

Public Health Service Act, Title VII, Section 755(b)(2), 42 U.S.C. 294e.

Purpose

Grants are awarded to plan and implement projects in preventive and primary care training for podiatric physicians in approved or provisionally approved residency programs that shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care.

Eligibility

Schools of podiatric medicine or public or private nonprofit hospitals or other appropriate public or private nonprofit entities are eligible to apply.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$119,969.

Estimated Number of Awards

2.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: CAPT Ed Spirer, MSW, MPH.
Phone Number: 1–301–443–1467.
E-mail: espirer@hrsa.gov.
Technical Assistance Group Conference Call: August 25, 1999. For additional information contact CAPT Ed Spirer at 1–301–443–1467; by fax at 1–301–443–1945 or E-mail at espirer@hrsa.gov.

Model State-Supported Area Health Education Centers

CFDA Number: 93.107.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 01/14/2000.
Projected Award Date: 08/30/2000.

Authorization

Public Health Service Act, Title VII, Section 751, 42 U.S.C. 294A.

Purpose

The program assists schools to improve the distribution, supply, and quality of health personnel in the health services delivery system by encouraging the regionalization of health professions schools. Emphasis is placed on community-based training of primary care oriented students, residents, and providers. The Area Health Education Centers (AHEC) program assists schools in the development, and operation of AHECs to implement educational system incentives to attract and retain health care personnel in scarcity areas. By linking the academic resources of the university health science center with local planning, educational and clinical resources, the AHEC program establishes a network of health-related institutions to provide educational services to students, faculty and practitioners and ultimately to improve the delivery of health care in the service area. These programs are collaborative partnerships which address current health workforce needs within a region of a State or in an entire State.

Eligibility

The types of entities eligible to apply for this program include public or private nonprofit accredited schools of medicine and osteopathic medicine and incorporated consortia made up of such schools, or the parent institutions of such schools. Applicants must also have previously received funds, but are no longer receiving funds under Section 751(a)(1) of the Public Health Service Act, and are operating an AHEC program.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Funds shall be awarded to approved applicants in the following order: (1) Competing continuations, (2) new starts in States with no AHEC program, (3) other new starts, and (4) competing supplementals.

Matching Requirements

Awardees shall make available (directly or through contributions from State, county or municipal governments, or the private sector) recurring non-Federal contributions in cash in an amount not less than 50 percent of the operating costs of the Model State-Supported AHEC Program.

Review Criteria

Final criteria are in the application kit.

Estimated Amount of This Competition

$2,000,000.

Estimated Number of Awards

4.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Louis D. Coccodrilli, MPH.
Phone Number: 1–301–443–6950.
E-Mail: lcoccodrilli@hrsa.gov.

Basic/Core Area Health Education Centers

CFDA Number: 93.824.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 01/14/2000.
Projected Award Date: 08/30/2000.

Authorization

Public Health Service Act, Title VII, Section 751, 42 U.S.C. 294A.

Purpose

Grants are awarded to assist schools to improve the distribution, supply and quality of health personnel in the health services delivery system by encouraging the regionalization of health professions schools. Emphasis is placed on community-based training of primary care oriented students, residents, and providers. The Area Health Education Centers (AHEC) program assists schools in the planning, development and operation of AHECs to initiate education system incentives to attract and retain health care personnel in scarcity areas. By linking the academic resources of the university health sciences center with local planning, educational and clinical resources, the AHEC program establishes a network of community-based training sites to provide educational services to students, faculty and practitioners in underserved areas and ultimately, to improve the delivery of health care in the service area. The program embraces the goal of increasing the number of health professions graduates who ultimately will practice in underserved areas.

Eligibility

The types of entities eligible to apply for this program include public or private nonprofit accredited schools of medicine and osteopathic medicine and incorporated consortia made up of such schools, or the parent institutions of such schools. Also, in States in which no AHEC program is in operation, an accredited school of nursing is an eligible applicant.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. The statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Funds shall be awarded to approved applicants in the following order: (1) Competing continuations, (2) new starts in States with no AHEC program, (3) other new starts, and (4) competing supplementals.

Matching Requirements

Awardees shall make available (directly or through contributions from State, county or municipal governments, or the private sector) non-Federal contributions in cash in an amount that is not less than 50 percent of the operating costs of the AHEC program except that the Secretary may grant a waiver for up to 75 percent of the amount required in the first 3 years in which an awardee receives funds under Section 751(a)(1) of the Public Health Service Act.

Review Criteria

Final criteria are in the application kit.

Estimated Amount of This Competition

$9,000,000.

Estimated Number of Awards

9.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Louis D. Coccodrilli, MPH.
Phone Number: 1–301–443–6950.
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Health Careers Opportunity Program (HCOP)

CFDA Number: 93.822.
Application Availability: 08/06/1999.

To Obtain An Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.
Application Deadline: 01/10/2000.
Projected Award Date: 08/02/2000.

Authorization

Public Health Service Act, Title VII, Section 739, 42 U.S.C. 293c.

Purpose

The goal of the Health Careers Opportunity Program (HCOP) is to assist individuals from disadvantaged backgrounds to undertake education to enter a health profession. The HCOP program works to build diversity in the health fields by providing students from disadvantaged backgrounds an opportunity to develop the skills needed to successfully compete, enter, and graduate from health professions schools. The legislative purposes from which HCOP funds may be awarded are: (1) Identifying, recruiting, and selecting individuals from disadvantaged backgrounds for education and training in a health profession; (2) facilitating the entry of such individuals into such a school; (3) providing counseling, mentoring, or other services designed to assist such individuals to complete successfully their education at such a school; (4) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education and health research training designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education; (5) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program; (6) paying scholarships, as the Secretary may determine, for such individuals for any period of health professions education at a health professions school; (7) paying such stipends for such individuals for any period of education in student-enhancement programs (other than regular courses), except that such a stipend may not be provided to an individual for more than 12 months and in an amount determined appropriate by the Secretary; (8) carrying out programs under which such individuals gain experience regarding a career in a field of primary health care through working at facilities of public or private nonprofit community-based providers of primary health services; or (9) conducting activities to develop a larger and more competitive applicant pool through partnerships with institutions of higher education, school districts, and other community-based entities.

Eligibility

Eligible applicants include accredited schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatric medicine, public and nonprofit private schools that offer graduate programs in behavioral and mental health, programs for the training of physician assistants, and other public or private nonprofit health or educational entities.

Funding Priorities and/or Preferences

A funding preference will be given to approved applications for programs that involve a comprehensive approach by several public or nonprofit private health or educational entities to

establish, enhance and expand educational programs that will result in the development of a competitive applicant pool of individuals from disadvantaged backgrounds who desire to pursue health professions careers. A comprehensive approach means a network of entities which are formally linked programmatically. The network must include a minimum of four entities: a health professions school, an undergraduate institution, a school district, and a community-based entity.

Up to one third of available competitive funds will be reserved for applicants with approved proposals who have not been funded during the previous three competitive cycles.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$16,600,000.

Estimated Number of Awards

47.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: CAPT Richard C. Vause, Jr.
Phone Number: 1–301–443–2100.
E-mail: rvause@hrsa.gov.

Centers of Excellence

CFDA Number: 93.157.
Application Availability: 08/31/1999.

To Obtain an Application Kit

Contact: 1–888–333-HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877-HRSA (4772)–123.

Application Deadline: 01/15/2000.
Projected Award Date: 06/01/2000.

Authorization

Public Health Service Act, Title VII, Section 736, 42 U.S.C. 293.

Purpose

The goal of this program is to assist eligible schools in supporting programs of excellence in health professions education for under-represented minority individuals. The grantee is required to use the funds awarded: (1) To develop a large competitive applicant pool through linkages with institutions of higher education, local school districts, and other community-based entities and establish an education pipeline for health professions careers; (2) to establish, strengthen, or expand programs to enhance the academic performance of under-represented minority students attending the school; (3) to improve the capacity of such school to train, recruit, and retain under-represented minority faculty including the payment of stipends and fellowships; (4) to carry out activities to improve the information resources, clinical education, curricula and cultural competence of the graduates of the schools as it relates to minority health issues; (5) to facilitate faculty and student research on health issues particularly affecting under-represented minority groups, including research on issues relating to the delivery of health care; (6) to carry out a program to train students of the school in providing health services to a significant number of under-represented minority individuals through training provided to such students at community-based health facilities that provide such health services and are located at a site remote from the main site of the teaching facilities of the school; and (7) to provide stipends as appropriate.

Eligibility

Eligible applicants are: accredited schools of allopathic medicine, osteopathic medicine, dentistry, pharmacy, graduate programs in behavioral or mental health, or other public and nonprofit health or educational entities. Historically Black Colleges and Universities as described in Section 736(c)(2)(A) of the Public Health Service Act and which received a contract under Section 788B of the Public Health Service Act (Advanced Financial Distress Assistance) for fiscal year 1987 may apply for Centers of Excellence (COE) grants under Section 736 of the Public Health Service Act.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$20,100,000.

Estimated Number of Awards

16.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: A. Roland Garcia, Ph.D.
Phone Number: 1–301–443–2100.
E-mail: rgarcia@hrsa.gov.

Allied Health Projects

CFDA Number: 93.191
Application Availability: 10/01/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 02/22/2000.
Projected Award Date: 09/30/2000.

Authorization

Public Health Service Act, Title VII, Section 755, 42 U.S.C. 294e.

Purpose

Grants are awarded to assist eligible entities in meeting the costs associated with expanding or establishing programs that will: (1) Expand enrollments in allied health disciplines that are in short supply or whose services are most needed by the elderly; (2) provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences; (3) establish community-based training programs that link academic centers to rural clinical settings; (4) provide career advancement training for practicing allied health professionals; (5) expand or establish clinical training sites for allied health professionals in medically underserved or rural communities in order to increase the number of individuals trained; (6) develop curriculum that will emphasize knowledge and practice in the areas of prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics; (7) expand or establish interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly; (8) expand or establish demonstration centers to emphasize innovative models to link allied health, clinical practice, education, and research; and (9) meet the costs of projects to plan, develop, and operate or maintain graduate programs in behavioral and mental health practice.

Eligibility

Eligible entities are health professions schools, academic health centers, State or local governments or other appropriate public or private nonprofit entities.

Eligible academic institutions shall also be required to use funds in collaboration with two or more disciplines.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in Section 791(c)(3) of the Public Health Service Act concerning medically underserved communities and populations.

A funding priority will be given to qualified applicants who provide community-based training experiences designed to improve access to health care services in underserved areas. This will include being responsive to population groups addressed in the President's Executive Orders 12876, 12900 and 13021. These will include such applicants as Hispanic Serving Institutions, Historically Black Colleges and Universities, and Tribal Colleges and Universities serving Native Americans.

Special Considerations

Special consideration will be given to qualified applicants who support the ''Kids Into Health Careers'' initiative by establishing linkages with one or more elementary, middle or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,104,000.

Estimated Number of Awards

10–12.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Dr. Norman L. Clark or Young Song.
Phone Number: 1–301–443–1346 or 1–301–443–3353.
E-mail: nclark@hrsa.gov or ysong@hrsa.gov.

Residencies in the Practice of Pediatric Dentistry

CFDA Number: 93.897A.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.
After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 11/01/1999.
Projected Award Date: 04/30/2000.

Authorization

Public Health Service Act, Title VII, Section 747(a)(6), 42 U.S.C. 293k.

Purpose

This program shall provide grants to assist schools in planning, developing, or operating programs, and to provide financial assistance to residents in such programs, of pediatric dentistry. This program places particular emphasis on support of applications which encourage: (1) Practice in underserved areas; (2) provision of a broad range of pediatric dental services; (3) coordination and integration of care; (4) meeting the needs of special populations; and (5) recruitment and retention of under-represented minorities.

Eligibility

To be eligible for a grant for residency training in the practice of pediatric dentistry, the applicant shall include entities that have programs in dental schools, approved residency programs in the pediatric practice of dentistry, approved advanced education programs in the pediatric practice of dentistry, or approved residency programs in pediatric dentistry.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings and has the principal focus of serving residents of medically/dentally underserved communities; or (B) during the two-year period preceding the fiscal year for which an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Priority shall be given to qualified applicants that have a record of training the greatest percentage of providers or that have demonstrated significant improvements in the percentage of providers which enter and remain in pediatric dentistry.

Priority shall be given to qualified applicants that have a record of training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities under-represented in pediatric dentistry).

Special Considerations

Special consideration will be given to projects that prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV–AIDS, substance abusers, homeless, and victims of domestic violence.

Special consideration will be given to qualified applicants who support the ''Kids Into Health Careers'' initiative by establishing linkages with one or more elementary, middle or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits.

Review Critiera

Final criteria are included in the application kit.

Estimated Amount of This Competition

$600,000.

Estimated Number of Awards

6.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: CDR Kathy Hayes or CDR Chris Halliday.
Phone Number: 1–301–443–4832 or 1–301–443–4142.
E-mail: khayes@hrsa.gov or challiday@hrsa.gov.

Chiropractic Demonstration Project Grants

CFDA Number: 93.212.

Application Availability: 12/22/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 02/22/2000.

Projected Award Date: 07/22/2000.

Authorization

Public Health Service Act, Title VII, Section 755(b)(3), 42 U.S.C. 294e.

Purpose

Grants are awarded to carry out demonstration projects in which chiropractors and physicians collaborate to identify and provide effective treatment for spinal and lower-back conditions.

The project requirements include: (1) The project must address the identification and treatment of spinal and/or lower-back conditions; (2) the project must be founded on collaborative efforts between the school(s) of allopathic or osteopathic medicine; (3) each project must include a strong research protocol which will result in a significant expansion of documented research in the area addressed and which is suitable for publication in refereed health professions journals, including research oriented publications; (4) the project must include an explicit strategy for case-finding and a strategy for making direct comparisons to other forms of treatment. The results must be generalizable to patients cared for in clinical practices addressing spinal and/or lower-back conditions; and (5) whenever feasible, minorities and women should be included in study populations so that research findings can be of benefit to all persons at risk of the disease, disorder, or condition under study.

Eligibility

To be eligible for a Chiropractic Demonstration Project, the applicant shall be: a health professions school, an academic health center, a State or local government, other appropriate public or private nonprofit entity, a private nonprofit school, or a college or University of Chiropractic.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$786,000.

Estimated Number of Awards

3.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Dr. Norman Clark.
Phone Number: 1–301–443–1346.
E-mail: nclark@hrsa.gov.

Dental Public Health Residency Training Grants

CFDA NUMBER: 93.236.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 11/01/1999.
Projected Award Date: 04/30/2000.

Authorization

Public Health Service Act, Title VII, Section 768, 42 U.S.C. 295c.

Purpose

The purpose of this program is: (1) to plan and develop new residency training programs and to maintain or improve existing residency training programs in dental public health; and (2) to provide financial assistance to residency trainees enrolled in such programs.

Eligibility

A School of Public Health or Dentistry that offers a Dental Public Health Program accredited by the American Dental Association Commission on Dental Accreditation is eligible to apply. Each applicant must demonstrate that the institution has or will have available full-time faculty members with training and experience in the field of dental public health and support from other faculty members trained in public health and other relevant specialties and disciplines.

Funding Priorities and/or Preferences

Priority shall be given to qualified applicants that have a record of serving individuals who are from disadvantaged backgrounds (including under-represented racial and ethnic minorities) and graduating large proportions of individuals who serve in underserved communities.

Special Considerations

Special consideration will be given to qualified applicants who support the ''Kids Into Health Careers'' initiative by establishing linkages with one or more elementary, middle or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$600,000.

Estimated Number of Awards

6.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: CDR Kathy Hayes.
Phone Number: 1–301–443–4832.
E-mail: khayes@hrsa.gov.

Residencies and Advanced Education in the Practice of General Dentistry

CFDA Number: 93.897.
Application Availability: 08/06/1999.

To Obtain an Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 11/01/1999.
Projected Award Date: 04/30/2000.

Authorization

Public Health Service Act, Title VII, Section 747, 42 U.S.C. 293k.

Purpose

This program strives to increase the number of training opportunities in postdoctoral general dentistry and to improve program quality. For the upcoming grant cycle, applicants are encouraged to detail manners in which graduates of the general dentistry residency will be well trained in meeting the treatment needs of pediatric patient populations. This program places particular emphasis on support of applications which encourage practice in underserved areas, provision of a broad range of clinical services,

coordination and integration of care, meeting the needs of special populations, and recruitment and retention of under-represented minorities.

Eligibility

To be eligible for a grant for residency training in the practice of general dentistry, the applicant shall include entities that have programs in dental schools, approved residency programs in the general practice of dentistry, and approved advanced education programs in the general practice of dentistry.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings and have the principal focus of serving residents of medically/dentally underserved communities; or (B) during the two-year period preceding the fiscal year for which an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Priority shall be given to qualified applicants that have a record of training the greatest percentage of providers, or that have demonstrated significant improvements in the percentage of providers which enter and remain in general dentistry.

Priority shall be given to qualified applicants that have a record of training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities under-represented in general dentistry).

Special Considerations

Special consideration shall be given to projects that prepare practitioners to care for under-served populations and other high risk groups such as the elderly, individuals with HIV–AIDS, substance abusers, homeless, and victims of domestic violence.

Special consideration will be given to qualified applicants who support the ''Kids Into Health Careers'' initiative by establishing linkages with one or more elementary, middle or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,900,000.

Estimated Number of Awards

10.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: CDR Kathy Hayes.
Phone Number: 1–301–443–4832.
E-mail: khayes@hrsa.gov.

Quentin N. Burdick Program for Rural Interdisciplinary Training

CFDA Number: 93.192.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 10/22/1999.
Projected Award Date: 06/01/2000.

Authorization

Public Health Service Act, Title VII, Section 754, 42 U.S.C. 294d.

Purpose

The goal of this program is to provide or improve access to health care in rural areas. Specifically, projects funded under this authority shall be designed to: (a) Use new and innovative methods to train health care practitioners to provide services in rural areas; (b) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care; (c) deliver health care services to individuals residing in rural areas; (d) enhance the amount of relevant research conducted concerning health care issues in rural areas; and (e) increase the recruitment and retention of health care practitioners from rural areas and make rural practice a more attractive career choice for health care practitioners.

Eligibility

Applications will be accepted from health professions schools, academic health centers, State or local governments or other appropriate public or private nonprofit entities for funding and participation in health professions and nursing training activities.

Applications shall be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas.

Applicants must designate a rural health care agency or agencies for clinical treatment or training including hospitals, community health centers, migrant health centers, rural health clinics, community behavioral and mental health centers, long-term care facilities, Native Hawaiian health centers or facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in Section 791(c)(3) of the Public Health Service Act concerning medically underserved communities and populations.

Special Considerations

Special consideration will be given to qualified applicants who provide community-based training experiences designed to improve access to health care services in underserved areas. This will include being responsive to population groups addressed in the President's Executive Orders 12876, 12900 and 13021. These will include such applicants as Hispanic Serving Institutions, Historically Black Colleges and Universities, and Tribal Colleges and Universities serving Native Americans.

Special consideration will be given to qualified applicants who support the ''Kids Into Health Careers'' initiative by establishing linkages with one or more

elementary, middle or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$2,150,459.

Estimated Number of Awards

11.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Judith E. Arndt.
Phone Number: 1–301–443–6867.
E-mail: jarndt@hrsa.gov.

Public Health Training Centers Grant Program

CFDA Number: 93.188A.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 12/06/1999.
Projected Award Date: 09/30/2000.

Authorization

Public Health Service Act, Title VII, Section 766, 42 U.S.C. 295a.

Purpose

The goal of the Public Health Training Centers Grant Program is to improve the Nation's public health system by strengthening the technical, scientific, managerial and leadership competencies and capabilities of the current and future public health workforce. Emphasis is placed on developing the existing public health workforce as a foundation for improving the infrastructure of the public health system and helping achieve the Healthy People 2010 Objectives. With respect to a public health training center, applicants must agree to: (1) Specifically designate a geographic area, including medically underserved populations, e.g., elderly, immigrants/refugees, disadvantaged, to be served by the Center that shall be in a location removed from the main location of the teaching facility of the school participating in the program with such Center; (2) assess the public health personnel needs of the area to be served by the Center and assist in the planning and development of training programs to meet such needs; (3) establish or strengthen field placements for students in public or nonprofit private public health agencies or organizations; and (4) involve faculty members and students in collaborative projects to enhance public health services to medically underserved communities.

Eligibility

Eligible applicants include accredited schools of public health or other public or nonprofit private institutions accredited for the provision of graduate or specialized training in public health.

Funding Priorities and/or Preferences

In awarding grants or contracts under this authority, the Secretary shall give preference to accredited schools of public health.

Special Considerations

Special consideration will be given to qualified applicants who support the ''Kids Into Health Careers'' initiative by establishing linkages with one or more elementary, middle or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$3,000,000.

Estimated Number of Awards

10.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: Ronald Merrill.
Phone Number: 1–301–443–3460.
E-mail: rmerrill@hrsa.gov.

Geriatric Education Centers

CFDA Number: 93.969.
Application Availability: 10/09/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 12/09/1999.
Projected Award Date: 06/01/2000.

Authorization

Public Health Service Act, Title VII, Section 753(a), 42 U.S.C. 294c.

Purpose

Grants are given to support the development of collaborative arrangements involving several health professions schools and health care facilities. Geriatric Education Centers facilitate training of health professional faculty, students, and practitioners in the diagnosis, treatment, and prevention of disease, disability, and other health problems of the aged. Health professionals include allopathic physicians, osteopathic physicians, dentist, optometrists, podiatrists, pharmacists, nurse practitioners, physicians assistants, chiropractors, clinical psychologists, health administrators, and other allied health professionals. Projects supported under these grants must offer training involving four or more health professions, one of which must be allopathic or osteopathic medicine, and must address one or more of the following statutory purposes: (a) Improve the training of health professionals in geriatrics, including geriatric residencies, traineeships, or fellowships; (b) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals; (c) support training and retraining of faculty to provide instruction in geriatrics; (d) support continuing education of health professionals who provide geriatric care; and (e) provide students with clinical training in geriatrics in nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers.

Eligibility

Grants may be made to accredited health professions schools as defined by Section 799B(1) of the Public Health Service Act, or programs for the training of physicians assistants as defined by Section 799B(3), or schools of allied health as defined in Section 799B(4), or schools of nursing as defined by Section 801(2).

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public

Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in Section 791(c)(3) of the Public Health Service Act concerning medically underserved communities and populations.

A funding priority will be given to qualified applicants who provide community-based training experiences designed to improve access to health care services in underserved areas. This will include being responsive to population groups addressed in the President's Executive Orders 12876, 12900 and 13021. These will include such applicants as Hispanic Serving Institutions, Historically Black Colleges and Universities, and Tribal Colleges and Universities serving Native Americans.

Special Considerations

Special consideration will be given to qualified applicants who support the ''Kids Into Health Careers'' initiative by establishing linkages with one or more elementary, middle or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$1,885,000.

Estimated Number of Awards

9–12.

Estimated Project Period

Up to 5 Years.

For Programmatic Questions

Contact Person: Diane Hanner.

Phone Number: 1–301–598–6887.

E-mail: dhanner@hrsa.gov.

Geriatric Training Regarding Physicians and Dentists

CFDA Number: 93.156.

Application Availability: 10/09/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 12/09/1999.

Projected Award Date: 06/01/2000.

Authorization

Public Health Service Act, Title VII, Section 753(b), 42 U.S.C. 294c.

Purpose

Grants are given for faculty training projects in geriatric medicine and dentistry. The purpose of this grant program is to provide support, including fellowships, for geriatric training projects to train physicians, dentists and behavioral and mental health professionals who plan to teach geriatric medicine, geriatric behavioral or mental health, or geriatric dentistry. Projects supported under these grants must offer a one-year retraining program in geriatrics for: (a) Physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and behavioral or mental health at schools of medicine and osteopathic medicine; dentists who are faculty members at schools of dentistry or at hospital departments of dentistry; and behavioral or mental health professionals who are faculty members in departments of behavioral or mental health; and (b) a two-year internal medicine or family medicine fellowship program which provides emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for: physicians who have completed graduate medical education programs in internal medicine, family medicine, behavioral or mental health, neurology, gynecology, or rehabilitation medicine; dentists who have demonstrated a commitment to an academic career and who have completed postdoctoral dental training, including postdoctoral dental education programs or who have relevant advanced training or experience; and behavioral or mental health professionals who have completed graduate medical education programs in behavioral or mental health.

Eligibility

Grants may be made to accredited public or private nonprofit schools of medicine, schools of osteopathic medicine, teaching hospitals, or graduate medical education programs. Two-year fellowship programs must be under the programmatic control of a graduate medical education program in internal medicine or family medicine (including osteopathic general practice). The 1-year retraining program shall be based in a graduate medical education program in internal medicine or family medicine or in a department of geriatrics or psychiatry.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the focus of serving residents of medically underserved communities; or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in Section 791(c)(3) of the Public Health Service Act concerning medically underserved communities and populations.

A funding priority will be given to qualified applicants who provide community-based training experiences designed to improve access to health care services in underserved areas. This will include being responsive to population groups addressed in the President's Executive Orders 12876, 12900 and 13021. These will include such applicants as Hispanic Serving Institutions, Historically Black Colleges and Universities, and Tribal Colleges and Universities serving Native Americans.

Special Considerations

Special consideration will be given to qualified applicants who support the ''Kids Into Health Careers'' initiative by establishing linkages with one or more elementary, middle or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote

rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,200,000.

Estimated Number of Awards

4.

Estimated Project Period

5 Years.

For Programmatic Questions

Contact Person: Barbara Broome.
Phone Number: 1–301–443–6887.
E-mail: bbroome@hrsa.gov.

Health Administration Traineeships and Special Projects

CFDA Number: 93.962.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 10/15/1999.
Projected Award Date: 07/01/2000.

Authorization

Public Health Service Act, Title VII, Section 769, 42 U.S.C. 295d.

Purpose

Grants are awarded to support eligible students enrolled in accredited graduate programs in health administration, hospital administration, or health policy analysis and planning, and to assist in the development or improvement of programs to prepare students for employment with public or nonprofit private entities.

Eligibility

Eligible applicants are State or local governments (that have in effect preventive medical and dental public health residency programs) or public or nonprofit private educational entities (including graduate schools of social work and business schools that have health management programs) that offer a graduate program in health administration, hospital administration or health policy analysis and planning accredited by the Accrediting Commission on Education in Health Services Administration. Applicants must assure that, in providing traineeships, priority will be given to students who demonstrate a commitment to employment with public or nonprofit private entities in health administration and management.

Funding Priorities and/or Preferences

Preference will be given to qualified applicants meeting the following conditions:

1. Not less than 25 percent of the graduates of the applicant are engaged in full-time practice settings in medically underserved communities;
2. The applicant recruits and admits students from medically underserved communities;
3. For the purpose of training students, the applicant has established relationships with public and nonprofit providers of health care in the community involved; and
4. In training students, the applicant emphasizes employment with public or nonprofit private entities.

Special Considerations

Special consideration will be given to qualified applicants who support the ''Kids Into Health Careers'' initiative by establishing linkages with one or more elementary, middle or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,044,600.

Estimated Number of Awards

55.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Thomas H. Perez.
Phone Number: 1–301–443–3231.
E-mail: tperez@hrsa.gov.

Nursing Workforce Diversity Grants

CFDA Number: 93.178A.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 12/17/1999.
Projected Award Date: 04/30/2000.

Authorization

Public Health Service Act, Title VIII, Section 821, 42 U.S.C. 296m.

Purpose

Grants are awarded to increase nursing education opportunities for individuals who are from disadvantaged backgrounds (including racial and ethnic minorities under-represented among registered nurses) by providing student scholarships or stipends, pre-entry preparation, and retention activities.

Eligibility

Eligible applicants are schools of nursing, nursing centers, academic health centers, State or local governments and other public or private nonprofit entities.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 805 of the Public Health Service Act, preference shall be given to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in State or local health departments.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,300,000.

Estimated Number of Awards

8.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Ernell Spratley.
Phone Number: 1–301–443–5763.
E-mail: espratley@hrsa.gov.

Basic Nurse Education and Practice Grants

CFDA Number: 93.359A.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772–123.

Application Deadline: 02/22/2000.
Projected Award Date: 06/30/2000.

Authorization

Public Health Service Act, Title VIII, Section 831, 42 U.S.C. 296p.

Purpose

Grants are awarded to enhance the educational mix and utilization of the basic nursing workforce by strengthening programs that provide basic nurse education, such as through: (1) Establishing or expanding nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities; (2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV–AIDS, substance abusers, the homeless, and victims of domestic violence; (3) providing managed care, quality improvement, and other skills needed to practice in existing and emerging organized health care systems; (4) developing cultural competencies among nurses; (5) expanding the enrollment in baccalaureate nursing programs; (6) promoting career mobility for nursing personnel in a variety of training settings and cross training or specialty training among diverse population groups; or (7) providing education for informatics, including distance learning methodologies.

Eligibility

Eligible applicants for purposes one and five are schools of nursing. Eligible applicants for purposes two, three, four, six, and seven are schools of nursing, nursing centers, academic health centers, State or local governments and other public or private nonprofit entities.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 805 of the Public Health Service Act, preference shall be given to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in State or local health departments.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$3,800,000.

Estimated Number of Awards

19.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Angela Martinelli.
Phone Number: 1–301–443–6333.
E-mail: amartinelli@hrsa.gov.

Public Health Nursing Experiences in State and Local Health Departments for Baccalaureate Nursing Students

CFDA Number: 93.359B.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 11/01/1999.
Application Deadline: 11/17/1999.
Projected Award Date: 03/31/2000.

Authorization

Public Health Service Act, Title VIII, Section 831, 42 U.S.C. 296p.

Purpose

The purpose of this request for applications is to provide seed money to assist eligible entities to strengthen the public health nursing practice clinical experience (practicum) component of the baccalaureate nursing program. Funds may be used to assist the applicant to plan, implement, and evaluate a public health nursing practice experience that will expose students to: (1) Selected core functions of public health (assessment, policy development, and assurance) and essential services; (2) the mission of the State and/or local health departments; and (3) how a variety of public health practitioners function as a team in promoting, protecting, and maintaining the public's health. This plan may be implemented with a small number of baccalaureate nursing students.

Eligibility

Eligible applicants are schools of nursing and State or local governments.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 805 of the Public Health Service Act, preference will be given to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in State or local health departments.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$250,000.

Estimated Number of Awards

10.

Estimated Project Period

1 year.

For Programmatic Questions

Contact Person: Joan Weiss, PhD, RN, CRNP.
Phone Number: 1–301–443–5486.
E-mail: jweiss@hrsa.gov.
Technical Assistance Conference Call: October 4, 1999.

To participate in the conference call or for additional information contact Joan Weiss at 301–443–5486; by fax at 1–301–443–8586 or E-mail at jweiss@hrsa.gov. Please indicate intent to submit an application by E-mail, phone or fax to Joan Weiss, PhD, RN, CRNP.

Advanced Education Nursing Grants

CFDA Number: 93.299A.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 01/28/2000.
Projected Award Date: 06/30/2000.

Authorization

Public Health Service Act, Title VIII, Section 811, 42 U.S.C. 296j.

Purpose

Grants are awarded to eligible institutions for projects that support the enhancement of advanced nursing education and practice. For the purpose of this section, advanced education nurses means individuals trained in advanced degree programs including individuals in combined RN to Master's degree programs, post-nursing Master's certificate programs, or in the case of nurse midwives, in certificate programs in existence on November 12, 1998, to serve as nurse practitioners, clinical nurse specialists, nurse midwives, nurse anesthetists, nurse educators, nurse administrators or public health nurses.

Eligibility

Eligible applicants are schools of nursing, academic health centers, and other public or private nonprofit entities.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 805 of the Public Health Service Act, preference shall be given to applicants with projects that will substantially benefit rural or

underserved populations or help meet public health nursing needs in State or local health departments.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$16,500,000.

Estimated Number of Awards

75.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Joan Weiss.
Phone Number: 1–301–443–6333.
E-mail: jweiss@hrsa.gov.

Advanced Education Nursing Traineeship Grants

CFDA Number: 93.299B.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 12/03/1999.
Projected Award Date: 04/28/2000.

Authorization

Public Health Service Act, Title VIII, Section 811, 42 U.S.C. 296j.

Purpose

Grants are awarded to eligible institutions to meet the cost of traineeships for individuals in advanced nursing education programs. Traineeships are awarded to individuals by participating educational institutions offering Master's and doctoral degree programs, combined RN to Master's degree programs, post-nursing Master's certificate programs, or in the case of nurse midwives, certificate programs in existence on November 12, 1998 to serve as nurse practitioners, clinical nurse specialists, nurse midwives, nurse anesthetists, nurse educators, nurse administrators or public health nurses. The traineeship program is a formula program and all eligible schools will receive awards.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 805 of the Public Health Service Act, preference shall be given to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in State or local health departments.

Special Considerations

Traineeships for individuals in advanced education programs are provided under Section 811(a)(2) of the Public Health Service Act. A statutory special consideration, as provided for in Section 811(f)(3) of the PHS Act, will be given to an eligible entity that agrees to expend the award to train advanced education nurses who will practice in health professional shortage areas designated under Section 332 of the PHS Act.

Review Criteria

Final criteria are included in the application kit.

Eligible Organizations

Eligible applicants are schools of nursing, academic health centers, and other public or private nonprofit entities.

Estimated Amount of This Competition

$15,698,000 for traineeship awards.

Number of Expected Awards

280.

Expected Project Period

1 Year.

For Programmatic Questions

Contact Person: Marcia Starbecker.
Phone Number: 301–443–6333.
E-mail: mstarbecker@hrsa.gov.

Advanced Education Nursing—Nurse Anesthetist Traineeship Grant Program

CFDA Number: 93.299C.
Application Availability: 08/06/1999.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 12/03/1999.
Projected Award Date: 04/28/2000.

Authorization

Public Health Service Act, Title VIII, Section 811, 42 U.S.C. 296j.

Purpose

Grants are awarded to eligible institutions for projects that support traineeships for licensed registered nurses enrolled as full-time students beyond the twelfth month of study in a Master's nurse anesthesia program. The traineeship program is a formula program and all eligible entities will receive awards.

Eligible Organization

Eligible applicants are schools of nursing, academic health centers, and other public and private nonprofit institutions which provide registered nurses with full-time nurse anesthetist education and have evidence of earned pre-accreditation or accreditation status from the American Association of Nurse Anesthetists (AANA) Council on Accreditation of Nurse Anesthesia Educational Programs.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 805 of the Public Health Service Act, preference shall be given to applicants with projects that will substantially benefit rural or underserved populations or help meet public health nursing needs in State or local health departments.

Special Considerations

Traineeships for individuals in advanced education programs are provided under Section 811(a)(2) of the Public Health Service Act. A statutory special consideration, as provided for in Section 811(f)(3) of the PHS Act, will be given to an eligible entity that agrees to expend the award to train advanced education nurses who will practice in health professional shortage areas designated under Section 332 of the PHS Act.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,200,000.

Number of Expected Awards

70.

Estimated Project Period

1 Year.

For Programmatic Questions

Contact Person: Marcia Starbecker.
Phone Number: 1–301–443–6333.
E-mail: mstarbecker@hrsa.gov.

Advancement of Telehealth

Rural Telemedicine Grant Program

CFDA Number: 93.211.
Application Availability: 12/01/1999.

To Obtain an Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Letter of Intent Deadline: 01/31/2000.
Application Deadline: 03/01/2000.
Projected Award Date: 08/31/2000.

Authorization

Public Health Service Act, Title III, Section 330A, 42 U.S.C. 254c.

Purpose

To demonstrate how telemedicine/telehealth can be used as a tool in developing integrated systems of health care, improving access to health services for rural citizens and reducing the isolation of rural health care practitioners, and to collect information for the systematic evaluation of the feasibility, costs, appropriateness and acceptability of rural telemedicine/telehealth. Grantees may not use in excess of 40 percent of their Federal grant funds each year for the purchase or lease and installation of equipment (i.e., equipment used inside the health care facility or home for providing telehealth services such as codecs, cameras, monitors, computers, multiplexers, etc.). Grantees may not use Federal funds to purchase or install transmission equipment (i.e., microwave towers, large satellite dishes, amplifiers, or laying of telephone or cable lines). Grantees may not use Federal funds to build or acquire real property or for construction except to the extent that such funds are used for minor renovations related to the installation of telemedicine/telehealth equipment. No more than 20 percent of the amounts provided under the grants can be used to pay for the indirect costs associated with carrying out the activities of the grant.

Eligibility

In general, any public (non-Federal) or private nonprofit entity that is: (1) a health care provider and a member of an existing or proposed telemedicine/telehealth network, or (2) a consortium of providers that are members of an existing or proposed telemedicine/telehealth network. The applicant must be a legal entity capable of receiving Federal grant funds. The applicant may be located in either a rural or urban area. Other telemedicine network members may be public or private, nonprofit or for-profit. Health facilities operated by a Federal agency may be members of the network but not the applicant. A telemedicine/telehealth network shall, at a minimum, be composed of a multi-speciality entity that is located in an urban or rural area which can provide 24-hour-a-day access, as appropriate, to a range of diagnostic, therapeutic, ongoing management, preventive, and monitoring services. It must also have at least two rural health care facilities, which may include rural hospitals (fewer than 100 staffed beds), rural health professional office practices, rural health clinics, rural community or migrant health centers, rural publicly-funded mental health facilities, rural home care agencies, rural nursing homes, and rural school health programs/clinics. Any additional requirements based on legislative changes will be noted in the application kit.

Funding Priorities and/or Preferences

Funding preferences are included in the application kit.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$8,000,000.

Estimated number of awards

25.

Estimated Project Period

3 Years.

For Programmatic Questions

Contact Person: Cathy Wasem or Amy Barkin.
Phone Number: 1–301–443–0447.
E-mail: cwasem@hrsa.gov or abarkin@hrsa.gov.

Note to Potential Applicants

The Office for the Advancement of Telehealth anticipates announcing a similar telemedicine/telehealth program for urban underserved and hard-to-reach populations in December 1999, subject to the availability of funds.

Other HRSA Programs

Faculty Loan Repayment Program (FLRP)

CFDA Number: 93.923.
Application Availability: 01/03/2000.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 03/31/2000.
Projected Award Date: 09/01/2000.

Authorization

Public Health Service Act, Title VII, Section 738(a), 42 U.S.C. 293b.

Purpose

The FLRP encourages expansion of disadvantaged representation in health professions faculty positions. The program provides loan repayment, in amounts not to exceed $20,000 for each year of service, for individuals from disadvantaged backgrounds who agree to serve as members of the faculties of eligible health professions and nursing schools. Each recipient of loan repayment must agree to serve as a faculty member for at least 2 years.

Eligibility

Schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, allied health, nursing and graduate programs in behavioral and mental health are eligible to apply.

An individual is eligible to compete for participation in the FLRP if the individual is from a disadvantaged background and: (1) Has a degree in medicine, osteopathic medicine, dentistry, nursing, or another health profession; (2) is enrolled in an approved graduate training program in one of the health professions listed above; or (3) is enrolled as a full-time student in an accredited (as determined by the Secretary) school listed above and is in the final year of training leading to a degree from an eligible school.

Funding Priorities and/or Preferences

None.

Special Considerations

Special consideration will be given to the extent to which the individual meets the intent of the program to expand disadvantaged representation in health professions faculty positions.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$800,000.

Estimated Number of Awards

25.

Estimated Project Period

Not less than 2 Years.

For Programmatic Questions

Contact Person: Jeff Potts.
Phone Number: 1–301–443–1700.
E-mail: bflrp__info@hrsa.gov.

Scholarships for Disadvantaged Students (SDS)

CFDA Number: 93.925.
Application Availability: 02/01/2000.

To Obtain an Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 03/15/2000.
Projected Award Date: 05/31/2000.

Authorization

Public Health Service Act, Title VII, Section 737, 42 U.S.C. 293a.

Purpose

The SDS program contributes to the diversity of the health professions student and practitioner populations. The program provides funding to eligible health professions and nursing schools to be used for scholarships to students from disadvantaged backgrounds who have financial need for scholarships and are enrolled, or accepted for enrollment, as full-time students at the eligible schools.

Eligibility

(1) Schools of allopathic medicine, osteopathic medicine, dentistry, optometry, pharmacy, podiatric medicine, veterinary medicine, public health, nursing, chiropractic, graduate programs in behavioral and mental health, physician assistants, or allied health are eligible to apply; and (2) schools with a program for recruiting and retaining students from disadvantaged backgrounds, including students who are members of racial and ethnic minority groups.

Funding Priorities and/or Preferences

An applicant must provide assurances that preference in providing scholarships will be given to students for whom the costs of attending the schools would constitute a severe financial hardship and to former recipients of Exceptional Financial Need and Financial Assistance for Disadvantaged Health Professions Students Scholarships.

Funding Priorities and/or Preferences

A priority will be given to eligible entities that are health professions and nursing schools based on the proportion of graduating students going into primary care, the proportion of under-represented minority students, and the proportion of graduates working in medically underserved communities.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$38,966,000.

Estimated Number of Awards

1,000.

Estimated Project Period

1 Year.

For Programmatic Questions

Contact Person: Angie Lacy or Andrea Castle.
Phone Number: 1–301–443–4776.
E-mail: dpolicy@hrsa.gov.

Nursing Education Loan Repayment Program

CFDA Number: 93.908.
Application Availability: 03/01/2000.

To Obtain This Application Kit

Contact: 1–888–333–HRSA until September 12, 1999.

After September 12, the new toll free number will be 1–877–HRSA (4772)–123.

Application Deadline: 05/01/2000.
Projected Award Date: 09/01/2000.

Authorization

Public Health Service Act, Title VIII, Section 846, 42 U.S.C. 297m.

Purpose

Under the Nursing Education Loan Repayment Program (NELRP), registered nurses are offered the opportunity to enter into a contractual agreement with the Secretary, under which the Public Health Service agrees to repay up to 85 percent of the nurse's indebtedness for nursing education loans. In exchange, the nurse agrees to serve for a specified period of time in certain types of health facilities identified in statue.

Eligibility

Applicants must have completed all of their training requirements for registered nursing and be licensed prior to beginning service. Individuals eligible to participate must: (a) Have received, prior to the start of service, a baccalaureate or associate degree in nursing; (b) Have unpaid education loans obtained for nurse training; (c) Be a citizen or Nation of the U.S.; (d) Have a current unrestricted license in the State in which they intend to practice; and (e) Agree to be employed for not less than two years in a full-time clinical capacity in: (1) An Indian Health Service Health Center; (2) a Native Hawaiian Health Center; (3) a public hospital (operated by a State, county, or local government); (4) a health center funded under Section 330 of the Public Health Service Act (including migrant, homeless, and public housing health centers); (5) a rural health clinic (Section 1861 (aa)(2) of the Social Security Act); or (6) a public or nonprofit private health facility determined by the Secretary to have a critical shortage of nurses.

Estimated Amount of This Competition

$2,240,000.

Estimated Number of Awards

200.

Estimated Project Period

None.

Funding Priorities and/or Preferences

In making awards under this Section, preferences will be given to qualified applicants who have the greatest financial need and who agree to serve in the types of health facilities described above that are located in geographic areas determined by the Secretary to have a shortage of and need for nurses.

Review Criteria

Awards are determined by formula.

For Programmatic Questions

Contact Person: Winifred Lapp.
Phone Number: 1–301–594–4400.
E-mail: flapp@hrsa.gov.

HRSA's Approach to Performance Measurement

The Health Resources and Services Administration (HRSA) is the lead Federal agency in promoting access to health care services that create and improve the Nation's health. With a statutory emphasis on special needs, underserved, and vulnerable populations, HRSA mobilizes its bureaus, programs, staff and partners to assure access to quality health care.

HRSA is an agency with multiple programs but with a single strategic goal: Assure 100% access to health care and 0% disparities for all Americans. We do not rely solely on the HRSA budget or even other Federal funding in our quest to meet our goal. Instead, we work to establish alliances and partnerships with a broad array of organizations ranging from State and local governments to foundations and corporations.

In order to support our goal, HRSA has established four strategies:

- Eliminate Barriers to Care;
- Eliminate Health Disparities;
- Assure Quality of Care; and
- Improve Public Health and Health Care Systems.

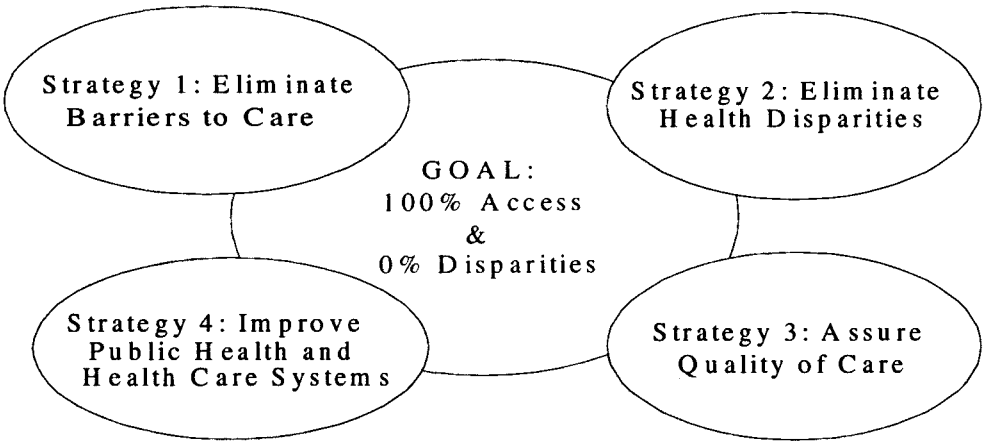
Within each of these strategies there are three substrategies to fully implement them (see Model). We have aligned our strategic plan, our Government Performance and Results Act (GPRA) measures, and our budget under these activities.

The GPRA requires Federal agencies to prepare 5-year Strategic Plans setting out long-term goals and objectives, Annual Performance Plans committing to short-term performance goals, and Annual Performance Reports explaining and documenting how effective the Agency's actions have been at achieving the stated goals.

HRSA accomplishes its mission by:

- Working with States and communities which form the foundation for developing integrated service systems and the appropriate health workforce to help assure access to essential high-quality health care.
- Assuring that these systems take into account cultural and linguistic factors, geographic location, and economic circumstances.
- Assisting States and communities to identify and address unmet service needs and workforce gaps in the health care system.
- Promoting continuous quality improvement in health services delivery and health professions education.
- Supporting innovative partnerships to promote effective, integrated systems of care for all population groups.
- Promoting the recruitment, training, and retention of a culturally and linguistically competent and diverse health care workforce.

HRSA GOAL AND STRATEGIES



Strategy 1: Eliminate Barriers to Care

- Increase utilization for underserved
- Increase Access Points
- Focus on target population

Strategy 2: Eliminate Health Disparities

- Reduce incidence/prevalence of disease and morbidity/mortality
- Increase utilization for underserved populations
- Focus on target populations

Strategy 3: Assure Quality of Care

- Promote appropriateness of care
- Assure effectiveness of care
- Improve customer/patient satisfaction

Strategy 4: Improve Public Health and Health Care Systems

- Improve Information development and dissemination
- Promote education and training of the Public Health and Health Care Workforce
- Promote systems and infrastructure development

The overall approach that HRSA follows is focused on:

Primary Health Care for the Poor, Uninsured and Isolated

- HRSA supports a network of primary care health centers that deliver primary care—preventing disease and treating illness—in underserved areas. Each year, more than 9 million Americans receive care through HRSA health centers. More than half of those receiving care are members of working families with no health insurance.

Health Care for Americans With Special Health Care Needs

- A major HRSA focus is on the health of mothers, children and youth, particularly minority, low-income and uninsured individuals and families who face barriers to needed health services, such as prenatal care and immunization. Through the Maternal and Child Health Block Grant, each State assesses the health care needs of its pregnant women, children and adolescents, then develops and implements a plan to meet them.
- Ryan White CARE Act programs are designed to help people with HIV/AIDS live better and longer. Funding provides health and support services for under-or uninsured people with HIV/AIDS. The AIDS Drug Assistance Programs are designed to make available the latest therapeutic approaches to care for those who would not otherwise have access to such care.

Training Health Professionals to Serve the Underserved

- HRSA supports a variety of community-based training programs to train the next generation of physicians, nurses and other health professionals to work effectively in managed care, to become productive members of health care teams, and to increase the provision of services in underserved areas.

Approach to Performance Measurement

HRSA has made a strong effort to build a performance management approach into the way it conducts its business. The agency structured the development of its internal strategic planning process to be consistent with the requirements of the Government Performance and Results Act. The goals

developed in the process have guided the development of our Annual Performance Plans.

As part of that process, the agency outlined the central assessment question of organizational performance:

Can this organization, with a given set of resources, through a series of actions and decisions, produce outputs that have the desired effects and outcomes to benefit those it serves?

Technical assistance has been provided to each of the operating components to enhance ability to define performance goals and measures.

Look for HRSA at the Following Meetings/Conferences

Association of State and Territorial Health Officials (ASTHO) Annual Meeting

September 28–October 1, 1999.
Savannah, Georgia.
(www.astho.org).

Association of Military Surgeons of the United States (AMSUS) 106th Annual Meeting

November 7–12, 1999.
Anaheim, California.
(www.amsus.org).

127th Annual American Public Health Association Meeting

November 15–18, 1999.
Chicago, Illinois.
(www.apha.org).

12th National HIV/AIDS Update Conference

March 14–17, 2000.
San Francisco, California.
HRSA Contact: Steven Merrill, 1–301–443–2865 or E-mail smerrill@hrsa.gov.

Prevention 2000

March 23–26, 2000.
Atlanta, Georgia.
HRSA Contact: Seven Merrill 1–301–443–2865 or E-mail smerrill@hrsa.gov.

17th Annual Meeting of the Association for Health Services Research

June 25–27, 2000.
Los Angeles, California.
(www.ahsr.org).

National Association of County and City Health Officials (NACCHO) Annual Meeting

July 14–17, 2000.
Los Angeles, California.
(www.naccho.org).

2000 National Council of La Raza Conference

Specific dates and location to be announced.
(www.nclr.org).

National Conference of State Legislatures 26th Annual Meeting

July 16–20, 2000.
Chicago, Illinois.
(www.ncsl.org).

8th Annual National Association of Local Boards of Health (NALBOH) Conference

July, 2000.
Raleigh/Durham, North Carolina.
(www.nalboh.org).

Association of State and Territorial Health Officials (ASTHO) Annual Meeting

July 16–23, 2000.
Los Angeles, California.
(www.astho.org).

HRSA's Field Offices

Northeast Cluster

Philadelphia Field Office—Field Director, Joseph Healey, 215–861–4422.

Boston Field Office—Assistant Field Director, Kenneth Brown, 617–565–1482.

New York Field Office—Assistant Field Director, Ron Moss, 212–264–2664.

Southeast Cluster

Atlanta Field Office—Field Director, Ketty M. Gonzalez, 404–562–2996.

Midwest Cluster

Chicago Field Office—Field Director, Deborah Willis-Fillinger, 312–353–1715.

Kansas City Field Office—Assistant Field Director, Hollis Hensley, 816–426–5296.

West Central Cluster

Dallas Field Office—Field Director, Frank Cantu, 214–767–3872.

Denver Field Office—Assistant Field Director, Jerry Wheeler, 303–844–3203.

Pacific West Cluster

San Francisco Field Office—Field Director, Thomas Kring, 415–437–8090.

Seattle Field Office—Assistant Field Director, Richard Rysdam (Acting), 206–615–2491.

World Wide Web

HRSA Home Page

http://www.hrsa.dhhs.gov/.

DHHS Home Page

http://www.os.dhhs.gov/.

Grantsnet

http://www.hhs.gov/progorg/grantsnet/index.html.

PHS Grants Policy Statement

http://www.nih.gov/grants/policy/gps/.

Catalog of Federal Domestic Assistance (CFDA)

http://www.gsa.gov/fdac/.

Code of Federal Regulations

http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.

OMB Circulars

http://www.whitehouse.gov/WH/EOP/omb.

Federal Register

http://www.access.gpo.gov/su__docs/aces/aces140.html/.

Healthfinder

http://www.healthfinder.gov/.

Fedworld Information Network

http://www.fedworld.gov/.

HRSA Y2K Site

http://www.hrsa.gov/y2k__comp.htm.

[FR Doc. 99–21257 Filed 8–17–99; 8:45 am]
BILLING CODE 4160–15–P

federal register

Wednesday
August 18, 1999

Part III

Department of Energy

10 CFR Parts 709, 710, and 711
Polygraph Examination Regulation; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 709, 710, and 711

[Docket No. CN–RM–99–POLY]

RIN 1992–AA24

Polygraph Examination Regulation

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Department of Energy (DOE or the Department) proposes regulations for the use of polygraph examinations for certain DOE and contractor employees, applicants for employment, and other individuals assigned or detailed to Federal positions at DOE. The proposed regulations describe the categories of individuals who would be eligible for polygraph testing and controls for the use of such testing and for prevention of unwarranted intrusion into the privacy of individuals. These regulations are being proposed to comply with various Executive Orders which require the Department to protect classified information. These regulations for the use of polygraph examinations for certain DOE and contractor employees are intended to protect highly sensitive and classified information and materials to which such employees have access. This rulemaking also proposes conforming changes to regulations governing the Department's Personnel Security Assurance Program and Personnel Assurance Program.

DATES: The comment period for this proposed rule will end on October 4, 1999. Public hearings will be held on: September 14, 1999 in Livermore, CA from 9 a.m. to 1 p.m. and 3 p.m. to 7 p.m.; September 16, 1999, in Albuquerque, NM from 9 a.m. to 1 p.m. and 3 p.m. to 7 p.m.; September 17, 1999, in Los Alamos, NM from 9 a.m. to 1 p.m. and 3 p.m. to 6 p.m.; and September 22, 1999, in Washington D.C. from 9 a.m. to 1 p.m.

Requests to speak at any of the hearings should be phoned in to Andi Kasarsky, (202) 586–3012, by September 10, for the Livermore, CA hearing; September 14, for the Albuquerque, NM hearing; September 15, for the Los Alamos, NM hearing; and September 20, for the Washington, DC hearing. Each presentation is limited to 5 minutes to ensure that all persons have an opportunity to speak.

ADDRESSES: Written comments (10 copies) should be addressed to Douglas J. Hinckley, Office of Counterintelligence, CN–1, Docket No. CN–RM–99–POLY, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. Alternatively, comments may be e-mailed to the following address: poly@hq.doe.gov. Where possible, commentors should identify the specific section of the proposed rule to which they are responding.

Copies of the public hearing transcripts, written comments received, technical reference material referred to in this notice, and any other docket material may be reviewed and copied at the DOE Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, between the hours of 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays. The docket material for this rulemaking will be filed under ''CN–RM–99–POLY.'' The **Federal Register** notice and supporting documentation can be located on DOE's Internet home page at the following address: http://home.doe.gov/news/fedreg.htm.

The public hearings for this rulemaking will be held at the following addresses:

Livermore, CA: Lawrence Livermore National Laboratory, Building 123 Auditorium (use South West Gate entrance, East Avenue).

Albuquerque, NM: Sandia National Laboratories, Steve Schiff Auditorium, Building 825.

Los Alamos, NM: Los Alamos National Laboratory, Administration Building, Main Auditorium (1st floor).

Washington, DC: U.S. Department of Energy, Auditorium (ground floor, E corridor), 1000 Independence Avenue, SW, Washington, DC.

For more information concerning public participation in this rulemaking proceeding, see Section V of this notice (Opportunity for Public Comment).

FOR FURTHER INFORMATION CONTACT:

Douglas Hinckley, U.S. Department of Energy, Office of Counterintelligence, CN–1, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–5901

Lise Howe, U.S. Department of Energy, Office of General Counsel, GC–73, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–2906

For information concerning the public hearings, requests to speak at the hearings, submission of written comments or docket file information contact: Andi Kasarsky at (202) 586–3012.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Background
III. Description of Proposal
IV. Regulatory Review
A. National Environmental Policy Act
B. Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act
D. Unfunded Mandates Reform Act of 1995
E. Treasury and General Government Appropriations Act, 1999
F. Executive Order 12866
G. Executive Order 12612
H. Executive Order 12875
I. Executive Order 12988
J. Review Under Executive Order 13084
V. Opportunity for Public Comment

I. Introduction

The Atomic Energy Act of 1954 (AEA or Atomic Energy Act) assigns to DOE certain atomic energy defense production and clean-up obligations that are discharged at various DOE-owned, contractor-operated installations around the United States. Section 161 of the AEA authorizes DOE to adopt rules necessary to carry out those functions, 42 U.S.C. 2201. Under that authority, DOE today proposes regulations for using counterintelligence-scope polygraph examinations for national security purposes, and exculpatory polygraph examinations at the request of an individual, while protecting the rights of individuals. All such polygraph examinations will be voluntary. However, if an individual refuses to submit to an examination that is for national security purposes, DOE and its contractors may decline to select the individual for the sensitive positions specified in this rule, and DOE may deny the individual access to the information that justified conducting the examination.

II. Background

DOE, as the successor agency to the Atomic Energy Commission, has broad responsibilities under the AEA to direct the development, use, and control of atomic energy. These responsibilities include a specific mandate to protect sensitive and classified information and materials involved in the design, production, and maintenance of nuclear weapons, as well as a general obligation to ensure that permitting an individual to have access to information classified under the AEA will not endanger the nation's common defense and security.

In addition, various Executive Orders of government-wide applicability require DOE to take steps to protect classified information. Executive Order No. 12958, Classified National Security Information (April 17, 1995), requires the Secretary to establish controls to ensure that classified information is used only under conditions that provide adequate protection and prevent access

by unauthorized persons. Executive Order 12968, Access to Classified Information (August 2, 1995), requires the Secretary to establish and maintain an effective program to ensure that employee access to classified information is clearly consistent with the interests of national security. In addition, in February 1998, President Clinton issued Presidential Decision Directive–61, ''U.S. Department of Energy Counterintelligence Program,'' a classified document containing the President's determination that DOE must do more to protect the highly sensitive and classified information at its facilities. The President instructed DOE to develop and implement specific measures to reduce the threat to such information, including implementation of a polygraph program. An unclassified version of the Presidential Decision Directive is available in the DOE Freedom of Information Reading Room.

As an element of carrying out its national security mission, DOE has instituted a counterintelligence program to strengthen its protection of information and technologies in connection with DOE's atomic energy defense activities. DOE believes that requiring counterintelligence-scope polygraph examinations for individuals in positions with access to the most sensitive information in connection with DOE's atomic energy defense activities is a necessary, prudent measure to fulfill DOE's national security responsibilities. A counterintelligence-scope polygraph examination both serves as a means to deter unauthorized disclosures of classified information and provides a means for possible early detection of disclosures to enable DOE to take steps promptly to prevent further harm to the national security.

A counterintelligence-scope polygraph examination also is an integral element of the DOE Accelerated Access Authorization Program (AAAP), a program that DOE utilizes to grant interim security clearances on an expedited basis. In addition, use of a polygraph examination when an individual requests one as a means of exculpation in order to resolve a counterintelligence investigation or personnel security issue hastens the DOE's prompt resolution of such issues.

The Employee Polygraph Protection Act (Pub. L. 100–347) (EPPA) generally prohibits the use of polygraph examinations in private employment settings, but that law does not apply to the Federal government or its employees. In addition, the EPPA specifically exempts from its prohibitions polygraph examinations administered by DOE in the performance of its counterintelligence function to any expert, consultant or contractor employee of DOE in connection with atomic energy defense activities, 29 U.S.C. 2006(b)(1)(B). The statute also specifically exempts polygraph examinations administered by a Federal agency, in the performance of an intelligence or counterintelligence function, to an individual whose duties involve access to top secret classified information or information designated as being within a Special Access Program (SAP), 29 U.S.C. 2006(b)(2). In DOE's view, polygraph examinations are a useful investigatory tool for counterintelligence purposes because they assist in eliciting comprehensive information, and in distinguishing between deception and non-deception. Congress left to DOE the discretion to develop rational procedures for evaluating and processing the results of polygraph examinations and for protecting individuals from misuse of such an examination.

Along with the strong need for protection of classified and sensitive information in its possession, DOE recognizes the importance of protecting individuals' rights. In the 1960s, President Lyndon B. Johnson issued a memorandum entitled ''Use of Polygraph in the Executive Branch'' which is intended to ''prevent unwarranted intrusion into the privacy of individuals.'' The memorandum prohibits subjecting Federal employees to polygraph examinations except in limited situations. One of the exceptions permits an executive department or agency that has an intelligence or counterintelligence mission directly affecting national security to use polygraph examinations for employment screening and personnel investigations, and in intelligence and counterintelligence operations. In such cases, the agency must complete a review process with the Office of Personnel Management (OPM).

As an initial step toward developing and implementing a polygraph requirement for sensitive positions, DOE issued an internal DOE directive, DOE Notice 472.2, Use of Polygraph Examinations, that establishes a polygraph requirement for Federal employees who occupy or seek to occupy certain sensitive positions. The DOE Notice also provides for polygraph examinations to be administered to Federal employees as part of the AAAP and, upon request, as a means of exculpation. The DOE Notice has been submitted to OPM for its review. The Notice is publicly available at http://www.explorer.doe.gov:1776/htmls/regs/doe/newserieslist.html on the DOE Directives website.

As a second step, DOE is proposing today to expand the polygraph examination program to cover all employees at its facilities, contractor employees as well as Federal employees, in positions with access to the most sensitive categories of classified information and materials, as well as applicants for such positions. When final, this rule will establish polygraph examination regulations that apply to both Federal and contractor employees. DOE also has submitted a copy of this proposed rule to OPM.

DOE acknowledges that some individuals consider polygraph examination results to be generally unreliable and believe that they should not be used as the basis for any action with regard to an employee. However, DOE is aware of no scientific studies that establish that polygraph examination results are unreliable for use as an investigative tool, as DOE today has proposed to use them. As an investigative tool, polygraph examinations results are superior to random interviews relying on purely subjective evaluations. DOE also is aware that some individuals think today's proposed rule could have an effect on the recruitment and retention of qualified personnel. Nevertheless, DOE believes that established procedures for polygraph testing, limitations on the scope of questions, qualifications standards for polygraph examiners, and limitations on the use of polygraph examination results with regard to final adverse actions, will be perceived as fair by most potential employees and will protect the legitimate interests of existing employees. DOE invites members of the public to comment on the balance it has struck in today's proposal between legitimate national security interests and regulatory limitations to protect employees from inappropriate or imprudent use of polygraph examinations and the results of such examinations.

Today's action continues DOE's efforts to carry out its statutory responsibilities and Presidential direction to provide strong programs to protect against the disclosure of information and materials that could harm national defense and security.

III. Description of Proposal

PART 709, Subpart A—General Provisions

Section 709.3 What Are the Definitions of the Terms Used in This Part?

This section proposes definitions for terms used in the rule. The definition for the phrase ''adverse personnel action'' for Federal employees is derived from 5 U.S.C. Chapter 75, and for contractor employees from correlative principles under the National Labor Relations Act. The terms ''counterintelligence'' and ''intelligence'' are based on definitions in the National Security Act of 1947. 50 U.S.C. 401a. The definition for ''polygraph'' is the same as that used by the Department of Labor in its regulations implementing the EPPA. 29 CFR part 801. The definition for ''Special Access Program or SAP'' is based on the definition of that term in Executive Order 12958, Classified National Security Information (April 17, 1995).

Section 709.4 To Whom Does the Polygraph Examination Requirement Under This Part Apply?

This section proposes the programs whose employees would be eligible for polygraph examination. The programs include employees and applicants for employment with DOE and its contractors (including subcontractors at all tiers), and also individuals who may be assigned or detailed to Federal positions at DOE. There are eight program categories whose employees are eligible for polygraph examination. These include counterintelligence and intelligence positions; positions requiring access to special access programs; positions subject to the Personnel Assurance Program (PAP) or Personnel Security Assurance Program (PSAP); positions with a need-to-know or access to information specifically designated by the Secretary or his delegatee regarding the design and operation of nuclear weapons and associated use and control features; positions within the Office of Independent Oversight and Performance Assurance, or any successor thereto, involved in inspection and assessment of safeguards and security functions, including cyber security, of the Department; and positions within the Office of Security and Emergency Operations, or any successor thereto. DOE will establish an internal process to review these programs in order to develop the criteria for identifying the specific positions in the eight program categories that warrant polygraph examination and the order of priority for conducting polygraph examinations of the DOE and contractor employees in the eligible positions.

In addition to the programs whose employees would be eligible for a polygraph examination, there are two other circumstances under which DOE would administer polygraph examinations. First, a counterintelligence-scope polygraph examination is an element of the AAAP, which is a voluntary program under which an individual's DOE access authorization (security clearance) may be expedited. Second, individuals would be permitted, at their own option, to request a polygraph examination in order to resolve questions that have arisen in either the personnel security or counterintelligence areas; these examinations are referred to as exculpatory polygraph examinations.

Section 709.5 How Will an Individual Know If His or Her Position Will Be Eligible for Polygraph Examination?

As proposed, all employees of the programs described in § 709.4(a)(1)–(8) are eligible for polygraph examinations. If there is a vacant position within one of these programs, DOE or its contractors must indicate in the job or vacancy announcement that the employee selected would be eligible for a polygraph examination.

Subpart B—Polygraph Examination Protocols and Protection of National Security

Section 709.11 What Types of Topics Are Within the Scope of a Polygraph Examination?

Polygraph examinations would be counterintelligence-scope, designed to address the narrow topics of whether the individual has engaged, or is engaging, in espionage, sabotage, terrorism, unauthorized disclosures of classified information, unauthorized foreign contacts, or deliberate damage to or malicious misuse of a U.S. government information or defense system. The only time topics other than these would be within the scope of a polygraph examination is when an individual has requested an exculpatory examination. In the case of exculpatory examinations, the topics are limited to the personnel security or counterintelligence matter at issue.

Section 709.14 What Are the Consequences of a Refusal To Take a Polygraph Examination?

All polygraph examinations administered by DOE are voluntary. There may, however, be consequences resulting from a refusal to take, or failure to complete, a polygraph examination. This section describes the possible consequences of an individual's refusing to take, or failing to complete, a required polygraph examination.

Failure to complete the polygraph examination is treated the same as a refusal to take a polygraph examination. If an individual refuses to take, or terminates at any time prior to completion, a polygraph examination, that individual may be denied access to the information and denied involvement in the activities that justified conducting the examination, consistent with proposed § 709.15. In some circumstances, for example individuals with counterintelligence or intelligence responsibilities, the information or activities may be essential to the individual's ability to do his or her job. In such a case, the employer (whether it is DOE or a contractor) must make every effort to find a new position for which the individual would be suitable, consistent with that denial of access. If the individual is on assignment or detail to DOE from another agency, the individual may simply be returned to the employing agency.

If a DOE employee refuses to take a required polygraph examination, DOE cannot record the fact of that refusal in the individual's personnel file. Nevertheless, DOE may record the refusal in a personnel security file. The prohibition on recording a DOE employee's refusal to take a polygraph examination in an individual's personnel file is contained in President Lyndon B. Johnson's Memorandum on ''Use of the Polygraph in the Executive Branch.'' Because that memorandum is not explicitly applicable to contractor employees and because DOE does not maintain personnel files for contractor employees, DOE has limited the prohibition in the rule to Federal employees. However, the Department recommends that its contractors adopt a similar policy with respect to contractor employees.

Exculpatory polygraph examinations are administered only at the request of the individual, and an individual is under no obligation to request an exculpatory polygraph examination. To ensure there are no inappropriate consequences if an individual does not request an exculpatory polygraph

examination, DOE or its contractors may not take an adverse personnel action against an individual solely on the basis of refusing to take or complete such an exculpatory polygraph examination. Similarly, the fact that an individual has not requested an exculpatory examination may not be recorded in an individual's personnel security or investigative file or the personnel file of a Federal employee. Because DOE does not maintain personnel files for contractor employees, DOE has limited the prohibition in the rule to Federal employees. However, the Department recommends that its contractors adopt a similar policy with respect to contractor employees.

Section 709.15 How Does DOE Use Polygraph Examination Results?

If following the completion of the polygraph test there are any unresolved issues, the polygraph examiner must conduct an in-depth interview of the individual to address those unresolved issues. After the in-depth interview, if there are remaining unresolved issues that raise significant questions relevant to the individual's access to the information or involvement in the activities that justified the polygraph examination, DOE will so advise the individual and provide an opportunity for the individual to undergo an additional polygraph examination. If the additional polygraph examination is not sufficient to resolve the matter, DOE must undertake a comprehensive investigation of the individual, using the polygraph examination as an investigative lead.

After completion of the polygraph examination(s), the Department will conduct an eligibility evaluation that considers polygraph examination results, the individual's personnel security file, and other pertinent information. DOE may conduct a personal interview as an element of the eligibility evaluation. Based upon the eligibility evaluation, the individual may be denied access to the information and denied involvement in the activities that justified the polygraph examination. If the eligibility evaluation results raise questions of loyalty to the United States, DOE must refer the matter to the Federal Bureau of Investigation for investigation under section 145d of the Atomic Energy Act (42 U.S.C. 2165d). If the eligibility evaluation results reflect derogatory information and the individual already holds an access authorization, DOE may initiate an administrative review of the individual's access authorization eligibility under the DOE regulations governing eligibility for access authorization (security clearance) at 10 CFR part 710.

Subpart C—Safeguarding Privacy and Employee Rights

Section 709.21 When Is an Individual Notified That a Polygraph Examination Is Scheduled?

DOE has elected to establish a minimum of forty-eight hours advance notification of scheduled polygraph examinations. DOE believes that the forty-eight hours should provide an individual sufficient time to secure any desired legal counsel or another representative. DOE has provided two exceptions to the rule, a good cause exception and an exception when the individual waives the advance notice. Under the good cause exception, DOE may provide an individual less than forty-eight hours advance notification of a polygraph examination when the Secretary of Energy or the Secretary's designee determines that the information to which the individual has access is of such extreme sensitivity that waiting forty eight hours poses an unacceptable risk to national security or defense. The waiver provision would favor an individual who wishes a polygraph examination as quickly as possible either for exculpatory reasons or to expedite his or her access to information or involvement in activities that justify the polygraph examination.

Section 709.22 What Rights to Counsel or Other Representation Does an Individual Have?

An individual has a right to consult with anyone before any polygraph examination. The individual may obtain legal counsel, professional assistance, or union representation. However, these representatives may not be present during any phase of the polygraph examination.

Section 709.25 Are There Limits on Use of Polygraph Examination Results That Reflect ''Deception Indicated'' or ''No Opinion''?

DOE believes that, while polygraph examinations are a useful tool, they should not constitute the sole basis for taking any action against an individual, except when the Secretary or the Secretary's designee determines that permitting the individual continued access to protected information would pose an unacceptable risk to national defense and security. While an individual's access may be suspended pursuant to such a Secretarial determination, DOE will in all such cases investigate further under § 709.15 in order to resolve the issue.

Section 709.26 How Does DOE Protect the Confidentiality of Polygraph Examination Records?

All polygraph examination records will be maintained in systems of records established under the Privacy Act of 1974 with appropriate protections on confidentiality. In accordance with the Privacy Act, the records cannot be disclosed, except in response to a written request by, or with the prior written consent of, the individual to whom the record pertains unless disclosure would be permitted by the Privacy Act.

Parts 710 and 711

DOE proposes conforming changes to regulations established for the Personnel Security Assurance Program (PSAP), 10 CFR part 710, subpart B, and the Personnel Assurance Program (PAP), 10 CFR part 711. All positions subject to these programs would be eligible for the polygraph examination provisions of proposed part 709.

IV. Regulatory Review

A. National Environmental Policy Act

This proposed rule would establish regulations for use of polygraph examinations. DOE has determined that this rule is covered under the Categorical Exclusion found in the Department's National Environmental Policy Act regulations at paragraph A.6 of appendix A to subpart D, 10 CFR part 1021, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

B. Regulatory Flexibility Act

Consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, DOE must prepare an initial regulatory flexibility analysis for a proposed rule unless DOE certifies that the rule would not have a substantial impact on a significant number of small entities. This rulemaking would not directly regulate small businesses or small governmental entities. It would apply principally to individuals who are existing employees of, or applicants for employment by, some of the DOE's prime contractors who are all large businesses. There may be some affected small businesses that are subcontractors, but the rule would not impose unallowable costs. Accordingly, DOE certifies that the rule will not have a substantial impact on a significant number of small entities.

C. Review Under the Paperwork Reduction Act

DOE has determined that this rule, as proposed, does not contain any new or amended record keeping, reporting, or application requirements, or any other type of information collection requirements subject to the Paperwork Reduction Act (Pub. L. 96–511).

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to closely examine the impacts of regulatory actions on State, local, and tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose an enforceable duty upon State, local, or tribal governments, except, among other things, a condition of Federal assistance or a duty arising from participating in a voluntary federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or to the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, or to the private sector, of $100 million or more. Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments.

This rule, as proposed, is not likely to result in any Federal mandate that may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

E. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. Today's proposal would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

F. Executive Order 12866

Section 6 of Executive Order 12866 provides for a review by the Office of Information and Regulatory Affairs (OIRA) of a significant regulatory action, which is defined to include an action that may have an effect on the economy of $100 million or more, or adversely affect, in a material way, the economy, competition, jobs, productivity, the environment, public health or safety, or State, local, or tribal governments. DOE has concluded that this proposed rule is not a significant regulatory action.

G. Executive Order 12612

Executive Order 12612, 52 FR 41685, requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effect on States, on the relationship between the Federal government and the States, or in the distribution of power and responsibilities among various levels of government. If there are substantial effects, then the Executive Order requires a preparation of a Federalism assessment to be used in all decisions involved in promulgating and implementing policy action. The rule, as proposed in this notice, will not have a substantial direct effect on the institutional interests or traditional functions of the States. Accordingly, no assessment or analysis is required under Executive Order 12612.

H. Executive Order 12875

Executive Order 12875 (Enhancing Intergovernmental Partnership), provides for reduction or mitigation, to the extent allowed by law, of the burden on State, local and tribal governments of unfunded Federal mandates not required by statute. The analysis under the Unfunded Mandates Reform Act of 1995 above, satisfies the requirements of Executive Order 12875. Accordingly, no further analysis is required under Executive Order 12875.

I. Executive Order 12988

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

J. Review Under Executive Order 13084

Under Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments), DOE may not issue a discretionary rule that significantly or uniquely affects Indian tribal governments and imposes substantial direct compliance costs. This proposed rulemaking would not have such effects. Accordingly, Executive Order 13084 does not apply to this rulemaking.

V. Opportunity for Public Comment

A. Written Comments

Interested individuals are invited to participate in this proceeding by submitting data, views or comments with respect to this proposed rule. To help the Department review the submitted comments, commentors are requested to reference the paragraph(s) (e.g., 850.3(a)) to which they refer when possible.

Ten copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this NOPR. Comments should be identified on the outside of the envelope and on the comments themselves with the designation, ''Polygraph Rule, Docket No. CN–RM–99–POLY.'' Should anyone wishing to provide written comments be unable to provide ten copies, alternative arrangements can be made in advance with the Department.

DOE will consider all comments received on or before the date specified at the beginning of this NOPR and other relevant information before final action is taken on the proposed rule.

All submitted comments will be available for public inspection as part of the administrative record on file for this rulemaking, which is in the DOE Freedom of Information Reading Room at the address indicated in the **ADDRESSES** section of this NOPR.

Pursuant to the provisions of 10 CFR 1004.11, anyone submitting information or data which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document, as well as two copies, if possible, from which the information has been deleted. The Department will make its own determination as to the confidentiality of the information and treat it accordingly.

B. Public Hearings

Public hearings will be held at the times, dates and locations indicated in the **DATES** and **ADDRESSES** section of this NOPR. Any person who is interested in making an oral presentation should make a phone request to the number in the **DATES** section of this NOPR. The person should provide a daytime phone number where he or she may be reached. Persons requesting an opportunity to speak will be notified of the approximate time they will be speaking. To ensure that as many persons as possible have the opportunity to present comments, a maximum of five minutes may be allotted to each speaker. However, if there is time at the end of the hearing, DOE may allot additional time to the speakers present. Persons making oral statements should bring 6 copies of their statement to the hearing and submit them at the registration desk.

In the event that requests exceed the time allowed, DOE reserves the right to schedule speakers, presentations and to establish the procedures for conducting the hearing. A DOE official will be designated to preside at each hearing, which will not be judicial or evidentiary. Only those persons conducting the hearing may ask questions. Any further procedural rules needed to conduct the hearing properly will be announced by the DOE presiding official.

A transcript of each hearing will be made available to the public. DOE will retain the record of the full hearing, including the transcript, and make it available for inspection and copying in the DOE Freedom of Information Reading Room at the address provided in the **ADDRESSES** section of this NOPR. Transcripts may also be purchased from the court reporter.

If DOE must cancel the hearings, it will make every effort to give advance notice.

List of Subjects

10 CFR Part 709

Polygraph tests.

10 CFR Part 710

Administrative practice and procedure, Classified information, Government contracts, Government employees, Nuclear materials.

10 CFR Part 711

Administrative practice and procedure, Alcohol abuse, Drug abuse, Government contracts, Government employees, Health, Nuclear safety, and Occupational safety and health.

Issued in Washington, DC, on August 11, 1999.

Edward J. Curran,

Director, Office of Counterintelligence.

For the reasons stated in the preamble, DOE hereby proposes to amend Chapter III of title 10 of the Code of Federal Regulations as set forth below:

1. New Part 709 is added to read as follows:

PART 709—POLYGRAPH EXAMINATION REGULATIONS

Subpart A—General Provisions

709.1 What is the purpose of this part?
709.2 What is the scope of this part?
709.3 What are the definitions of the terms used in this part?
709.4 To whom does the polygraph examination requirement under this part apply?
709.5 How will an individual know if his or her position will be eligible for a polygraph examination?

Subpart B—Polygraph Examination Protocols and Protection of National Security

709.11 What types of topics are within the scope of a polygraph examination?
709.12 How does DOE determine the wording of questions?
709.13 May an individual refuse to take a polygraph examination?
709.14 What are the consequences of a refusal to take a polygraph examination?
709.15 How does DOE use polygraph examination results?

Subpart C—Safeguarding Privacy and Employee Rights

709.21 When is an individual notified that a polygraph examination is scheduled?
709.22 What rights to counsel or other representation does an individual have?
709.23 How does DOE obtain an individual's consent to a polygraph examination?
709.24 What other information is provided to the individual prior to a polygraph examination?
709.25 Are there limits on use of polygraph examination results that reflect ''deception indicated'' or ''no opinion''?
709.26 How does DOE protect the confidentiality of polygraph examination records?

Subpart D—Polygraph Examination and Examiner Standards

709.31 What are the DOE standards for polygraph examinations and polygraph examiners?
709.32 What are the training requirements for polygraph examiners?

Authority: 42 U.S.C. 2011, *et seq.*, 42 U.S.C. 7101, *et seq.*

Subpart A—General Provisions

§ 709.1 What is the purpose of this part?

(a) The purpose of this part is to provide guidelines for:

(1) The use of counterintelligence-scope polygraph examinations in connection with the atomic energy defense activities of the Department;

(2) The use of counterintelligence-scope polygraph examinations for individuals whose duties involve access to top secret classified information or information designated as being within a special access program (SAP); and

(3) The use of exculpatory polygraph examinations, upon the request of an individual, in order to resolve counterintelligence investigations and personnel security issues.

(b) This part also provides guidelines for protecting the rights of individual DOE and DOE contractor employees subject to this rule.

§ 709.2 What is the scope of this part?

This part includes:

(a) A description of the conditions under which DOE may administer and use polygraph examinations;

(b) A description of the positions which DOE may subject to polygraph examination;

(c) Controls on the use of polygraph examinations; and

(d) Safeguards to prevent unwarranted intrusion into the privacy of individuals.

§ 709.3 What are the definitions of the terms used in this part?

For purposes of this part:

Accelerated Access Authorization Program or AAAP means the program for granting interim access to classified matter and special nuclear material based on a drug test, a National Agency Check, a psychological assessment, and a counterintelligence-scope polygraph examination consistent with this part.

Adverse personnel action means:

(1) With regard to a DOE employee, any of the applicable personnel actions described in chapter 75 of title 5, United States Code; or

(2) With regard to a contractor employee, the discharge, discipline, or denial of employment or promotion, or any other discrimination in regard to hire or tenure of employment or any term or condition of employment.

Contractor means DOE contractors and subcontractors at all tiers.

Counterintelligence means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

DOE means the Department of Energy.

Intelligence means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations or foreign persons.

Personnel Assurance Program or PAP means the human reliability program set forth under 10 CFR part 711 designed to ensure that individuals assigned to nuclear explosive duties do not have emotional, mental or physical incapacities that could result in a threat to nuclear explosive safety.

Personnel Security Assurance Program or PSAP means the program set forth under subpart B of 10 CFR part 710 for assuring the highest standards of reliability for individuals with access to certain material or facilities.

Polygraph means an instrument that:

(1) Records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electro dermal patterns as minimum instrumentation standards; and

(2) Is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

Polygraph examination means a process that encompasses all activities that take place between a polygraph examiner and examinee during a specific series of interactions. These interactions may include the pretest interview, the use of the polygraph instrument to collect physiological data from the examinee while the polygraph examiner is presenting a series of tests, the test data analysis phase, and the post-test phase.

Polygraph test means that portion of the polygraph examination during which the polygraph instrument collects physiological data based upon the examinee's responses to test questions from the examiner.

Presidential appointee means an individual appointed by the President and confirmed by the Senate.

Special Access Program or SAP means a program established under Executive Order 12958 for a specific class of classified information that imposes safeguarding and access requirements that exceed those normally required for information at the same classification level.

§ 709.4 To whom does the polygraph examination requirement under this part apply?

(a) Except as provided in paragraph (b) of this section, this part applies to DOE and contractor employees and applicants for employment, and other individuals assigned or detailed to Federal positions at DOE, who are in:

(1) Positions that DOE has determined include counterintelligence activities or access to counterintelligence sources and methods;

(2) Positions that DOE has determined include intelligence activities or access to intelligence sources and methods;

(3) Positions requiring access to information that is protected within a non-intelligence special access program (SAP) designated by the Secretary of Energy;

(4) Positions that are subject to the Personnel Security Assurance Program (PSAP);

(5) Positions that are subject to the Personnel Assurance Program (PAP);

(6) Positions that DOE has determined have a need-to-know or access to information specifically designated by the Secretary or his delegatee regarding the design and operation of nuclear weapons and associated use and control features;

(7) Positions within the Office of Independent Oversight and Performance Assurance, or any successor thereto, involved in inspection and assessment of safeguards and security functions, including cyber security, of the Department;

(8) Positions within the Office of Security and Emergency Operations, or any successor thereto;

(9) The Accelerated Access Authorization Program (AAAP); and

(10) Positions where the applicant or incumbent has requested a polygraph examination in order to respond to questions that have arisen in the context of counterintelligence investigations or personnel security issues. These examinations are referred to in this part as exculpatory polygraph examinations.

(b) This part does not apply to:

(1) A Presidential appointee, if such an appointee has received a favorably adjudicated, full-field Federal Bureau of Investigation background investigation;

(2) A position requiring access to SAP's that are intelligence-related and therefore subject to requirements promulgated by the Director of Central Intelligence;

(3) Any individual for whom the Secretary of Energy gives a written waiver in the interest of national security; or

(4) Any individual for whom the Director, Office of Counterintelligence, gives a waiver, based upon certification from another Federal agency that the individual has successfully completed a full scope or counterintelligence-scope polygraph examination administered within the last five years.

(c) The Director, Office of Counterintelligence, in consultation with the appropriate Program Manager, will establish the criteria for identifying the specific positions described in § 709.4(a)(1)–(8) that warrant polygraph examination and the order of priority for conducting polygraph examinations of the DOE and contractor employees in the eligible positions.

§ 709.5 How will an individual know if his or her position will be eligible for a polygraph examination?

All positions in the programs described in § 709.4(a)(1)–(8) are eligible for polygraph examination. Any job announcement or posting with respect to any position in those programs must indicate that the individual selected for the position is eligible for a polygraph examination.

Subpart B—Polygraph Examination Protocols and Protection of National Security

§ 709.11 What types of topics are within the scope of a polygraph examination?

(a) DOE may ask questions that are appropriate to a counterintelligence-scope examination or that are relevant to the matter at issue in an exculpatory examination.

(b) A counterintelligence-scope polygraph examination is limited to topics concerning the examinee's involvement in espionage, sabotage, terrorism, unauthorized disclosure of classified information, unauthorized foreign contacts, or deliberate damage to or malicious misuse of a U.S.

government information or defense system.

(c) DOE may not ask questions that:

(1) Probe a person's thoughts or beliefs;

(2) Concern conduct that has no security implication; or

(3) Concern conduct that has no direct relevance to an investigation.

§ 709.12 How does DOE determine the wording of questions?

The examiner determines the exact wording of the polygraph questions based on the examiner's pretest interview of the examinee, the examinee's understanding of the questions, and other input from the examinee.

§ 709.13 May an individual refuse to take a polygraph examination?

(a) Yes. An individual may refuse to take a polygraph examination, and an individual being examined may terminate the examination at any time.

(b) If an individual terminates a polygraph examination prior to the completion of the examination, the DOE may treat that termination as a refusal to take a polygraph examination under § 709.14.

§ 709.14 What are the consequences of a refusal to take a polygraph examination?

(a) If the individual is an applicant for employment, assignment, or detail to one of the positions described in § 709.4(a)(1)–(8) and the individual refuses to take a polygraph examination, DOE and its contractors may refuse to employ, assign, or detail the individual to the identified position.

(b) If the individual is a DOE employee whose current position does not require a polygraph examination and is an applicant for employment, assignment, or detail to one of the positions described in § 709.4(a)(1)–(8), the individual's refusal to take a polygraph examination will not affect the individual's current employment status.

(c) If the individual is an incumbent in a position described in § 709.4(a)(1)–(8), and refuses to take a polygraph examination, DOE may deny that individual access to the information or involvement in the activities that justified conducting the examination, consistent with § 709.15. If the individual is a DOE employee, DOE may reassign or realign the individual's duties or take other action, consistent with that denial of access.

(d) If an individual refuses to take a polygraph examination as part of the Accelerated Access Authorization Program, DOE must terminate the accelerated authorization process and the individual may continue to be processed for access authorization under the standard DOE personnel security process.

(e) Since an exculpatory polygraph examination is administered at the request of an individual, DOE and its contractors may not take any adverse personnel action against an individual for refusing to request or take an exculpatory polygraph examination. DOE and its contractors may not record an individual's refusal to take an exculpatory polygraph examination in the individual's personnel security file, or any investigative file. DOE also may not record the fact of that refusal in the employee's personnel file.

(f) If a DOE employee refuses to take a polygraph examination, DOE cannot record the fact of that refusal in the employee's personnel file.

§ 709.15 How does DOE use polygraph examination results?

(a) If following the completion of the polygraph test there are any unresolved issues, the polygraph examiner must conduct an in-depth interview of the individual to address those unresolved issues.

(b) If, after the polygraph examination, there are remaining unresolved issues that raise significant questions relevant to the individual's access to the information or involvement in the activities that justified the polygraph examination, DOE must so advise the individual and provide an opportunity for the individual to undergo an additional polygraph examination. If the additional polygraph examination is not sufficient to resolve the matter, DOE must undertake a comprehensive investigation of the individual, using the polygraph examination as an investigative lead.

(c) DOE will conduct an eligibility evaluation that considers examination results, the individual's personnel security file, and other pertinent information. As part of the eligibility evaluation process, DOE may interview the individual.

(d) Upon completion of the eligibility evaluation, DOE will determine whether the individual may have or continue to have access to the information or involvement in the activities that justified the examination. If DOE decides to discontinue the individual's access to the information or involvement in the activities that justified the examination, the following may occur:

(1) DOE may deny the individual access to the information that justified conducting the examination, and if the individual is a DOE employee, DOE may reassign the individual or realign the individual's duties or take other actions consistent with the denial of access.

(2) For an individual applying for DOE access authorization (including through the AAAP) or already holding DOE access authorization (including PSAP), DOE may initiate an administrative review of the individual's access authorization eligibility under the DOE regulations governing eligibility for access authorization (security clearance) at 10 CFR part 710.

(3) For cases involving a question of loyalty to the United States, DOE may refer the matter to the Federal Bureau of Investigation as required by section 145d of the Atomic Energy Act.

(4) If the individual is an applicant for employment, assignment, or detail to one of the positions described in § 709.4(a)(1)–(8), DOE and its contractors may refuse to employ, assign or detail the individual to the identified position.

(5) For an individual assigned or detailed to DOE, DOE may remove the individual from access to the information that justified the polygraph examination and return the individual to the agency of origin.

Subpart C—Safeguarding Privacy and Employee Rights

§ 709.21 When is an individual notified that a polygraph examination is scheduled?

When a polygraph examination is scheduled, DOE must notify the individual of the date, time, and place of the polygraph examination, and the individual's right to obtain and consult with legal counsel or to secure another representative prior to the examination. DOE must offer to make a copy of these regulations available to the individual. The individual must receive the notification at least forty-eight hours, excluding weekend days and holidays, before the time of the examination except when good cause is shown or when the individual waives the advance notice provision.

§ 709.22 What rights to counsel or other representation does an individual have?

At the individual's own expense, an individual has the right to obtain and consult with legal counsel or another representative prior to the examination. The counsel or representative may not be present during the polygraph examination.

§ 709.23 How does DOE obtain an individual's consent to a polygraph examination?

DOE may not administer a polygraph examination unless DOE has:

(a) Notified the individual of the polygraph examination in writing;

(b) Offered to the individual a copy of these regulations; and

(c) Obtained voluntary written consent from the individual.

§ 709.24 What other information is provided to the individual prior to a polygraph examination?

Before administering the polygraph examination, the examiner must:

(a) Inform the individual of the use of audio and video recording devices;

(b) Explain to the individual the characteristics and nature of the polygraph instrument and examination;

(c) Explain the physical operation of the instrument and the procedures to be followed during the examination;

(d) Review with the individual the questions to be asked during the examination; and

(e) Advise the individual of the individual's privilege against self-incrimination.

§ 709.25 Are there limits on use of polygraph examination results that reflect ''deception indicated'' or ''no opinion''?

DOE or its contractors may not:

(a) Take an adverse personnel action against an individual solely on the basis of a polygraph examination result of ''deception indicated'' or ''no opinion'' except when the Secretary or the Secretary's designee makes a written determination that the information to which the individual has access is of such extreme sensitivity that access under the circumstances poses an unacceptable risk to national security or defense; or

(b) Use a polygraph examination that reflects ''deception indicated'' or ''no opinion'' as a substitute for any other required investigation.

§ 709.26 How does DOE protect the confidentiality of polygraph examination records?

(a) DOE owns all polygraph examination records and reports.

(b) Except as provided in paragraph (c) of this section, the Office of Counterintelligence maintains all polygraph examination records and reports in a system of records established under the Privacy Act of 1974, 5 U.S.C. 552a.

(c) The Office of Intelligence also may maintain polygraph examination reports generated with respect to individuals identified in § 709.4(a)(2) in a system of records established under the Privacy Act of 1974.

(d) Polygraph examination records and reports used to make AAAP determinations or generated as a result of an exculpatory personnel security polygraph examination will be maintained in a System of Records.

(e) DOE must afford the full privacy protection provided by law to information regarding an employee's refusal to take a polygraph examination.

Subpart D—Polygraph Examination and Examiner Standards

§ 709.31 What are the DOE standards for polygraph examinations and polygraph examiners?

(a) DOE adheres to the procedures and standards established by the Department of Defense Polygraph Institute (DODPI). DOE only administers DODPI approved testing formats. The DOE Test Center has been inspected, approved and/or certified by DODPI, the U.S. Air Force Office of Special Investigations, American Polygraph Association, and the American Association of Police Polygraphers

(b) The polygraph examiner must be certified to conduct polygraph examinations under this part by the DOE Psychophysiological Detection of Deception/Polygraph Program Quality Control Official.

(c) To be certified under paragraph (b) of this section, an examiner must have the following minimum qualifications:

(1) The examiner must be an experienced counterintelligence or criminal investigator with extensive additional training in using computerized instrumentation in Psychophysiological Detection of Deception and in psychology, physiology, interviewing, and interrogation.

(2) The examiner must have a favorably adjudicated Single-scope Background Investigation and complete a counterintelligence-scope polygraph examination.

(3) The examiner must receive basic Forensic Psychophysiological Detection of Deception training from the DODPI.

(4) The examiner must be certified by DOE to conduct the following tests:

(i) Test for Espionage, Sabotage, and Terrorism;

(ii) Counterintelligence-Scope Polygraph Tests;

(iii) Zone Comparison Tests;

(iv) Modified General Question Tests;

(v) Peak of Tension Tests; and,

(vi) Relevant and Irrelevant and Directed Lie Control Tests.

§ 709.32 What are the training requirements for polygraph examiners?

(a) Examiners must undergo a minimum of forty hours training annually within the discipline of Forensic Psychophysiological Detection of Deception.

(b) The following organizations provide acceptable curricula to meet the training requirement of paragraph (a) of this section:

(1) American Polygraph Association,

(2) American Association of Police Polygraphists, and

(3) Department of Defense Polygraph Institute.

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SPECIAL NUCLEAR MATERIAL

2. The authority citation for part 710 continues to read as follows:

Authority: Sec. 145, 68 Stat. 942 (42 U.S.C. 2165) and sec. 161, 68 Stat. 948 (42 U.S.C. 2201); E.O. 10450, 3 CFR 1949–1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398, as amended, 3 CFR Chap. IV; sec. 104(c), 38 Stat. 1237 (42 U.S.C. 5814); sec. 105(a), 88 Stat. 1238 (42 U.S.C. 5815); secs. 641, 644, 646, 91 Stat. 598, 599 (42 U.S.C. 7251, 7254, and 7256).

3. In § 710.57 (subpart B), paragraphs (f) through (i) are redesignated as paragraphs (g) through (j) and a new paragraph (f) is added to read as follows:

§ 710.57 Supervisory review.

* * * * *

(f) Applicants tentatively selected for PSAP positions and each individual occupying a PSAP position, but not yet holding a PSAP access authorization, must submit to a polygraph examination under 10 CFR part 709.

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PART 711—PERSONNEL ASSURANCE PROGRAM (PAP)

4. The authority citation for Part 711 continues to read as follows:

Authority: 42 U.S.C. 2201(p), 7191.

5. In § 711.5, paragraph (b)(8) is added to read as follows:

§ 711.5 General requirements.

* * * * *

(b) * * *

(8) Be eligible for a polygraph examination under 10 CFR part 709.

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[FR Doc. 99–21290 Filed 8–17–99; 8:45 am]

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August 18, 1999

Part IV

Environmental Protection Agency

40 CFR Part 441

Effluent Limitations Guidelines and Pretreatment Standards for the Industrial Laundries Point Source Category; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 441

[FRL–6373–5]

RIN 2040–AB97

Effluent Limitations Guidelines and Pretreatment Standards for the Industrial Laundries Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule.

SUMMARY: On December 17, 1997 (62 FR 66182), EPA published proposed pretreatment standards for the control of wastewater pollutants from the industrial laundries industry. After careful consideration of all of the information in the record for this rulemaking, EPA has decided not to promulgate national categorical pretreatment standards for the industrial laundries point source category because industrial laundry discharges to publicly owned treatment works (POTWs) do not present a national problem warranting national regulation. EPA is not issuing effluent limitations guidelines and new source performance standards for direct dischargers since there are no direct dischargers and no means to evaluate performance to determine the appropriate level of control for national rulemaking purposes. For this action, EPA considered many regulatory technology options as well as the no regulation option. EPA has determined that indirect discharges from industrial laundries do not warrant national regulation because of the small amount of pollutants removed by pretreatment options determined to be economically achievable. For existing sources, EPA estimates that a rule for this industry would remove less than 650 pounds of pollutant per facility per year (which, on a toxic-weighted basis, is only 32 pound equivalents). For new sources, EPA estimates that a rule for this industry would remove less than 1,040 pounds of pollutant per facility per year (which, on a toxic-weighted basis, is only 51 pound equivalents). These pollutant reductions represent much smaller removals than any other categorical pretreatment standards promulgated by EPA. EPA's record does not demonstrate that Publicly Owned Treatment Works (POTWs) are generally experiencing problems with discharges from this industry, and EPA believes that such discharges will rarely, if ever, present a problem. To the extent that isolated problem discharges occur, existing pretreatment authority is available to control these isolated discharges. EPA believes that for this industry, the best way to control effluent discharges of certain organic pollutants is to remove the pollutants which are contained on the laundry items before they are washed. EPA's Office of Solid Waste (OSW) plans to address the amount of certain waste solvents being sent to laundries in a future rulemaking (the first quarter of the year 2000) with an aim toward decreasing the amount of solvent based organics on towels.

DATES: In accordance with 40 CFR Part 23, this final action shall be considered issued for the purposes of judicial review at 1 pm Eastern time on September 1, 1999. Under section 509(b)(1) of the CWA, judicial review of the Administrator's final action regarding effluent limitations guidelines and pretreatment standards can only be had by filing a petition for review in the United States Court of Appeals within 120 days after the decision is considered issued for purposes of judicial review.

ADDRESSES: For additional technical information write to Ms. Marta E. Jordan, Engineering and Analysis Division (4303), U.S. EPA, 401 M Street SW, Washington, DC 20460 or send e-mail to: Jordan. Marta@epa.gov or call at (202) 260–0817. For additional economic information contact Mr. George Denning at the address above or by calling (202) 260–7374.

The complete administrative record (excluding confidential business information) for this action is available for review at EPA's Water Docket at EPA Headquarters at Waterside Mall, room EB–57, 401 M Street, SW, Washington, DC 20460. For access to docket materials, call (202) 260–3027 between 9:00 am and 3:30 pm for an appointment. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Marta E. Jordan, (202) 260–0817.

SUPPLEMENTARY INFORMATION:

Supporting Documentation

The basis for this final action is detailed in four documents, each of which is supported in turn by additional information and analyses in the rulemaking record. EPA's technical foundation for this final action is presented in the Technical Development Document for the Final Action Regarding Pretreatment Standards for the Industrial Laundries Point Source Category (hereafter, ''Technical Development Document''; EPA Report No. 821–R–99–010. EPA's economic analysis is presented in the Economic Assessment for the Final Action Regarding Pretreatment Standards for the Industrial Laundries Point Source Category (hereafter, ''Economic Assessment''; EPA Report No. EPA–821–R–99–011.) and in the Cost-Effectiveness Analysis for the Final Action Regarding Pretreatment Standards for the Industrial Laundries Point Source Category (hereafter, ''Cost-Effectiveness Analysis''; EPA Report No. EPA–821–R–99–009). EPA's environmental benefits analysis is presented in the Water Quality Benefits Analysis for the Final Action Regarding Pretreatment Standards for the Industrial Laundries Point Source Category (hereinafter, ''WQBA''). EPA's responses to comments on the proposal and a Notice of Data Availability (NODA) which are part of this action are presented in the Comment Response Document for the Final Action Regarding Pretreatment Standards for the Industrial Laundries Point Source Category (hereinafter, ''Comment Response Document'').

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I. Legal Authority

This final action withdraws the proposed pretreatment standards for the industrial laundries point source category. EPA takes this action pursuant to sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

II. Background

A. Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 (Clean Water Act) established a comprehensive program to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters,'' (section 101 (a)). To implement the Act, EPA is to issue effluent limitations guidelines, pretreatment standards and new source performance standards for industrial dischargers. These types of effluent guidelines and standards are summarized in the proposed regulation at 62 FR 66182 (December 17, 1997).

Section 304(m) of the Clean Water Act (33 U.S.C. 1314(m)), added by the Water Quality Act of 1987, requires EPA to establish schedules for (1) reviewing and revising existing effluent limitations guidelines and standards (''effluent guidelines''), and (2) promulgating new effluent guidelines. On January 2, 1990 EPA published an Effluent Guidelines Plan (55 FR 80), in which schedules were established for developing new and revised effluent guidelines for several industry categories. One of the industries for which the Agency established a schedule was the Industrial Laundries Point Source Category.

Natural Resources Defense Council, Inc. (NRDC) and Public Citizen, Inc., challenged the Effluent Guidelines Plan in a suit filed in U.S. District Court for the District of Columbia (NRDC et al v. Reilly, Civ. No. 89–2980). The plaintiffs charged that EPA's plan did not meet the requirements of section 304(m). A Consent Decree in this litigation was entered by the Court on January 31, 1992. The terms of the Consent Decree are reflected in the Effluent Guidelines Plan most recently published on September 4, 1998 (63 FR 47285). This plan states, among other things, that EPA proposed effluent limitations guidelines and standards for the industrial laundries point source category in November 1997 and that EPA would take final action by June 1999. This notice serves to inform the public of EPA's final action pursuant to the decree.

B. Pollution Prevention Act

The Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101 *et seq.*, Pub. L. 101–508, November 5, 1990) declares it to be the national policy of the United States that pollution should be prevented or reduced whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or release into the environment should be employed only as a last resort (Section 6602; 42 U.S.C. 13101(b)). In short, preventing pollution before it is created is preferable to trying to manage, treat or dispose of it after it is created.

C. Profile of the Industry

An industrial laundry is any facility that launders industrial textile items from off-site as a business activity (i.e., launder industrial textile items for other business entities for a fee or through a cooperative arrangement). Either the industrial laundry or the off-site customer may own the industrial laundered textile items. This definition includes textile rental companies that perform laundering operations. For this action, laundering means washing with water, including water washing following dry cleaning. Laundering does not include laundering exclusively through dry cleaning. Industrial textile items include, but are not limited to, industrial: shop towels, printer towels, furniture towels, rags, mops, mats, rugs, tool covers, fender covers, dust control items, gloves, buffing pads, absorbents, uniforms and filters.

Industrial laundry facilities are located in all 50 states and all 10 EPA regions. By state, the largest number of industrial laundries are in California. By EPA region, the largest concentration of industrial laundries is in Region V. Most of the industrial laundering facilities are in large urban areas. Industrial laundries vary in size from one-or two-person facilities to large corporations that operate many facilities with hundreds of employees nationwide. Annual laundry production per facility ranges from approximately 44,000 to over 32 million pounds, with a total annual industry production of over 9 billion pounds. At proposal, EPA estimated that the industrial laundry industry consisted of approximately 1,747 facilities nationwide.

In analyzing data submitted as part of the comment period of the proposed rule, EPA decided to eliminate clean room items (i.e., items used in particle- and static-free environments by computer manufacturing, pharmaceutical, biotechnology, aerospace, and other customers to control contamination in production areas) from the industrial textile items list. EPA compared data of pollutant concentrations in clean room items to pollutant concentrations in linens and industrial textile items. EPA found the clean room item pollutant concentrations lower than the linen concentrations and excluded the clean room items from the list. Since EPA excluded clean room items from the definition of industrial laundry textile items the number of facilities affected by this action decreased by five facilities. Thus, EPA's current estimate of industrial laundries consists of 1,742 facilities nationwide.

D. Proposed Rule

On December 17, 1997 (62 FR 66182), EPA published proposed pretreatment standards for the control of wastewater pollutants from the industrial laundries industry. The proposed rule covered facilities that launder industrial textile items from off-site as a business activity (i.e., launders industrial textile items for other business entities for a fee or through a cooperative arrangement). EPA proposed an exclusion for existing facilities processing less than one million pounds of incoming laundry and less than 255,000 pounds of shop and/or printer towels per calendar year to eliminate unacceptable disproportionate adverse economic impacts on the smaller facilities. By excluding these facilities, EPA's

proposed rule would have applied to 1,606 facilities nationwide.

EPA proposed pretreatment standards based on chemical precipitation technology for 11 parameters (3 metals, 7 organics, and one bulk parameter known as silica gel treated-hexane extracted material (SGT-HEM)). SGT-HEM was formerly called total petroleum hydrocarbon (TPH) under a previously used analytical method. The analytical method used for measuring SGT-HEM, EPA's Method 1664, was approved in a final rulemaking in the **Federal Register** on May 14, 1999 (64 FR 26315); the parameter is now called Non-polar material (NPM).

EPA received comments on the proposed exclusion and on the technology basis used in calculating limits. Other comments related to the necessity of a national rule, costs of compliance, benefits, cost-effectiveness, the toxic weighting factor and the POTW percent removal or SGT-HEM (TPH). EPA evaluated all of the issues based on the additional information gathered by EPA or received during the comment period following the proposal. EPA then discussed the results of most of these evaluations in a notice of data availability discussed below.

E. Notice of Data Availability

EPA published a notice of data availability (NODA) on December 23, 1998 (63 FR 71054). The NODA presented a summary of the data gathered or received from commenters since the proposal, an assessment of the usefulness of the data in EPA's analyses; a description and evaluation of a modified technology option suggested by commenters; and a discussion of a voluntary industry program, along with certain other specific issues raised by commenters.

1. Towel Only Option

In response to comments received on the proposal, EPA evaluated an option covering only facilities laundering shop and/or printer towels (''towel only''). EPA provided information on the towel only option in the NODA. This option was a modified version of the ''heavy'' options presented in the proposal. This towel only alternative would have applied to 1,333 facilities nationwide. Based on comments on the NODA, EPA decided that the towel only options were complicated to implement and enforce and could result in significantly increased monitoring costs for compliance with both the categorical standards for one portion of the facility's discharge, as well as with local limits applied to the remainder of the facility's discharge. In addition, there was limited data identifying performance of the control technologies treating the towel only wastewater. Thus, EPA decided not to pursue the towel only options.

2. Total Petroleum Hydrocarbons (TPH)

In the NODA, EPA also discussed issues related to how TPH was used for two different analyses—the pass through analysis and the cost-effectiveness analysis. As part of the analyses conducted for the NODA, EPA incorporated data submitted on the POTW removal of the bulk parameter SGT–HEM (TPH). The new data showed nondetects for TPH in the POTW effluent. Thus, for the pass through analysis conducted for the NODA, EPA estimated a POTW removal of greater than 74 percent for SGT–HEM (TPH) based on the highest influent measurement of SGT–HEM (see NODA, 63 FR 71054).

In the NODA, EPA also discussed the new data collected related to constituents of TPH and modifications made to improve both the pass through and cost-effectiveness analyses based on this new data. Following the proposal, EPA conducted a study to evaluate the bulk parameter SGT–HEM (TPH) in order to identify more accurately the constituents comprising the SGT–HEM (TPH) measurement. The study was conducted by sampling the influents and effluents of the Dissolved Air Flotation (DAF) and Chemical Precipitation (CP) treatment units at the same facilities EPA sampled prior to and soon after proposal. EPA analyzed these samples for SGT–HEM (TPH) and total oil and grease using Method 1664 and evaluated the sample extracts using gas chromatography and mass spectroscopy (GC/MS) methods. Based on these analyses, EPA was able to identify several constituents measured as part of the SGT–HEM (TPH) parameter. Most of the constituents identified in the influent samples were n-alkanes, as well as naphthalene, bis(2-ethylhexyl) phthalate and 2-methylnaphthalene. The identified constituents, however, represent only a very small portion of the total SGT–HEM (TPH) measurement.

In the NODA, EPA solicited additional information on influent and effluent pollutant concentrations from POTWs operating secondary treatment. EPA did not receive any additional data in response to the NODA that was useful in revising POTW percent removals for individual constituents, including the identified constituents of SGT–HEM (TPH).

As part of EPA's analysis for the rule, EPA also conducted a cost-effectiveness analysis. This analysis, in part, compares for various technology options the cost of removing toxic and nonconventional pollutants that would otherwise pass through the POTW. EPA expresses these pollutant removals as ''pound equivalents'' which EPA estimates by multiplying pounds of a pollutant removed by an assigned toxic weighting factor. The assigned toxic weighting factor for each pollutant is based on the pollutant's relative toxicity to copper. At proposal, EPA included the bulk parameter TPH in the cost-effectiveness calculations. Following the TPH study, EPA used a revised toxic weighting factor for TPH based on the toxic weighting factors for the individual constituents of SGT–HEM (TPH). Based on the identified constituents of SGT–HEM (TPH), EPA revised its average toxic weighting factor for the bulk parameter TPH from 0.10 (used at proposal) to 0.009. EPA used this value, as discussed in the NODA, to identify the ''total toxic pound equivalents'' of SGT–HEM (TPH) removed by the rule. EPA also calculated cost-effectiveness based on removals of the individual constituents of SGT–HEM (TPH) rather than on removals of the bulk parameter SGT–HEM (TPH). The results of the analyses using both the individual constituents only and the bulk parameter TPH can be found in the record and supporting documents.

3. Pollution Prevention Program

In comments on the proposal and NODA, the industrial laundries trade associations, Uniform and Textile Service Association and Textile Rental Services Association of America, (UTSA and TRSA) submitted a description of a voluntary multi-media environmental stewardship and pollution prevention program as an alternative approach to a national pretreatment standard. The centerpiece of the voluntary program is a series of initiatives seeking to achieve an annual reduction of pollutants being discharged of 20,000 toxic pound equivalents and an annual reduction of up to 25 percent in industry water, energy, and washroom chemical usage (on a per pound of textiles laundered basis) by the year 2002. The program would be initiated by UTSA and TRSA surveying the industry to develop a 1997 ''benchmark'' against which progress towards these reduction goals will be measured. EPA supports industry efforts to reduce pollution at the source, and believes that the environment would benefit from this pollution prevention program whether or not categorical pretreatment standards are established.

F. Changes Since Proposal

1. Cost Changes

Engineering cost changes have been made based on supplementary data and comments. These changes, which are reflected in the economic impact analyses, cost-effectiveness analysis, and small business analyses, are discussed more fully in the Technical Development Document (TDD), Economic Assessment (EA), and Cost-Effectiveness documents. The major changes since the proposal resulted from the following:

—EPA removed three model clean room facilities (equivalent to five facilities in the industry) from the scope of the rule, based on the raw wastewater loadings for their items. This change had minor effects on the overall industry costs.

—EPA added a cost for facilities that currently (based on 1993 data) operate dissolved air flotation (DAF) and chemical precipitation in order to upgrade performance to meet the projected standards. This change increased the capital and O & M costs for all options.

—EPA revised the labor costs associated with the operation and maintenance of the option treatment equipment. The labor costs are now calculated as one full-time equivalent operator per treatment system, which generally increased the costs for all options.

—EPA increased the required square footage and the cost per square foot of buildings that were included in the option costs to house the treatment systems, thus increasing the costs for all options.

—EPA changed the sludge generation rates of the treatment technologies based on available treatment system data. This change had a minor effect on the option costs (some model facility costs increased, while others decreased).

2. Pollutant Loading and Reduction Changes

Pollutant loading and reduction changes have been made based on supplementary data and comments. These changes, which are reflected in the pass through and cost-effectiveness analyses, are discussed more fully in the Technical Development Document and Cost-Effectiveness documents. The major changes since the proposal resulted from the following:

—EPA removed three model clean room facilities (equivalent to five facilities in the industry) from the scope of the rule, based on the raw wastewater loadings for their items. This change had minor effects on the overall industry pollutant loadings and removals.

—For the primary assessment, EPA removed the toxic weighting factor (TWF) for total petroleum hydrocarbon (TPH) and included the TWFs for the identified constituents of TPH in the pollutant loadings and removals calculations. EPA also evaluated pollutant loadings and removals using the adjusted TWF for TPH as described in the NODA. Under either analysis, this greatly decreased the pound-equivalent loadings and removals for all options.

—EPA incorporated new sampling data collected since proposal for the chemical precipitation technology option, which modified the long term averages for those options. This change had minimal effects on the loadings calculations for the options.

—For calculating pollutant loadings, EPA used a revised pass through analysis. At proposal, EPA performed the pass through analyses on TPH (and not the individual pollutants that comprise TPH) using the average percent removal of three individual n-alkanes. For this final action, as discussed in the NODA, EPA performed the pass through analysis on the individual pollutants that comprise TPH (i.e., n-alkanes and others).

—Further, for all pollutants EPA looked at Henry's Law Constants to see if the individual pollutants were volatile. If the pollutants were volatile, EPA determined POTW percent removal based on the POTW removal model for the pollutant with the most similar Henry's Law Constant, as presented in the development document for the pharmaceutical manufacturing industry effluent limitations guidelines and standards (63 FR 50388) using a combination of POTW empirical data and the Water 8 biodegradation model.

—Finally, for the n-alkanes that were not volatile, EPA used the average POTW percent removal of two n-alkanes that were used for the proposal to represent the SGT–HEM (TPH) POTW percent removal. EPA did not use the percent removal from a third n-alkane because the percent removal is reported simply as ''greater than 9 percent''; and therefore the actual removal based on this data could be anywhere between 9 and 99 percent. However, the two n-alkanes are volatile, under the Henry's Law Constant approach above, and EPA believes their removal by POTWs may overstate the POTW removal of all n-alkanes that are not volatile. To evaluate POTW removal of non-volatile n-alkanes, EPA conducted two analyses. One used the average percent removal of the two n-alkanes, the other used the 74 percent removal identified in NODA as the basis for POTW removal of TPH, of which the non-volatile n-alkanes are constituents. EPA also evaluated pass through of the n-alkanes based on another method which used the POTW removal for the individual n-alkanes based on the 94 percent average of the same two n-alkanes used in the first method, regardless of their volatility. Both changes increased the pollutant removals of n-alkanes by POTWs and decreased the pollutant removals that would occur under the technology options considered.

3. Economic Analysis Changes

Based on comments, EPA made three changes to the economic impact methodology. These are discussed more fully in the EA.

—The main analysis assumes that costs of compliance cannot or will not be passed through to customers, but are absorbed by the affected facilities, as was done in an appendix to the EA for the proposal. EPA is using this assumption in its primary impact analyses because it is possible that some facilities or firms might not be able to pass through as much of their costs as would other facilities. This could happen where there is regional or local competition between industrial laundries and between industrial laundries and disposable product vendors or other providers of substitutes. Given that EPA believes that this is a competitive industry, EPA believed this conservative assumption was appropriate. A cost passthrough approach is discussed as a sensitivity analysis in an appendix in the EA.

—Minor refinements to the cash flow analysis and firm failure analysis addressed several issues. For example, depreciation is no longer annualized in the Altman's Z″ analysis. These changes do not affect the economic results in any significant way. See the Comment Response Document for additional detail on these changes.

—Based on public comment describing industry experience with buyouts, EPA now estimates 75 percent of a facility's employees will lose their jobs if that facility's parent company is predicted to be a firm failure. EPA believes this estimate reflects a reasonable upper-bound estimate of

short-term potential employment losses due to firm failure.

III. Decision Not To Regulate Industrial Laundries

A. Summary of Options Considered

EPA considered various options prior to taking this final action. Among the final options EPA considered were ''no regulation'' and a number of regulatory options.

For the regulatory options, EPA evaluated various options using two major technologies as bases for the standards: chemical precipitation and dissolved air flotation. EPA also evaluated several exclusions within the towel only option discussed in detail in the NODA and mentioned above. In evaluating these options, EPA considered the total pounds and toxic pound equivalents removed by any economically achievable option, the degree to which these pollutants pass through the POTW and the extent to which POTWs can adequately treat these pollutants. To mitigate disproportionately adverse economic impacts of a rule, EPA considered excluding the following facilities from the scope of the regulation:

- Option CP–1: facilities that launder less than one million pounds of incoming laundry (total) and less than 255,000 pounds of shop and/or printer towels per calendar year (i.e., the exclusion in the proposed rule);
- Option CP–2: facilities that launder between one and three million pounds of incoming laundry (total) and less than 120,000 pounds of shop and/or printer towels per calendar year, in addition to those facilities that launder less than one million pounds of incoming laundry (total) and less than 255,000 pounds of shop and/or printer towels per calendar year; or
- Option CP–3: facilities that launder less than five million pounds of incoming laundry (total) and less than 255,000 pounds of shop and/or printer towels per calendar year.

EPA also considered and analyzed additional exclusions; descriptions and results are discussed in further detail in the Economic Assessment.

B. Pretreatment Standards for Existing Sources (PSES)

1. Selected Option

After considering all of the information collected and analyzed, EPA has selected the ''no additional regulation'' option as its final action. In other words, EPA has decided not to establish categorical pretreatment standards for existing dischargers in this industry.

2. Rationale for Selected Option

After careful consideration of all of the information in the record for this rulemaking, EPA has decided not to promulgate national categorical pretreatment standards for the industrial laundries point source category because industrial laundry discharges to publicly owned treatment works (POTWs) do not present a national problem warranting additional national regulation under the Clean Water Act. In making a final decision, EPA identified various technologies as candidate PSES technologies. EPA determined that some of these technology options are not economically achievable due to the number of plant closures and firm failures estimated. After determining what options would be economically achievable, EPA estimated the total pounds of pollutant discharges that would be removed by the rule. One measure of the toxic and nonconventional pounds of pollutant discharges that would be removed by the rule results from assigning pollutants a ''toxic weighting factor'' based on the pollutant's relative toxicity to copper. Measured this way, EPA determined that the rule would remove only 32 toxic pound equivalents per facility per year, depending on the option. This is a relatively small total amount of toxic and nonconventional pollutant reductions, as confirmed by comparison with other industries for which effluent limitations guidelines have been promulgated. The details of this assessment are found in the Technical Development Document and EA and are summarized below.

EPA examined the economic achievability of a wide array of options for the rule. This included varying the technology basis for the rule, *i.e.*, chemical precipitation (CP), dissolved air flotation (DAF); requiring treatment of only shop and/or printer towels; and various regulatory exclusions or ''cutoffs'' based on total production and amount of shop and/or printer towels laundered. For the reasons noted in Section II.E., EPA decided not to pursue the towel only options. In evaluating the options based upon DAF, EPA found that these options removed fewer toxic pound equivalents than the comparable options based upon CP, but at higher cost and comparable impact. For this reason, EPA focuses on the CP options only in this preamble, but makes the same conclusions for the comparable DAF options.

EPA determined that looking at impacts on the industry as a whole, an economically achievable option (referred to as CP–2) is based on CP with production cutoffs that exclude facilities with between one and three million total pounds of incoming laundry and less than 120,000 pounds of shop and/or printer towels and facilities with up to 1 million total pounds of incoming laundry and less than 255,000 pounds of shop and/or printer towels. This option would result in 44 facility closures (2.5 percent of the total industry) and no firm failures, with resulting direct employment losses of 2,261 jobs. The exclusion is justified because the facilities excluded would have suffered a disproportionate closure rate of 12 percent and disproportionate failure rate of 20 percent under the rule.

EPA rejected Option CP–1 (i.e., CP with production cutoffs only to 1 million total pounds of incoming laundry and less than 255,000 pounds of shop and/or printer towels) due not only to the number of facility closures (61) and employment losses (2,684 jobs) that would result, but also due to the number of firm failures (72) and resulting employment losses (1,721 jobs) under this option. The 61 facility closures represent about 3.5 percent of all facilities and the 72 firm failures represent 8 percent of firms. These firm failures are in addition to the facility closures. Firm failures would result in additional employment loss because in the industrial laundry industry, when a facility is bought by a firm already in the industry, it is likely that the facility would no longer be a production facility, but instead be turned into a depot or transfer station which based on examples of recent buyouts, results in an estimated 75 percent loss of employment. Thus, under this option, that EPA rejects as not economically achievable, the closures and firm failures would have resulted in direct employment losses of 4,405 jobs, or 3.4 percent of the industry's employment. While EPA does not have a bright line for determining what level of impact is economically achievable for the industry as a whole, EPA looked for a breakpoint that would mitigate adverse economic impacts without greatly affecting the toxic pound equivalents being removed under a rule. Here, by moving from the first option to the second option, that is, by adding an additional production cut-off of one to three million total pounds of incoming laundry and less than 120,000 pounds of shop and/or printer towels, EPA was able to reduce employment losses by almost half, from 4,405 to 2,261 while only losing about 8.7 percent toxic pound equivalents that would be removed under the first option. Thus, EPA rejected the first option (option

CP–1) that would result in 61 facility closures and 72 additional firm failures as not economically achievable.

If EPA had chosen a greater exclusion (Option CP–3 with production cutoffs of up to five million total pounds of incoming laundry and less than 255,000 pounds of shop and/or printer towels) there would be two closures and no firm failures. Under this option, EPA projected only 235 job losses, but would have lost a greater percentage of toxic pound equivalents. Although EPA identified both option 2 and option 3 as the economically achievable options, EPA rejected option 3 as not the ''best'' technology since EPA believes that for BAT or PSES the term ''economic achievability'' contemplates acceptance of some adverse economic impacts.

For Option CP–2, which EPA found to be economically achievable for the industry as a whole, EPA estimates average removals of only 32 toxic pound equivalents per facility per year. These reductions are much lower than any other categorical pretreatment standards promulgated by EPA. For example, for Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF), Electroplating, Battery Manufacturing, and Porcelain Enameling, toxic pound equivalents removed per facility per year range from 6,747 to 14,960. For some of the more recently proposed rules the reductions are lower, but not nearly as low as projected for industrial laundries. For example, for Transportation Equipment Cleaning and Metal Products and Machinery Proposals the toxic pound equivalents removed per facility per year would range from 492 to 693.

POTWs are effective at treating industrial laundry effluent. EPA estimates POTW removal efficiency of SGT–HEM (TPH) to be greater than 74 percent. Because the actual percent removal could not be calculated and could be much higher (i.e., 95–99 percent), EPA believes that SGT–HEM (TPH) does not pass through. Although EPA does not have data showing how much greater than 74 percent is the treatment efficiency, EPA expects that the treatment is significantly more effective because all of the POTW effluent data are below the analytical detection limit. For the individual toxic and nonconventional pollutants, EPA determined that POTW removal efficiencies ranged from 18 to 99 percent. A rule based on the economically achievable option would remove only a total of 39,000 toxic pound equivalents nationwide per year; or 32 toxic pounds per facility per year on average. With respect to conventional pollutants, POTWs are designed to treat and can effectively treat these pollutants. Thus, EPA has determined that there is insignificant pass through of total pounds or toxic pound equivalents of pollutants discharged to POTWs by industrial laundries such that national categorical pretreatment standards are not warranted. EPA also examined the total pounds and total pound equivalents removed under a rule with the first cutoff and determined that the amount of pounds removed is also insignificant and does not warrant national regulation. This analysis is discussed in the Development Document for the final action.

EPA has little, if any, record evidence that POTWs are currently having pass through or interference problems due to industrial laundry effluent. In the event that a particular industrial laundry could create a local problem, EPA believes the existing pretreatment program is fully adequate to control these discharges at the local level.

The small total removals achieved by the rule are reflected in the cost-effectiveness results. Cost-effectiveness is expressed as the ratio of costs to toxic pound equivalent pollutant removals achieved by a regulatory option. While EPA is not required to consider cost-effectiveness in establishing BAT, new source standards or pretreatment standards, EPA typically estimates the cost-effectiveness of its options particularly to determine which option along a spectrum of options is most efficient. For this rule, all of the regulatory options considered have high average cost-effectiveness values ($2,360/toxic pound equivalent for the economically achievable option) resulting from the very small removals that occur under that option.

EPA further believes that the most effective way to address organic wastes from certain solvents in the discharges to POTWs is reduce their use or toxicity in the customer facilities in the first place or to remove them before washing, either at the customer's facility or at the laundry. EPA's Office of Solid Waste (OSW) is planning to conduct rulemaking to address certain organic solvents found mainly in shop and/or printer towels before they are washed. EPA expects to propose this rulemaking in the **Federal Register** in the first quarter of the year 2000.

EPA believes that the decision not to promulgate national categorical pretreatment standards for industrial laundries is the most reasonable decision based on the record. While EPA has broad discretion to promulgate such standards, EPA retains discretion not to do so where the total pounds removed do not warrant national regulation and there is not a significant concern with pass through and interference at the POTW. Further, although not a decision factor for the final action, EPA expects that the industry's commitment to a pollution prevention program will be beneficial. The program projects reductions of 20,000 toxic pound equivalents per year to water, and includes non-water quality benefits, as well. For example, EPA estimates that a 10–25 percent reduction in energy use would save 3.1 trillion to 7.8 trillion BTUs, reducing air emissions of carbon dioxide by up to 900 million pounds per year, if natural gas is the fuel source. Reduced use of other fuels would also result in reduced emissions of sulfur dioxide and particulates. (See Section 16 of the record for EPA's assessment of the environmental benefits of the pollution prevention goals).

EPA recognizes this final decision reflects a significant shift from the preferred option at proposal. As described in the preceding paragraphs, this shift reflects the new information and revised analysis that EPA presented in the notice of data availability, 63 FR 71054, and discussed above. First, POTW removal of SGT–HEM (TPH) is greater than thought at proposal. Second, the constituents of TPH that have been identified are not as toxic as previously believed. Both of these factors have resulted in reduced projections of the toxic pound equivalents annually removed by the rule from about 407,000 down to less than 39,000 toxic pound equivalents. In addition, the projected economic impacts of the proposal option are greater than originally estimated. Finally, EPA's record demonstrates that the occurrence of individual local problems from laundry discharges are not as prevalent as EPA thought at the time of proposal.

C. Pretreatment Standards for New Sources (PSNS)

The options considered for PSNS are similar to those considered for PSES. After considering all of the information in the record, EPA has determined not to require pretreatment standards for new sources because as is the case for existing sources, discharges from new sources do not present a national problem warranting national regulation.

EPA estimates that there will be at most 27 new sources each year. (In fact the number is likely to be lower since it is based on the number of new entities that started in a three year period, some of which likely were existing facilities with new ownership.) Under a rule with

the same small production threshold as would have been chosen for existing sources, EPA estimates that new sources would discharge about 1,040 pounds of pollutants and 51 toxic pound equivalents per facility per year, or a total of about 19,740 total pounds of pollutant and 945 toxic pounds per year. Because the total pounds and pound equivalents per facility that would be removed by PSES are comparable to those for existing sources, the same reasons for not issuing pretreatment standards for existing sources also apply to new sources. This is true not only for the option selected as economically achievable, but also under a rule that would apply the first cutoff. This analysis is discussed in the Development Document for the final action.

In developing estimates of total pounds of pollutants that would be reduced by the rule, EPA determined what option would not present a barrier to entry for new sources. Here, EPA considered whether a small production exclusion should apply for new sources equivalent to the one that would have applied to existing sources. EPA determined that it would be appropriate to apply the same production threshold for PSNS because for this industry, the costs of the rule are similar regardless of whether a facility is a new source or an existing source and thus new smaller facilities would likely suffer the same disproportionate impacts that existing smaller facilities would suffer under a rule. For example, under the costs of a rule, all of the new sources projected to close would have been under the threshold for the exclusion. This represents a disproportionate impact on those smaller facilities. Also, EPA was concerned that it would not provide a level playing field to require a new smaller facility to compete with an existing smaller facility that would be excluded under the production threshold for the rule, and this competitive disadvantage could be a barrier to entry if the production threshold for new and existing sources were not the same.

IV. Costs and Economic Impacts for the Regulatory Options

A. Introduction

This section describes the capital investment and annualized costs of compliance of the three regulatory options outlined in Section III and the potential economic impacts of these compliance costs on current and future facilities and firms in the industry. EPA's economic assessment is presented in detail in the Economic Assessment for the Final Action Regarding Pretreatment Standards for the Industrial Laundries Point Source Category (EA). The EA estimates the economic effect of compliance costs on facilities, firms, employment, domestic and international markets, inflation, distribution, industry consolidation, environmental justice and industrial laundries customers. The EA covers various regulatory options in addition to the three summarized in this notice. EPA also conducted an analysis equivalent to a Final Regulatory Flexibility Analysis under the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Act (SBREFA), which estimates effects on small entities. EPA also prepared an analysis of pollutant removals and average cost-effectiveness of all options.

B. Economic Impact Methodology

1. Introduction

Section IV.B.2 (and, in more detail, the EA and record) summarizes the methodology EPA used to estimate the economic impacts that result from compliance costs associated with the regulatory options. The analysis in the EA consists of eight major components: (1) An assessment of the number of facilities that could have been affected by pretreatment standards; (2) an estimate of the annual aggregate cost for these facilities to comply with pretreatment standards using facility-level capital and operating and maintenance (O&M) costs; (3) an evaluation of potential facility closures, using a financial model that projects impacts on facilities' cash flow (closure analysis); (4) an evaluation of potential firm failures; (5) an evaluation of potential secondary impacts such as those on employment, markets, inflation, distribution, industry consolidation, environmental justice and industrial laundry customers; (6) an assessment of the potential for impact on new sources (barrier to entry); (7) an analysis of the effects of potential compliance costs on small entities; and (8) a cost-benefit analysis.

All costs in today's notice are reported in 1998 dollars, with the exception of average cost-effectiveness results, which, by convention, are reported in 1981 dollars. The EA presents costs in 1993 dollars. The Engineering News Record Construction Cost Index was used to inflate costs to 1998 dollars. The sources of data for the economic analysis are the same as reported in the preamble to the proposed rule (62 FR 66182) with updates to the profile, costs, and removals as reported in the Technical Development Document. The primary source of data for the economic analysis is the 1994 Industrial Laundries Industry Detailed Questionnaire (Section 308 Survey). Other sources include comments to the proposal and NODA, government data from the Bureau of the Census, industry trade journals, and several preliminary surveys of the industry, including the 1989 Preliminary Data Summary for Industrial Laundries, the 1993 Industrial Laundries Industry Screener Questionnaire, and the 1994 Industrial Laundries Supplemental Screener Questionnaire.

2. Methodology Overview

Central to the EA is the cost annualization model, which uses facility-specific cost data and other inputs (discussed in Chapter 11 of the Technical Development Document) to determine the annualized capital and operating and maintenance (O&M) costs of improved wastewater treatment. This model uses these costs along with an annual compliance monitoring cost with the facility-specific real cost of capital (discount rate) over a 16-year analytic time frame to generate the annual cost of compliance for each option. EPA chose the 16-year time frame for analysis based on the depreciable life for equipment of this type, 15 years according to Internal Revenue Service (IRS) rules, plus approximately one year for purchasing and installing the equipment. As an alternative to installing wastewater treatment, the cost model also generates the annualized cost of hauling wastewater offsite. The cost model compares the treatment costs to the hauling costs (where this alternative is available), and selects the lower of the two.

EPA then converts the annual cost for each facility into a present value change in cash flow, which is subtracted from the estimated baseline present value of facility cash flow. EPA estimated baseline present value of facility cash flow based on the average of three years of financial data from each facility in the Section 308 survey under an assumed no-growth scenario (i.e., the annual cash flow, calculated as the 3-year average, is expected to remain the same over the 16-year period of analysis). If the change in present value of cash flow (which is derived from the annualized costs of compliance of a regulatory option) causes a facility's estimated cash flow to change from positive in the baseline to zero or negative, over the 16-year period of analysis, EPA considers the facility likely to close (i.e., liquidate) as a result

of that regulatory option. Salvage value, as at proposal, was not used in the closure analysis, although EPA did perform sensitivity analyses, which are presented in an appendix in the EA. For reasons discussed in the EA and the Comment Response Document, salvage value was either considered inappropriate or did not substantially change the outcome of the analysis.

Note that facilities that reported negative cash flow over the 3-year period of the survey are considered baseline closures and are not considered affected by the regulatory options for several reasons: (1) Many of these facilities are owned by multifacility firms. These facilities may be transferring production (laundering services at or near cost) from other facilities owned by the same parent company, or otherwise not expected to be self-supporting by the parent. EPA analyzes the parent firms of these facilities in the firm-level analysis. (2) OMB guidance suggests that agencies develop a baseline that is ''the best assessment of the way the world would look absent the proposed regulation. That assessment may consider a wide range of factors, including the likely evolution of the market * * *.'' EPA's best assessment is that some facilities currently operating may not remain in business to install and operate the pollution control equipment. EPA cannot say for certain which facilities these may be, but can assert that those facilities that are currently considered not financially viable because their cash flow is zero or negative (among those not owned by multifacility firms) are the likeliest facilities to close without ever installing and operating pollution control equipment. It is possible that a facility estimated to be a baseline closure may remain open, but the converse is also true—a facility projected to remain open until it is subject to a regulatory option may actually close independently of the effects of the regulatory options. Thus, EPA believes it is consistent with OMB guidance to estimate postcompliance closures by counting closures that are projected to close solely due to the effect of compliance costs.

In the firm failure analysis, EPA uses the capital costs, O&M costs, and an early-year depreciation figure to compute a change in earnings, assets, liabilities, and working capital at the firm level (accounting for costs for multiple facilities, where applicable). These postcompliance financial figures are used in a computerized model of financial health on a firm-by-firm basis. The model uses an equation known as Altman's Z″, which was developed based on empirical data to characterize the financial health of firms. This equation calculates one number, based on the financial data, that can be compared to index numbers that define ''good'' financial health, ''indeterminate'' financial health, and ''poor'' financial health. All firms whose Altman's Z'' number changes such that the firm goes from a ''good'' or ''indeterminate'' baseline category to a ''poor'' postcompliance category are classified as likely to have significant difficulties raising the capital needed to comply with a regulatory option, which can indicate the likelihood of firm bankruptcy, or loss of financial independence.

EPA estimated direct employment impacts associated with both the facility closure and firm failures. In addition, EPA took the extra steps to consider and estimate national and regional level employment impacts. These extra steps provide EPA with additional information and analysis about the potential effects on the national economy. For example, closures and failures of industrial laundry facilities or firms could lead to economic and financial impacts in other sectors of the economy. These economic impacts could potentially affect suppliers or customers that are in other sectors of the economy. Moreover, these impacts could be positive or negative, e.g., jobs could be created for installing pollution control equipment or jobs could be lost with a decrease in business from the industrial laundries industry. This additional comprehensive analysis of impacts at the national level relied upon procedures known as input-output analysis. These analyses are discussed fully in the EA.

Another key analysis EPA performs is an analysis to determine impacts on new sources, which is primarily a ''barrier-to-entry analysis'' to determine whether the compliance costs would have prevented a new source from entering the market. This analysis also looks at whether new industrial laundries would have been at a competitive disadvantage compared with existing sources. Market effects and barriers to entry associated with the small source exclusion also are qualitatively investigated.

C. Summary of Costs and Economic Impacts

1. Number of Facilities and Costs of the Regulatory Options

This section presents the costs for the three regulatory options outlined in Section III. The costs for other options are presented in the EA. EPA estimates that there are 1,742 industrial laundries facilities. Of these, 136 to 953 facilities would have been excluded from the regulation, depending on the production cutoff. As described in Section III, EPA considered three primary exclusions in addition to analyzing the impacts with no cutoff. To summarize, the exclusions are (1) All facilities laundering less than 1 million pounds of incoming laundry per calendar year and less than 255,000 pounds of shop and/or printer towels per calendar year (abbreviated as the 1MM/255K cutoff, which was the cutoff originally proposed by EPA, and which would have excluded 136 facilities or 8 percent of all facilities), (2) all facilities laundering between 1 and 3 million pounds of total laundry per year and less than 120,000 pounds of shop towels, in addition to those excluded above under the 1MM/255K cutoff (abbreviated as the 3MM/120K cutoff, which would exclude 518 facilities or 30 percent of all facilities), and (3) all facilities laundering less than 5 million pounds of total laundry and less than 255,000 pounds of shop towels (abbreviated as the 5MM/255K cutoff, which would have excluded 953 facilities or 55 percent of all facilities). There are 903 firms owning the 1,742 facilities. A total of 837 of the 903 firms (93 percent) are ''small businesses'' according to SBA definitions (revenues less than $10.5 million per year). The analysis looks separately at single-facility firms (those firms where the firm and the facility are a single entity) and multifacility firms (firms that own more than one facility; generally, these firms are larger than single facility firms). There are a total of 830 single-facility firms in the industry (92 percent), the vast majority of which meet the SBA definition of small.

The total cost of each regulatory option is based on engineering cost estimates. The Technical Development Document describe EPA's development of these cost estimates (EPA 821–R–99–010). Briefly, EPA developed cost equations for capital and O&M costs (including monitoring and recordkeeping) for the wastewater treatment technologies. For the CP options, the components of the cost estimates include screen, stream splitting, equalization, chemical precipitation, pH adjustment, sludge dewatering, building and monitoring.

Table IV.C.2.1. presents a summary of the total annualized costs for the various production cutoffs associated with CP. A parallel set of results for DAF is presented in the EA. The costs of the regulatory options are estimated to range from $61.3 million for the option with the 5MM/255K cutoff to $145.8

million under the option with no cutoff. The 3MM/120K cutoff is estimated to cost $103.2 million per year.

TABLE IV.C.2.1.—COSTS OF REGULATORY OPTIONS CONSIDERED

[$1998]

Option and cutoff considered (Production/Shop Towels)	Total annualized post tax cost ($millions, 1998)
CP Options	
No cutoff	145.8
1MM/255K	137.4
3MM/120K	103.2
5MM/255K	61.3

2. Economic Impacts of the Regulatory Options

a. Impacts From Regulatory Options for Existing Sources

Table IV.D.2.2 summarizes the closure and employment impacts of the CP options. Closure and firm failure impacts from the DAF options are identical and are reported in an Appendix to the EA. EPA estimates that the CP options would have resulted in closures of from 2 facilities under the 5MM/255K cutoff to 106 facilities under no cutoff (0.1 to 6.1 percent of all 1,742 facilities). Under the 3MM/120K cutoff, EPA estimates that 44 facilities would have closed (2.5 percent of all facilities). In addition to these closures, EPA predicts firm failures for 72 firms under no cutoff and under the 1MM/255K cutoff. EPA estimated no firm failures for the 3MM/120K cutoff and the 5MM/255K cutoff .

EPA estimates that a total direct job loss of 235 to 3,318 full-time equivalents (1 FTE=2,080 hours of labor) would have occurred as a result of the facility closures projected under the various CP options, depending on cutoff. The 3MM/120K cutoff is associated with a loss of 2,261 FTEs due to closures. These losses would have contributed to losses elsewhere in the economy, because a closure can affect other parts of the economy as inputs to the closed facility are no longer needed and demand for products by laid off workers is reduced. The sum of the direct losses from closures and these other indirect and induced losses range from 404 to 5,707 FTEs, depending on cutoff. The 3MM/120K cutoff is associated with nationwide losses of 3,889 FTEs due to closures. The employment losses associated with closures overstate actual net losses to the industry and to the economy, because some employment gains in the industry and throughout the economy would have occurred (although the gains might not have occurred in the same geographic location or at the same time as the losses). The gains to the industrial laundries industry would have included operators of pollution control systems that might be hired by facilities and additional workers hired to expand some production at facilities located in market areas with facility closures. In the economy as a whole, gains due to increased production and installation of pollution control devices would have occurred.

Employment losses from closures might not be the only losses that could occur. Employment losses might have occurred as a result of firm failures. When 75 percent of the employment at these failing firms are added to the employment losses that might have occurred under the various cutoffs, EPA estimates that the direct employment losses associated with the CP option would have been 235 FTEs (note that no failures were estimated under the 5MM/255K cutoff) to as high as 5,039 FTEs under no cutoff. The 3MM/120K cutoff is associated with no additional losses of employment due to failures. When direct and indirect employment effects are estimated, total losses associated with both closures and failures are estimated to be as high as 404 to 8,667 FTEs, depending on cutoff. The 3MM/120K cutoff is associated with total nationwide losses of 3,889 FTEs due to both closures and failures.

TABLE IV.D.2.2—SUMMARY OF OPTION IMPACTS

Impact	No cutoff	1MM/255K	3MM/120K	5MM/255K
Facility Closures	106	61	44	2
Direct Employment Losses from Closures	3,318	2,684	2,261	235
Economy-Wide Employment Losses Due To Closures	5,707	4,617	3,889	404
Firm Failures	72	72	0	0
Direct Employment Losses from Closures Plus Failures	5,039	4,405	2,261	235
Economy-Wide Employment Losses from Closures Plus Failures	8,667	7,576	3,889	404

Losses due to closures are not the only losses to the national economy, nor are those losses net losses (after accounting for gains). EPA predicts employment impacts to the national-level economy on the basis of the output losses calculated for the U.S. economy using the input-output analysis described in Section IV.A.2. Based on this analysis, which estimates both national employment losses stemming from decreased output in the industrial laundries industry and offsetting gains stemming from increased output of pollution control equipment, the CP options would have resulted in a net loss of employment at the national level in all industry sectors of 3,389 to 7,900 FTEs, which is less than 0.01 percent of the U.S. labor force in 1998. Net output loss would have been $62.6 million to $149.9 million per year at most, which is about 0.001 percent of Gross Domestic Product in 1998. Thus EPA expects, at the national level, that the CP options would have had negligible impact on U.S. employment and output.

EPA also investigated employment impacts driven by output reductions in the industrial laundries industry alone. Within the industrial laundries industry, nonclosing facilities could have experienced gains in production (and thus gains in output and employment) or losses in production, depending on how many facilities were expected to close and whether the loss of production to the economy represented by closing facilities exceeded or fell short of production losses that would have occurred when market equilibrium was achieved. Although the CP options are estimated to have produced a short-term employment loss to the industrial laundries industry of 235 to 5,039 FTEs based on closures and failures, this is less than the long-term net direct employment losses that would be calculated on the basis of output losses assuming no costs could be passed through to customers. Assuming no cost passthrough, as many as 2,884 to 6,692 FTEs (2.2 percent to 5.2 percent of total employment in the industry) might have been lost over the long term (inclusive of closure- and failure-based losses, but net of gains in employment due to hiring of pollution control system operators) in the industrial laundries

industry under the CP option, depending on cutoff. The 3MM/120k cutoff is associated with a loss of 4,897 FTEs. This worst-case estimate shows greater losses than those estimated using the production losses calculated using EPA's market model (and assuming costs are passed through to customers), which projects that, in fact, very small net gains might have occurred over time (from 30 to 87 FTEs gained, depending on cutoff). Thus, the 3MM/120K cutoff would be expected to result in net employment losses ranging from 2,520 to 4,897 FTEs.

For the community-level analysis, under the conservative approach for estimating community employment impacts described above, EPA determined that closures and failures would have resulted in a maximum change in a community's unemployment rate of less than one percent under all cutoffs considered.

EPA considers the options likely to have had a minimal impact on international markets. Under the higher cutoffs such as the 5MM/255K cutoff (which would have excluded 55 percent of the 1,742 facilities, the options might have had some effect on the ability of larger facilities to compete. These larger facilities generally, however, have a competitive advantage over the smaller excluded facilities. Most are owned by large multifacility firms that benefit from economies of scale not available to the smaller, single-facility firms. For the most part, the nonexcluded facilities have greater financial resources and could have better absorbed the costs of compliance. All analyses have been run under the assumption that no costs are passed through to customers, thus the analysis shows that the vast majority of these larger facilities would have been able to compete on the basis of price. Furthermore, as discussed below in the Small Business Analyses section, EPA believes that any potential adverse impacts to the facilities not excluded under the various options would have been far outweighed by the benefits of reducing adverse economic impacts on the most vulnerable firms in the industry.

EPA also estimates that the options considered would have had minimal impacts on inflation and insignificant distributional effects. The no regulation decision will not change the status quo and this will not affect industrial laundry competitors, such as the disposable industry. The options also would have had minimal impacts on industrial laundries customers. EPA investigated the impact on customers in the unlikely event that most costs of the options considered could have been passed through to customers. A realistic estimate of the cost increase at a typical medium size printer (a key industrial laundry customer industry) would be about $200 per year, or about a 0.6 percent increase in laundry costs. EPA believes this level of impact is representative at most sizes and types of industrial laundry customers. Therefore, EPA does not expect price increases, should they have occurred, to have had a major impact on customers.

EPA also investigated the likelihood that customers might substitute disposable items for laundered items or begin operating on-site laundries under the various regulatory options. Both the substitution of disposable items for laundered items and the installation and operation of on-site laundries are associated with potential negative impacts on customers that might deter them from choosing these potential substitutes. Disposable items can be more expensive to use than laundered items, may not meet quality requirements (e.g., disposable printer towels tend to be linty) and are, in certain circumstances, regulated under other environmental statutes. Lint-free disposable wipers (such as those used in clean rooms) are very expensive, and currently are only used in situations where even reusable wipers provided by industrial laundries are not sufficiently lint-free. Meanwhile because of the high initial costs to install equipment on-site and the likelihood that any price increase associated with industrial laundry service would have been small, on-site laundries could have required years before any cost savings might be realized. Given the disincentives towards those substitutes indicated above, particularly under the higher cutoffs (e.g., the 5MM/255K cutoff), prices would have been unlikely to rise noticeably. EPA does not believe that the options considered would have had a substantial effect on substitution of disposable items for laundered items or caused an increase in industrial laundering on-site for industrial laundries services in any major way as a result of price increases. Furthermore, since EPA has assumed for these analyses that no costs are passed through to customers, under the cutoffs considered, most firms and facilities would have been able to absorb the cost of the options if they felt their customers would have switched to substitutes had price increased.

Any cost of compliance that is not passed through to customers, however, would have resulted in some reduction in production (assuming no other factors in the industrial market changed) as firms attempted to maximize profits, but this reduction must be compared to the approximate 6 percent per year growth in revenues seen in recent years. This growth in revenues appears to be driven by increasing production (to meet new demands for industrial laundry services), while increasing productivity and declining costs of production (in the baseline), combined with revenue growth, have contributed to higher profitability. EPA expects that the options would have had a one-time effect on revenue and profit growth, but in actuality, with a continuing economic boom, the overall effect might have been only a reduction in the increase in production. In a downturn, however, EPA recognizes that output losses due to a downturn might have been greater than they would be without a regulation.

b. Impacts From Regulatory Options for New Sources

EPA's decision not to promulgate pretreatment standards applies to new sources as well. This section presents EPA's assessment of what impacts on new sources might have been had EPA decided to promulgate pretreatment standards for new sources under the same option and exclusion selected for existing sources (CP–IL under the 3MM/120K cutoff). EPA assessed impacts on new sources by determining whether the regulatory options would have resulted in a barrier to entry into the market.

EPA has found that overall impacts from either the CP–IL or DAF–IL options would not have been any more severe on new sources than those on existing sources as long as both are subject to the same cutoff, since the costs faced by new sources generally will be similar to those faced by existing sources. Because most new sources and existing sources would have faced similar costs, EPA has determined that the CP–IL option under the 3MM/120K cutoff for new sources would not have posed a barrier to entry on the basis of competitiveness.

EPA also examined whether there would be a barrier to entry for small new sources based on disproportionate impacts measured as closures or failures. EPA investigated facilities in the Section 308 Survey that indicated they were new or relatively new at the time of the survey. Using the Section 308 Survey data, EPA expects that new sources would generally have exceeded most of the threshold size cutoffs that EPA considered for existing sources. Sixty percent of facilities identified as new exceed the 5MM/255K cutoff. The number of new source facilities coming on line each year is extremely small.

Over a three year period (1991, 1992, and 1993), according to Section 308 Survey data, laundry operations began at about only 80 facilities (and it is not absolutely clear from the data whether these facilities were actually new dischargers or were existing dischargers acquired in that year by a different firm). Over the 3-year period, this amounts to 27 new sources a year at most, or only 1.5 percent of existing facilities. Given the small level of growth in the industrial laundries industry, EPA believes that new sources are primarily replacing production from closing facilities that exit the market.

Of these facilities identified as new or relatively new facilities, EPA determined that the average revenues of this group exceeded $4 million per year, and the amount of laundry processed averaged over 5 million pounds per year. Only 24 to 32 facilities out of 80 total newer facilities (weighted), or 30 to 40 percent, would meet the size threshold for the exclusions EPA investigated for existing sources. On a yearly basis (given that these facilities started up over the 3 years of the survey) EPA estimates that 8 to 11 facilities of the size, on average, that would meet an exclusion similar to those investigated for existing sources might be started up each year. Under the 3MM/120K cutoff, 30 facilities total, or 10 per year, on average, would meet this exclusion. Overall, in the group of 80 facilities, 6 facilities (weighted), or 7.5 percent, were identified as postcompliance closures (based on a closure by one surveyed nonindependent facility). These facilities would have been exempted under all cutoffs considered. Given the above results, EPA finds that had new sources been regulated under the 3MM/120K cutoff, the rule for new sources would have been economically achievable and no barriers to entry would have occurred.

Furthermore, because both new sources and existing sources would have been provided the same exclusion, EPA avoids a situation where a level playing field would not be provided for new sources relative to existing sources. This could occur when a new smaller facility that was not excluded from the rule must compete with an existing smaller facility that was excluded under the production threshold for the rule. This competitive disadvantage could be a barrier to entry if the production threshold for new and existing source were not the same.

3. Small Business Analysis

There are 903 firms owning the 1,742 facilities. A total of 837 out of the 903 firms or 93 percent are ''small business'' according to SBA Guidelines (revenues less than $10.5 million per year). The analysis looks separately at single-facility firms (those firms where the firm and the facility are a single entity) and multifacility firms (firms that own more than one facility; generally, these firms are larger than single facility firms). There are a total of 830 single-facility firms out of 903 total firms in the industry (92 percent), the vast majority of which (812) meet the SBA definition of small. Only 25 multifacility firms meet this definition. Under the 3MM/120K cutoff, 363 small, single-facility firms (45 percent of small, single facility firms) would have been excluded.

Had EPA promulgated a rule, no small firms would have closed or failed under the 5MM/255K cutoff, but 126 small, single-facility firms would have closed or failed under the 1MM/255K cutoff (54 closures and 72 failures, or 18.4 percent of all small firms in the postcompliance analysis). Under the 3MM/120K cutoff, 39 small, single-facility firms would have closed or failed (39 closures and no failures, or 5.7 percent of the 684 small firms in the postcompliance analyses).

4. Cost-Benefit Comparison

EPA estimates that the pretax costs of compliance, as can be seen in the EA for the proposal, generally make up nearly all of the monetizable social costs of pretreatment standards. Additional very small costs are associated with costs to permitting authorities and the administrative costs of providing unemployment benefits.

EPA thus approximates the social costs of a rule using the pretax compliance costs of the option and cutoff. EPA would have selected had the Agency promulgated a rule. The pretax cost of the CP–IL option under the 3MM/120K cutoff is $149.1 million per year in 1998 dollars. This figure can be compared with the monetized benefits of $0.16 to $0.79 million in 1998 dollars. The components of these benefits and their value are summarized in detail in Section VIII of this final action.

V. Total Toxic and Nonconventional Pounds Reduced by Options Considered for the Final Action

In addition to the foregoing analyses, EPA has estimated toxic and nonconventional pollutant reductions for all options and cutoffs considered for the final action. These results are expressed in terms of the ''pound equivalent'' (PE) removed. PE is a measure that addresses differences in the toxicity of pollutants removed. Total PEs are derived by taking the number of pounds of a pollutant removed and multiplying this number by a toxic weighting factor (TWF). EPA calculates TWFs for priority pollutants and some additional nonconventional pollutants using ambient water quality criteria and toxicity values. The TWFs are then standardized by relating them to a particular pollutant at a certain point in time, in this case, copper. As of 1985 the water quality criterion for copper was revised, thus the TWF for copper also has been revised. PEs are calculated only for pollutants for which TWFs have been estimated, thus they do not reflect potential toxicity of some nonconventional and, to date, any conventional pollutants. EPA does not include pollutant removals to the extent that those pollutants are reliably removed at the POTW, but only includes the removal of pollutants that would not be removed by the POTW.

As noted earlier, based on new data and as discussed in the NODA, EPA estimated toxic weighting factors for the individual components of SGT–HEM (TPH), such as certain alkanes and naphthalene, bis(2-ethylhexyl) phthalate and 2-methylnaphthalene to estimate toxic pound equivalent removals for the decision.

TABLE IV.E.1.—POLLUTANT REMOVALS OF CP OPTIONS AND CUTOFFS CONSIDERED

Option/ Cutoff	Pounds removed	Toxic pound equivalents removed
CP		
No Cutoff	891,572	43,013
1MM/255K	871,422	42,249
3MM/120K	794,448	38,566
5MM/255K	636,660	31,469

As noted above, EPA also estimated the toxic pound equivalent removed by the rule using a toxic weighting factor for the bulk parameter TPH (SGT–HEM). This analysis was not EPA's primary analysis because EPA historically assigns TWFs to the individual constituents and because EPA only identified a very small percentage (approximately two percent) of the constituents comprising TPH (SGT–HEM). To derive a toxic weighting factor for the bulk parameter TPH (SGT–HEM) in this case, EPA extrapolated the toxic weighting factor from the identified constituents to all of the TPH pounds. While EPA thinks that this approach for estimating the toxic pound equivalents for a bulk parameter may be reasonable where a large percentage of constituents can be identified, EPA was not able to do so here. The uncertainty inherent in

extrapolating the toxicity of so minuscule a fraction of TPH constituents to the entire TPH parameter is too great for EPA to use for its primary analysis. Nevertheless, EPA would not have made a different decision based on this alternative analysis.

VI. Pass Through Analysis

Categorical pretreatment standards are technology-based standards for indirect dischargers in an industrial category. Pretreatment Standards for Existing Sources (PSES) and Pretreatment Standards for New Sources (PSNS) are analogous to the BAT (Best Available Technology Economically Achievable) and best available demonstrated technology (BADT for NSPS) for existing and new source direct dischargers, respectively. For the development of the national categorical pretreatment standards, EPA determines whether pollutants discharged to POTWs pass through to waters of the U.S. by comparing the percentage of the pollutant removed by well-operated POTWs achieving secondary treatment with the percentage of the pollutant removed by the candidate BAT or pretreatment technologies. For this industry, there is no candidate BAT technology because there are no known direct dischargers in the industry so EPA has based the pass through analysis on a comparison of the candidate pretreatment technologies to POTW removals. EPA believes that the comparison of well-operated POTWs to the candidate pretreatment technologies instead of BAT is appropriate, since there are no direct dischargers in the industry. In addition, EPA looks at the engineering design aspects of the candidate technologies and the ability of the POTW to treat pollutants to determine if certain pollutants pass through (e.g., soluble organic compounds exhibiting some degree of volatility).

By contrast, General Pretreatment Standards authorize POTWs to set local limits for individual indirect dischargers in order to prevent pass through or interference, or what is necessary for the POTW to meet its NPDES permit limit. Under the General Pretreatment Standards, pass through is defined as a discharge that exits the POTW into waters of the U.S. in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, cause a violation of any requirement of the POTW's NPDES permit.

Results of the pass through analysis show that there is not significant pass through, while pretreatment using CP would produce some additional removal of some pollutants, the removals associated with these pollutants are small in absolute pounds and toxic pound equivalents. For the economically achievable option (see sections IV and V) the removals for the pollutants would be 794,448 lbs/yr (38,566 pound equivalents) or 649 pounds (32 pound equivalents) per year per facility. A full description of the pass through analysis results is shown in the Technical Development Document.

Results of alternative methods for conducting the pass through analysis can be found in the record. The results of conducting the pass through analysis using the other methodologies show only minor differences in pollutant removals.

VII. Cost-Effectiveness Analysis

In addition to calculating pound equivalent (PE) removals, the Agency also calculated the average cost-effectiveness of the various options and cutoffs considered. EPA calculates average cost-effectiveness on the basis of cost per toxic pound equivalent removed. For this rule, EPA did not perform an incremental cost-effectiveness analysis, which evaluates cost-effectiveness incrementally between options along the same treatment train. Average cost-effectiveness, which evaluates an option or cutoff relative to a baseline, or no regulation option, was calculated. The average cost-effectiveness ratio is calculated as the costs of an option at that cutoff in 1981 dollars (the standard year for all cost-effectiveness studies) divided by the total removals calculated under that option and cutoff. Costs evaluated include the pretax direct compliance costs, such as capital expenditures and O&M costs, including compliance monitoring. Table IV.E.1 shows the pollutant removals in pound equivalents and average cost-effectiveness of each regulatory option under each cutoff considered. EPA is showing the average cost-effectiveness results for the DAF options as well as the CP options to illustrate that these options removed less pound equivalents at greater cost than the comparable CP options.

TABLE IV.E.1.—POLLUTANT REMOVALS AND AVERAGE COST-EFFECTIVENESS OF OPTIONS AND CUTOFFS CONSIDERED

Option/Cutoff	Total annual		Average C–E (1981$/lb. eq.)
	PE removed	Cost ($mil. 1981)	
CP			
No Cutoff	43,013	121.5	2,824
1MM/255K	42,249	115.7	2,739
3MM/120K	38,566	88.3	2,290
5MM/255K	31,469	52.7	1,674
DAF			
No Cutoff	35,345	132.1	3,885
1MM/255K	34,640	126.5	3,652
3MM/120K	31,665	98.4	3,108
5MM/255K	25,844	60.1	2,327

As the table shows, the difference between the no cutoff scenario and the most inclusive cutoff (5MM/255K) is only 11,844 PEs under the CP option, representing a 27 percent drop in removals (the results for DAF are similar). EPA considers the options and their cutoffs to be generally cost-ineffective. EPA would expect this to be the case given the ability of POTWs to effectively treat industrial laundry effluent and the resulting small total

number of pound equivalents removed by the rule. Thus, while EPA does not base its decision regarding PSES or PSNS on cost-effectiveness, this analysis confirms that EPA's decision not to issue national categorical pretreatment standards is reasonable.

VIII. Environmental Benefits Analysis

A. Summary

Since EPA is not promulgating national categorical standards for the industrial laundries point source category, EPA estimates that there will be no environmental benefits associated with this action. If EPA were to promulgate national standards based upon the economically achievable CP treatment option presented above, the monetized human health benefits would be nominal. Projected cancer cases would be reduced by far less than one cancer case per year. (0.06 cancer cases from a baseline of 0.17 cancer cases.) EPA's use of a hazard ranking score to evaluate non-cancer effects found no non cancer effects would occur. In terms of other benefits, EPA estimates based on computer modeling, that a rule would remove 16 out of 38 exceedences of Ambient Water Quality Criteria (AWQC) for the protection of aquatic life and/or human health at 12 reaches nationwide, and biosolid quality at eight POTWs would be improved.

This section presents the estimated benefits due to implementation of the economically achievable CP and DAF options. For more details, see the Water Quality Benefits Analysis (WQBA). EPA estimates the monetized CP benefits, which consist of reduced cancer cases and improved biosolid quality to be small, from $0.16 million to $0.79 million ($1998). These benefits are de minimis, and therefore, reinforce EPA's decision made above. Taken in context across all stream reaches nationwide, EPA does not believe that the benefits analysis indicates that industrial laundry discharges present a nationwide problem. Further, EPA expects that the benefits realized from the rule could be realized under the existing pretreatment program, where EPA will work with any POTW that is not meeting its water quality-based permit limit to impose controls as necessary to meet that permit limit. EPA also notes that efforts that would prevent pollution at the source, such as the voluntary program or the efforts of OSW could achieve these same benefits.

Thus, while EPA does not base its decision regarding PSES or PSNS on the benefits described above, EPA does not believe that the benefits of national categorical pretreatment standards for this industry would justify their costs.

B. Changes Since the Proposal

In response to numerous comments received pertaining to the benefits analysis conducted for the Proposed Rule, for the NODA, EPA revised its analysis in two ways: (1) The aquatic life chronic toxicity value of TPH (1,145 μg/L), used to develop a recommended AWQC for TPH and also used to develop a toxic weighting factor for TPH, is based on a weighted average of the toxicity of 13 identified constituents of TPH (as compared to the 56 μg/L based on soluble hydrocarbons used for the proposal); (2) the POTW removal percentage of TPH was increased to 74% from 65%; and (3) the POTW removal percentages of other pollutants were updated.

The overall impact of the changes related to TPH is a decrease in the number of reaches with modeled baseline water quality criterion toxicity exceedences in the baseline from 78 at proposal to 12 at final. The water quality exceedences predicted for the final action are for five Pollutants Of Concern (POCs) (mercury, silver, tetrachloroethene, chloroform and bis (2-ethylhexyl) phthalate) rather than for TPH. These pollutants from industrial laundries are modeled to be present in POTW effluent in concentrations above recommended Water Quality Criteria (WQC) for either chronic toxicity to aquatic organisms or human health at baseline conditions for three sample reaches that represents 12 reaches nationwide.

C. Benefits of Action

1. Reduced Pollutant Discharges

EPA considered the benefits that could result from reductions in industrial laundry pollutant discharges to POTWs, including: improved quality of freshwater, estuarine, and marine ecosystems; reduced risks to human health through consumption of fish or water taken from affected waterways; reduced cost of disposal or use of municipal sewage sludge that is affected by industrial laundry pollutant discharges; and reduced occurrence of biological inhibition of activated sludge at POTWs.

For the industrial laundry industry, EPA evaluated the effects of POTW wastewater discharges of 72 pollutants on receiving stream water quality at current levels of treatment and at a number of proposed PSES limits. EPA assessed the benefits from the modeled pollutant reductions in three broad classes: human health, ecological, and economic productivity benefits. However, because of data limitations and the understanding of how society values some of these benefit categories, EPA was not able to analyze all of these categories with the same level of rigor. At the highest level of analysis, EPA was able to quantify the expected effects for some benefit categories and attach monetary values to them, such as a nominal value for reduction in cancer risk from fish consumption and reduced costs of managing and disposing of POTW sewage sludge. For other benefit categories, EPA was able to quantify expected effects but not able to estimate monetary values for them. These benefit categories include reduced exceedences of biological inhibition criteria at POTWs and changes in human health and aquatic life risk indicators. Finally, non-quantified, non-monetized benefit categories include enhanced water-dependent recreation other than fishing.

2. Reduced Human Health Risk

EPA projects that the CP and DAF options would eliminate far less than 1 cancer case per year (0.06 cancer cases from a baseline of 0.17 cancer cases). This translates into $0.15 million to $0.78 million ($1998) in benefits. Further, based on risk reference doses in conjunction with in-stream pollutant concentrations, EPA modeled no non-cancer human health effects. Both of these analyses are based on exposure of recreational and subsistence anglers and their families to fish. With respect to ambient water quality criteria for human health, EPA modeled exceedences for three pollutants at 12 reaches nationwide.

To estimate the reduced risk of non-cancer health effects (e.g., systemic effects, reproductive toxicity, and developmental toxicity) from fish and water consumption for each option, EPA used risk reference doses, in conjunction with in-stream pollutant concentrations, to calculate a hazard score. A value of one or greater for a hazard score indicates the potential for non-cancer hazards to occur. The hazard score, which EPA calculated by summing over all pollutants, was less than one for baseline conditions as well as for all treatment options.

At current discharge levels, in-stream concentrations of bis(2-ethylhexyl)phthalate, chloroform, and tetrachloroethene are projected to exceed human health criteria (developed for consumption of water and organisms) in 12 receiving streams nationwide for a total of 21 exceedences. The CP (and DAF) option(s) would eliminate the occurrence of bis(2-ethylhexyl)

phthalate concentrations in excess of the human health-based AWQC in eight of the 12 affected streams.

3. Improved Recreational Fishing Opportunities

Although the rule would eliminate 16 out of 38 AWQC exceedences for the protection of human health and/or aquatic life, the rule would not eliminate all AWQC at any one reach. Currently EPA has no methodology to monetize the elimination of these AWQC unless they are entirely eliminated for a waterbody and thus EPA was not able to monetize these benefits.

4. Reduced Impacts on POTWs

EPA expects that reduced effluent discharges from the industrial laundries industry would have a minimal impact on POTWs. EPA estimates a $0.006 million to 0.01 million ($1998) annual benefit due to improved biosolids quality. Discussion with POTW operators support EPA's position that industrial laundry discharges usually are not problematic to POTWs.

a. Modeled POTW Impacts

EPA evaluated whether industrial laundry pollutants may interfere with POTWS by impairing their treatment effectiveness or causing them to violate applicable CWA sewage sludge requirements for their chosen sludge disposal method. For the POTW impact analysis, EPA analyzed two benefit categories: (1) Reduced costs to public sewage systems for managing and disposing of the sewage sludge that result from treatment of effluent discharges from industrial laundries; and (2) a reduction in risk of biological inhibition of activated sludge.

EPA has promulgated regulations establishing standards for sewage sludge when it is applied to the land, disposed of at dedicated sites (surface disposal), and incinerated (40 CFR Part 503). For a discussion of these requirements see the final WQBA.

EPA estimated sewage sludge concentrations of ten metals for sample facilities under baseline discharge levels. EPA compared these concentrations with the relevant metal concentration limits for the following sewage sludge management options: Land Application-High (Concentration Limits), Land Application-Low (Ceiling Limits), and Surface Disposal. In the cutoff 2 (3 mm/120K) baseline case, EPA estimated that concentrations of one pollutant (lead) at 10 POTWs would fail the Land Application-High limits while meeting the Land Application-Low limits. EPA estimated that no POTWs would fail any of the Surface Disposal limits.

EPA estimated that both the CP and DAF options would permit 10 POTWs to meet the Land Application-High limits and that an estimated 6,100 dry metric tons (DMT) of annual disposal of sewage sludge would newly qualify for beneficial use under the Land Application-High limits. EPA estimated the reduced time required for record-keeping for sewage sludge meeting the more stringent Land Application-High Criteria, and, on this basis, developed a partial estimate of monetary benefits from reduced metals contamination of sewage sludge. For all options, the regulation is expected to result in benefits from sewage sludge quality improvements of $0.006 to $0.01 million ($1998) annually.

EPA estimated potential inhibition of POTW operations by comparing predicted POTW influent concentrations to available inhibition levels for 45 pollutants. EPA based the POTW inhibition and sludge values upon engineering and health estimates contained in guidance or guidelines published by EPA and other sources. At current discharge levels, EPA estimates POTW concentrations of lead exceed biological inhibition criteria at two POTWs. Under both treatment options, these potential inhibition problems would not be eliminated. Note, however, that these are modeled potential instances of inhibiting, not actual documented cases. Whether inhibition at either of these facilities would actually occur depends on a variety of site specific factors.

b. Discussions with POTW Operators and Pretreatment Coordinators

To better understand the frequency and characteristics of problems to POTWs resulting from industrial laundry discharges, EPA obtained information from discussions with EPA regional staff and POTW operators. Of 37 operators at POTWs that receive discharges from industrial laundries, 11 POTW operators described their facilities as having encountered some difficulty in the past resulting from industrial laundry discharges, while the remaining 26 reported no problems from industrial laundry discharges. All the POTWs with reported past difficulties have solved their problems by setting local discharge limits.

IX. Non-Water Quality Environmental Impacts

EPA has considered the non-water quality environmental impacts associated with the various technology options considered as well as the environmental improvement that could be realized through the industry voluntary program. Non-water quality environmental impacts are impacts (both good and bad) of the technology options on the environment that are not directly associated with wastewater. Non-water quality environmental impacts include changes in energy consumption, air emissions, and solid waste generation of oil and sludge. Based on these analyses, EPA finds that the non-water quality environmental impacts resulting from the regulatory options are acceptable.

A. Air Pollution

Industrial laundry facilities generate wastewater that contains significant concentrations of organic compounds, some of which are on the list of Hazardous Air Pollutants (HAPs) in Title 3 of the Clean Air Act Amendments (CAAA) of 1990. Atmospheric exposure of the organic-containing wastewater may result in volatilization of both volatile organic compounds (VOCs) and HAPs from the wastewater. VOCs and HAPs are emitted from the wastewater beginning at the point where the wastewater first contacts ambient air. Thus, VOCs and HAPs may be of concern immediately as the wastewater process is discharged from the process unit. Emissions occur from wastewater collection units such as process drains, manholes, trenches, and sumps, and from wastewater treatment units such as screens, equalization basins, DAF and CP units, and any other units where the wastewater is in contact with the air.

EPA believes that air emissions from industrial laundry wastewater would have been similar before and after implementation of a rule based on DAF or chemical precipitation technologies because the wastewater from all industrial laundries currently has contact with ambient air as it flows to the POTW. At facilities that do not currently have treatment on site, the wastewater typically flows from the washers to an open or partially open catch basin, then to the sewer and on to the POTW, where the wastewater is typically treated in open aerated basins or lagoons. Air emissions from the wastewater occur as the wastewater flows from the facility to the POTW. At a facility with treatment, the wastewater would have more contact with air while still at the facility, as it is treated in open units such as equalization basins and DAF or chemical precipitation units prior to flowing through the sewer to the POTW. Air emissions from the treated wastewater occur at the treatment units at the facility, as well as while the

wastewater flows to the POTW. Thus, EPA expects that the location of a portion of air emissions from industrial laundry wastewater would shift from the POTW collection and treatment system to the facility treatment system, but EPA believes that the overall amount of air emissions from industrial laundries wastewater would not change. Air emissions resulting from increased energy use are discussed in the Technical Development Document.

EPA believes that no adverse air impacts would have been expected to occur due to a rule based on CP or DAF. Thus, because EPA would not have expected an overall increase in the amount of air emissions as a result of an implemented rule and based on EPA's determination of the total emissions from one industrial laundry's untreated wastewater, EPA finds that the air emissions impacts of all of the regulatory options under consideration would not have been unacceptable.

B. Solid Waste Generation

EPA considered regulatory options based on DAF and chemical precipitation technologies followed by dewatering of the sludge generated from these technologies. Based on information collected in the industrial laundries detailed questionnaires and from data submitted in comments, most industrial laundry sludge from CP or DAF treatment systems is disposed of in nonhazardous landfills.

EPA estimates that the incremental increase in sludge generation from the CP technology options (not including savings in the volume of sludge generated at POTWs that would have resulted from the implementation of the technology options) would have been a maximum of 173,000 tons per year of wet sludge, or 60,600 tons per year of dry solids. EPA estimates that the incremental increase in sludge generation from the DAF technology option would have been a maximum of 128,000 tons per year of wet sludge, or 70,600 tons per year of dry solids. For more details, see Chapter 10 of the Technical Development Document. Approximately 430 million tons (dry basis) of industrial nonhazardous waste was sent to landfills in the U.S. in 1986 (Subtitle D Study Phase I: Report EPA No. 530SW86–054). Implementation of these technology options would have resulted in at most only a 0.014% increase in sludge generation for CP and 0.016% for DAF. Data from the Waste Treatment Industry Phase II: Landfills effluent guidelines project suggest that current landfill capacity can accept this increase in solid waste generation. Further, the estimates presented here are likely to significantly overstate any net increase in sludge generation since they do not factor in decreases in sludge generation at POTWs. In general, EPA would expect these decreases to partially offset increases at individual pretreatment locations. Therefore, EPA believes the solid waste impacts of all of the regulatory options under consideration would have been acceptable.

C. Energy Requirements

EPA estimates that implementation of a rule would have resulted in a net increase in energy consumption for the industrial laundries industry. The incremental increase is based on electricity used to operate wastewater treatment equipment at facilities that are not currently operating either DAF or chemical precipitation treatment systems.

EPA estimates that the incremental increase in electricity use for the industrial laundries industry as a result of an implemented rule would have been a maximum of 69.5 million kilowatt hours per year for CP and 82.8 million kilowatt hours per year for DAF. Based on a 1996 survey of industrial laundries conducted by industry, industrial laundries use 31.2 trillion BTUs per year, or 9.1 billion kilowatt hours per year. EPA estimates that the incremental energy increase for CP and DAF, respectively, would have been 0.76% and 0.91% of electricity currently used by the industrial laundries industry to operate all washing, drying, and treatment equipment. In addition, Approximately 2,805 billion kilowatt hours of electric power were generated in the U.S. in 1990.

The incremental increase in energy use for the industrial laundries industry for CP and DAF, respectively, would have corresponded to 0.0025% and 0.0030% of the total national energy use. For these reasons, EPA believes that the energy impacts of all of the regulatory options under consideration would have been acceptable.

X. Related Acts of Congress and Executive Orders

EPA's final action not to establish national categorical pretreatment standards does not constitute a rule under section 551 of the Administrative Procedure Act. 5 U.S.C. § 551. Hence, requirements of other regulatory statutes and Executive Orders that generally apply to rulemakings (e.g., the Unfunded Mandate Reform Act) do not apply to this final action.

Dated: June 30, 1999.

Carol M. Browner,

Administrator.

Appendix A to the Notice—Lists of Abbreviations, Acronyms, Definitions and Other Terms Used in This Notice

Administrator—The Administrator of the U.S. Environmental Protection Agency

Agency—The U.S. Environmental Protection Agency

BAT—Best Available Technology Economically Achievable

BMPs—Best Management Practices—As authorized by sections 304 (e) and 402 of the CWA. Gives the Administrator the authority to publish regulations to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage.

CBI—Confidential Business Information

C–E—Cost-Effectiveness Analysis

Cooperative—An enterprise or organization owned by and operated for the benefit of those using its services. For purposes of this rule, a laundry service like facilities owned by and/or operated for the benefit of those facilities.

CP—Chemical Precipitation.

CWA—Clean Water Act. The Federal Water Pollution Act, 33 U.S.C. 1251 *et seq.*

DAF—Dissolved Air Flotation

Dry Cleaning—The cleaning of fabrics using an organic-based solvent rather than water-based detergent solution.

EA—Economic Assessment.

Effluent—Wastewater discharges.

EPA—The U.S. Environmental Protection Agency.

E.O.—Executive Order.

Facility—A facility is all contiguous property owned, operated, leased or under the control of the same person, or corporate or business entity. The contiguous property may be divided by public or private right-of-way.

FTE—Full-time Equivalent.

HEM—N-Hexane Extractable Material.

Indirect Discharger—A facility that discharges or may discharge pollutants into a publicly owned treatment works.

IL—Industrial Laundry.

Industrial laundry facility—any facility that launders industrial textile items from off-site as a business activity. Either the industrial laundry facility or the off-site customer is may own the industrial laundered textile items. This includes textile rental companies that perform laundering operations.

Industrial textile items—items such as, but are not limited to: shop towels, printer towels, furniture towels, rags, mops, mats, rugs, tool covers, fender covers, dust-control items, gloves, buffing pads, absorbents, uniforms, and filters.

Laundering—washing items with water, including water washing following dry cleaning.

Linens—items such as sheets, pillow cases, blankets, bath towels and washcloths, hospital gowns and robes, tablecloths, napkins, tableskirts, kitchen textile items, continuous roll towels, laboratory coats, family laundry, executive wear, mattress pads, incontinence pads, and diapers. This list is intended to be an inclusive list.

LTA—Long Term Average. For purposes of the pretreatment standards, average pollutant levels achieved over a period of time by a facility , subcategory, or technology option.

NTTAA—National Technology Transfer and Advancement Act.

New Source—''New source'' is defined in section 306 of the CWA and at 40 CFR 122.12 and 122.29(b).

NODA—Notice of Data Availability

Nonconventional pollutants—Pollutants that are neither conventional pollutants nor priority pollutants listed at 40 CFR part 401.

Non-detect value—A concentration-based measurement reported below the sample specific detection limit that can reliably be measured by the analytical method for the pollutant.

Non-water quality environmental impact—An environmental impact of a control or treatment technology, other than to surface waters (including energy requirements) or an environment improvement of a decision not to regulate.

NPDES—The National Pollutant Discharge Elimination System authorized under section 402 of the CWA. NPDES requires permits for discharge of pollutants from any point source into waters of the United States.

O&G—Oil and Grease

OMB—Office of Management and Budget.

Off-site—''Off-site'' means outside the boundaries of a facility.

On-site—''On-site'' means within the boundaries of a facility.

OSW—USEPA Office of Solid Waste.

POTW/POTWs—Publicly owned treatment works, as defined at 40 CFR 403.3(o).

Pretreatment standard—a regulation that establishes industrial wastewater effluent quality required for discharge to a POTW.

Priority pollutants—The toxic pollutants designated by EPA as priority in 40 CFR part 423, Appendix A.

PSES—Pretreatment Standards for Existing Sources on indirect discharges, under section 307(b) of the CWA.

PSNS—Pretreatment Standards for New Sources of indirect discharges, under section 307(b) and (c) of the CWA.

RFA—Regulatory Flexibility Act.

SBA—Small Business Administration.

SBREFA—Small Business Regulatory Enforcement Fairness Act.

SGT–HEM—Silica Gel Treated N-Hexane Extractable Material.

SIC—Standard Industrial Classification.

Small Business—Businesses with annual revenues less than $10.5 million. This is the higher of the two Small Business Administration definition of small business for SIC codes 7218 and 7213.

TPH—Total Petroleum Hydrocarbons.

TRSA—Textile Rental Services Association of America.

TSS—Total suspended solids.

TWF—Toxic weighting factor.

UMRA—Unfunded Mandates Reform Act (PL 104–4), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector.

UTSA—Uniform and Textile Service Association.

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federal register

Wednesday
August 18, 1999

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 119, 121 et al.
Aging Airplane Safety; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 119, 121, 129, 135, and 183

[Docket No. FAA–1999–5401; Notice No. 99–02]

RIN 2120–AE42

Aging Airplane Safety

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On April 2, 1999, the FAA published a Notice of Proposed Rulemaking (NPRM) regarding aging aircraft safety and invited comments for a 120-day period. The comment period closed on August 2, 1999; however, the FAA is reopening the comment period for an additional 60 days in response to a request from the National Air Transportation Association (NATA). Per NATA, the reopening of the comment period is needed to allow small businesses whose operations are especially busy during the spring and summer additional time to evaluate the extensive proposal.

DATES: Comments must be received on or before October 18, 1999.

ADDRESSES: Comments on the proposed rulemaking should be mailed or delivered, in triplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–1999–5401, 400 Seventh St. SW., Room Plaza 401, Washington, DC 20590. Comments also may be submitted electronically to the following Internet address: 9–NPRM–CMTS@faa.gov. Comments may be filed and/or examined in Room Plaza 401, between 10:00 a.m. and 5:00 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Frederick Sobeck, Aircraft Maintenance Division (AFS–300), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–7355.

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 desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this NPRM may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this NPRM must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–1999–5401.'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

Using a modem and suitable communications software, an electronic copy of this document may be downloaded from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339), or the **Federal Register's** electronic bulletin board service (telephone: (202) 512–1661).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the Government Printing Office's webpage at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future NPRMs should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On March 19, 1999, the FAA issued NPRM 99–02 (63 FR 16298, April 2, 1999). The NPRM proposed to require all airplanes operated under part 121 of Title 14, Code of Federal Regulations (14 CFR), all U.S.-registered multiengine airplanes operated under 14 CFR part 129, and all multiengine airplanes used in scheduled operations under 14 CFR part 135 to undergo records reviews and inspections by the Administrator after their 14th year in service to ensure that the maintenance of all these airplanes' age-sensitive parts and components has been adequate and timely. The comment period closed August 2, 1999.

By letter dated July 26, 1999, the NATA requested that the comment period be extended by an additional 60 days in order to give the companies of small businesses whose operations are especially busy during the spring and summer additional time to complete an economic analysis, audit the impact of this proposal on scheduled air carriers, evaluate the economic impact of this proposal on aviation businesses, and to develop meaningful comments to this proposal.

The FAA finds that it is in the public interest to reopen the comment period for sixty (60) days.

Issued in Washington, DC, on August 12, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

[FR Doc. 99–21379 Filed 8–17–99; 8:45 am]

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August 18, 1999

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 27

Normal Category Rotorcraft Maximum Weight and Passenger Seat Limitation; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 27

[Docket No. 29247; Amendment No. 27–37]

RIN 2120–AF33

Normal Category Rotorcraft Maximum Weight and Passenger Seat Limitation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the airworthiness standards for normal category rotorcraft. This rule increases the maximum weight limit from 6,000 to 7,000 pounds, updates the safety standards, and adds a passenger seat limitation of nine. These changes offset the increased weight imposed by additional requirements such as recent requirements to improve occupant survivability in the event of an accident.

EFFECTIVE DATE: October 18, 1999.

FOR FURTHER INFORMATION CONTACT: Lance Gant, Rotorcraft Standards Staff, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0110, telephone (817) 222–5114, fax 817–222–5959.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), or the Government Printing Office's (GPO) electronic bulletin board service (telephone: 202–215–1661).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by submitting a request to the FAA, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on the mailing list for future Notices of Proposed Rulemaking (NPRMs) and Final Rules should request from ARM–1 a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Small Entity Inquiries

If your organization is a small entity and you have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM–27, Federal Aviation Administration (FAA), 800 Independence Avenue, SW, Washington, DC 20591, 888–551–1594. Internet users can find additional information on SBREFA in the ''Quick Jump'' section of the FAA's web page at http://www.faa.gov and may send electronic inquires to the following Internet address: 9–AWA–SBREFA@faa.gov.

Background

This final rule is based on NPRM No. 98–4 published in the **Federal Register** on June 25, 1998 (63 FR 34610). That notice proposed to amend the airworthiness standards for normal category rotorcraft, 14 CFR part 27 (part 27), based on ARAC recommendations.

A previous notice in the **Federal Register** (60 FR 4221, January 20, 1995) established the ARAC Gross Weight and Passenger Issues for Rotorcraft Working Group (GWWG). The notice tasked the GWWG to determine the appropriate course of action for increasing the maximum weight and passenger seat limitations for normal category rotorcraft. The GWWG included representatives from manufacturers. Aerospace Industries Association of America (AIA), the European Association of Aerospace Industries (AECMA), the European Joint Aviation Authorities (JAA), Transport Canada, and the FAA Rotorcraft Directorate.

The GWWG submitted recommendations to increase the maximum gross weight limitation to 7,000 pounds and to add a passenger seat limitation of nine. The changes compensate for the increases in weight resulting from additional part 27 requirements and operational and design trends. An increase in maximum weight to 7,000 pounds will allow the design and production of helicopters to carry nine passengers.

The GWWG recommended additional requirements to part 27 to support a potential increase of passengers if the changes (1) related to safety for additional passengers, (2) related to safety for increased weight, or (3) resulted in little or no increase in cost of weight.

The GWWG made the following the following recommendations regarding previously certificate rotorcraft: (1) Limit certification to seven passengers (regardless of maximum weight), (2) permit an increase in passengers only if the applicant revises the certification basis and complies with part 27 at this amendment level, and (3) permit an applicant to increase the rotorcraft maximum weight above 6,000 pounds if the seating capacity remains as certificated on October 18, 1999.

The GWWG made the preceding recommendations to the ARAC. The ARAC recommended that the FAA revise the normal category rotorcraft airworthiness standards. The JAA will harmonize the Joint Aviation Requirements (JAR) concurrently with this final rule. The FAA evaluated the ARAC recommendations, made its proposals in NPRM 98–4, and invited comments.

Discussion of Comments

The FAA considered comments from all four commenters. Two commenters favored adopting the rule as proposed. Two other commenters agreed that rule changes were needed but offered the following comments:

One commenter asked why part 27 did not allow a weight limit of 12,500 pounds as does part 23. Allowing a weight limit of 12,500 pounds is beyond the scope of the current rulemaking. The FAA has not ruled out future action to further increase the normal category weight limit. However, further increases in weight limit may necessitate additional requirements to part 27 to maintain an acceptable level of safety.

The commenter wanted the rule to require crash resistant fuel cells. The FAA agrees that crash resistant fuel cells enhance safety and currently requires crash resistant fuel systems for rotorcraft certificated to Amendment 27–30 dated October 2, 1994 (59 FR 50386).

The commenter stated that the sentence ''This must be shown by test'' proposed in § 27.805(b) was open to interpretation. The FAA disagrees. This language mirrors § 29.805(b) in effect since February 25, 1968. To date, there has been no confusion as to its interpretation. Advisory material covering this requirement is readily available. The words ''This must be shown by test'' mean that emergency evacuations must be physically performed during type certification testing.

The commenter stated, ''The inclusion of as many exit routes as possible would be nice, but things such as rotor clearance (in the case of a top hatch) would need addressing.'' The FAA agrees that a thorough evaluation of any crew emergency exit configuration is needed. An evaluation of the location of the exits in

determining compliance with § 27.805, paragraphs (a) and (b), would include consideration of possible obstructions that may render an exit unusable or hazardous, for example, the proximity of the main rotor in the case of a top hatch.

The commenter further suggested using wording similar to part 23 for pilot compartment emergency exits in § 27.805. The wording proposed by the FAA in § 27.805, paragraphs (a) and (b) is similar to the wording in § 23.805, paragraphs (a) and (b). The remainder of proposed § 27.805 is the same as part 23 and only diverges to address differences in aircraft category. Therefore, § 27.805 is adopted as proposed.

Another commenter suggested adding the word ''on'' after ''of this part in effect'' in § 27.2(b)(1) and deleting the word ''previously'' in § 27.2(b)(2)(i). The FAA agrees and has incorporated the nonsubstantive changes.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), there are no requirements for information collection associated with this final rule.

International Compatibility

The FAA has reviewed corresponding International Civil Aviation Organization international standards and recommended practices and JAA regulations, where they exist, and has identified no material differences in these amendments and the foreign regulations.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. And fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, 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 $100 million or more annually (adjusted for inflation). In conducting these analyses, the FAA has determined that this final rule: (1) generates benefits that justify its costs and is not a ''significant regulatory action'' as defined in Executive Order 12866 or as defined in DOT's Regulatory Policies and Procedures; (2) does not have a significant economic impact on a substantial number of small entities; (3) has minimal effects on international trade; and (4) does not contain a significant intergovernmental or private sector mandate. These analyses, available in the docket, are summarized as follows.

Cost-Benefit Analysis

The final rule adds passenger safety related requirements commensurate with allowing some rotorcraft to increase passenger capacity. With one exception, no part 29 rotorcraft currently being manufactured has a maximum gross weight of fewer than 7,000 pounds. As the cost per pound per mile decreases as the load approaches a rotorcraft's maximum carrying capacity, the absence of part 29 rotorcraft in the 6,000 pound to 7,000 pound range indicates that this gap will be filled more efficiently by rotorcraft certificated under part 27. This final rule permits part 27 rotorcraft to fill this gap and to provide cost savings to some manufacturers and operators. It also eliminates an applicant's need to apply for an exemption to the maximum weight requirement for a future part 27 type certificate and thereby saves between $10,000 and $18,000 in paperwork costs per eliminated exemption application. In addition, it eliminates the FAA's time and resources to review and to process the exemption application. Thus, the FAA concludes that this final rule imposes no or negligible compliance costs and will generate some cost savings.

Safety benefits will arise as manufacturers develop new, heavier part 27 rotorcraft (that will be certificated based on the most recent part 27 standards) to replace some older part 27 certificated models. The increased weight also benefits some part 27 Emergency Medical Services (EMS) rotorcraft that now must limit fuel loads and/or their effective ranges in order to carry all of the necessary medical equipment while remaining under the 6,000-pound maximum weight. Finally, the increased allowable payload weight may permit the transport of more than one victim, an important consideration for more rapid transportation when there are multiple victims and only one available EMS rotorcraft.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination finds that it will, the agency must prepare a Regulatory Flexibility Analysis (RFA) as described in the Act.

The FAA conducted the required review of this revised rule and determined that it does not have a significant economic impact on a substantial number of small entities. The revised rule is expected to produce annualized incremental cost savings of $10,000 to $18,000 per applicant. While this would be beneficial to a rotorcraft manufacturer, it does not affect either the competitiveness or solvency of any small business. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the Administrator to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and those affecting the import of foreign goods and services into the United States.

In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners. Significant cost savings can result from this, both to American companies doing business in foreign markets, and foreign companies doing business in the United States.

This final rule is harmonized with the JAR and will thereby reduce differences between U.S., European, and Canadian

airworthiness standards and will reduce barriers to trade.

Federalism Implications

The regulations 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 rule would not have sufficient federalism implications to warrant the preparation of the Federalism Assessment.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects by any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA determines that this rule will not contain a significant intergovernmental or private sector mandate as defined by the Act.

Environmental Analysis

FAA Order 1050.1D defines actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the rulemaking action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (42 U.S.C. 6362). It has been determined that it is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 27

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 27 of Chapter 1, Title 14 of the Code of Federal Regulations as follows:

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

1. The authority citation for part 27 continues to read as follows:

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

2. Revise § 27.1(a) to read as follows:

§ 27.1 Applicability.

(a) This part prescribes airworthiness standards for the issue of type certificates, and changes to those certificates, for normal category rotorcraft with maximum weights of 7,000 pounds or less and nine or less passenger seats.

* * * * *

3. Amend § 27.2 by redesignating the introductory text and paragraphs (a), (b), (c), (d) introductory text, (d)(1), and (d)(2) as paragraphs (a) introductory text, (a)(1), (a)(2), (a)(3), (a)(4) introductory text, and (a)(4)(i) and (a)(4)(ii) respectively and adding a new paragraph (b) to read as follows:

§ 27.2 Special retroactive requirements.

* * * * *

(b) For rotorcraft with a certification basis established prior to October 18, 1999—

(1) The maximum passenger seat capacity may be increased to eight or nine provided the applicant shows compliance with all the airworthiness requirements of this part in effect on October 18, 1999.

(2) The maximum weight may be increased to greater than 6,000 pounds provided—

(i) The number of passenger seats is not increased above the maximum number certificated on October 18, 1999, or

(ii) The applicant shows compliance with all of the airworthiness requirements of this part in effect on October 18, 1999.

4. Amend § 27.610 by revising the section heading and by adding paragraph (d) to read as follows:

§ 27.610 Lightning and static electricity protection.

* * * * *

(d) The electrical bonding and protection against lightning and static electricity must—

(1) Minimize the accumulation of electrostatic charge;

(2) Minimize the risk of electric shock to crew, passengers, and service and maintenance personnel using normal precautions;

(3) Provide an electrical return path, under both normal and fault conditions, on rotorcraft having grounded electrical systems; and

(4) Reduce to an acceptable level the effects of lightning and static electricity on the functioning of essential electrical and electronic equipment.

5. Add § 27.805 to read as follows:

§ 27.805 Flight crew emergency exits.

(a) For rotorcraft with passenger emergency exits that are not convenient to the flight crew, there must be flight crew emergency exits, on both sides of the rotorcraft or as a top hatch in the flight crew area.

(b) Each flight crew emergency exit must be of sufficient size and must be located so as to allow rapid evacuation of the flight crew. This must be shown by test.

(c) Each flight crew emergency exit must not be obstructed by water or flotation devices after an emergency landing on water. This must be shown by test, demonstration, or analysis.

6. Revise § 27.807 to read as follows:

§ 27.807 Emergency exits.

(a) *Number and Location.*

(1) There must be at least one emergency exit on each side of the cabin readily accessible to each passenger. One of these exits must be usable in any probable attitude that may result from a crash;

(2) Doors intended for normal use may also serve as emergency exits, provided that they meet the requirements of this section; and

(3) If emergency flotation devices are installed, there must be an emergency exit accessible to each passenger on each side of the cabin that is shown by test, demonstration, or analysis to;

(i) Be above the waterline; and

(ii) Open without interference from flotation devices, whether stowed or deployed.

(b) *Type and operation.* Each emergency exit prescribed by paragraph (a) of this section must—

(1) Consist of a movable window or panel, or additional external door, providing an unobstructed opening that will admit a 19-by 26-inch ellipse;

(2) Have simple and obvious methods of opening, from the inside and from the outside, which do not require exceptional effort;

(3) Be arranged and marked so as to be readily located and opened even in darkness; and

(4) Be reasonably protected from jamming by fuselage deformation.

(c) *Tests.* The proper functioning of each emergency exit must be shown by test.

(d) *Ditching emergency exits for passengers.* If certification with ditching provisions is requested, the markings required by paragraph (b)(3) of this section must be designed to remain visible if the rotorcraft is capsized and the cabin is submerged.

§ 27.853 [Amended]

7. Amend § 27.853 in paragraph (a) by removing the word ''flash'' and inserting the word ''flame'' in its place and by removing and reserving paragraph (b).

8. Section 27.1027 is amended by redesignating paragraphs (a) through (d) as paragraphs (b) through (e); in redesignated paragraph (c)(2), by removing ''(b)(3)'' and adding ''(c)(3)'' in its place; in redesignated paragraph (d) by removing ''(b)'' each place it appears and adding ''(c); and by adding a new paragraph (a) to read as follows:

§ 27.1027 Transmissions and gearboxes: General.

(a) The lubrication system for components of the rotor drive system that require continuous lubrication must be sufficiently independent of the lubrication systems of the engine(s) to ensure lubrication during autorotation.

* * * * *

9. In § 27.1185, a new paragraph (d) is added to read as follows:

§ 27.1185 Flammable fluids.

* * * * *

(d) Absorbent materials close to flammable fluid system components that might leak must be covered or treated to prevent the absorption of hazardous quantities of fluids.

10. Revise § 27.1187 to read as follows:

§ 27.1187 Ventilation and drainage.

Each compartment containing any part of the powerplant installation must have provision for ventilation and drainage of flammable fluids. The drainage means must be—

(a) Effective under conditions expected to prevail when drainage is needed, and

(b) Arranged so that no discharged fluid will cause an additional fire hazard.

11. In § 27.1305, add a new paragraph (v) to read as follows:

§ 27.1305 Powrplant instruments.

* * * * *

(v) Warning or caution devices to signal to the flight crew when ferromagnetic particles are detected by the chip detector required by § 27.1337(e).

12. Revise § 27.1337(e) to read as follows:

§ 27.1337 Powerplant instruments.

* * * * *

(e) Rotor drive system transmissions and gearboxes utilizing ferromagnetic materials must be equipped with chip detectors designed to indicate the presence of ferromagnetic particles resulting from damage or excessive wear. Chip detectors must—

(1) Be designed to provide a signal to the device required by § 27.1305(v) and be provided with a means to allow crewmembers to check, in flight, the function of each detector electrical circuit and signal.

(2) [Reserved]

Issued in Washington, DC on August 12, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–21378 Filed 8–17–99; 8:45 am]

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federal register

Wednesday
August 18, 1999

Part VII

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Nationally Recognized Testing Laboratories; Fees; Reduction of Public Comment Period on Recognition Notices; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. NRTL 95–F–1]

Nationally Recognized Testing Laboratories; Fees; Reduction of Public Comment Period on Recognition Notices

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Under the requirements for nationally recognized testing laboratories (NRTLs), the Occupational Safety and Health Administration (OSHA) recognizes private sector laboratories to test and certify the safety of certain equipment or products that will be used in the workplace. Such testing and certification is required by various OSHA safety standards. These laboratories are referred to as Nationally Recognized Testing Laboratories, or NRTLs. OSHA proposes to establish fees for specific services the Agency provides to these NRTLs. Congress has authorized OSHA to charge fees for these services since 1997 in bill language in its annual appropriations bills, most recently in Public Law 105–277.

These services are: Processing applications for the initial recognition of an organization as an NRTL, or for expansion or renewal of an existing NRTL's recognition, and performing audits (post-recognition reviews) of NRTLs to determine whether they continue to meet the requirements for recognition. Since the inception of the NRTL Program in 1988, OSHA has provided these services at no charge to the NRTLs.

In addition, OSHA proposes to amend provisions of the recognition process to reduce the public comment period on the ''preliminary'' **Federal Register** notices that OSHA must publish concerning the recognition of an NRTL from 60 days to 30 days for initial recognition and to 15 days for expansions and renewals.

DATES: Written comments must be received on or before October 4, 1999.

ADDRESSES: Submit comments on the proposed rule in duplicate or 1 original (hardcopy) and 1 disk (5¼ or 3½) in WP 5.0, 5.1, 6.0, 6.1, 8.0 or ASCII to: Docket Officer, Docket NRTL–95-F–1, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, N.W.,Washington, D.C. 20210. The phone number for the OSHA Docket Office is (202) 693–2350. You may transmit your written comments of 10 pages or less by facsimile (fax) to the Docket Office at (202) 693–1648, provided you send an original and one (1) copy to the Docket Office thereafter. You may also submit comments electronically using the following web page address: *http://www.osha-slc.gov/e-comments/e-comments-nrtl.html.* If your submission contains attached electronic files, the files must be in WordPerfect 5.0, 5.1, 6.0, 6.1, 8.0 or ASCII. When submitting a comment electronically, please include your name and address.

Submit, in duplicate, any information not contained on disk or not provided electronically (e.g., studies, articles). Written submissions must clearly identify the issues or specific provisions of the proposal which are addressed and the position taken with respect to each issue or provision. The data, views, and arguments that you submit will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie Friedman, Office of Public Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue, NW, Washington, D.C., 20210, Telephone: (202) 693–1999, or Mr. Bernard Pasquet, Office of Technical Programs and Coordination Activities, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3653, 200 Constitution Avenue, NW, Washington, D.C., 20210, telephone: (202) 693–2110. Our web page includes information about the NRTL Program . (See http://www.osha-slc.gov/dts/otpca/nrtl/index.html or see http://www.osha.gov and select ''Programs'')

SUPPLEMENTARY INFORMATION:

I. Background

Many of OSHA's safety standards require equipment or products that are going to be used in the workplace to be tested and certified to help ensure they can be used safely. Products or equipment that have been tested and certified must have a certification mark on them. An employer may rely on the certification mark, which shows the equipment or product has been tested and certified in accordance with OSHA requirements. In order to ensure that the testing and certification has been done appropriately, OSHA has implemented the NRTL Program. The NRTL Program establishes the criteria that an organization must meet in order to be recognized as an NRTL.

The NRTL Program requirements are in 29 CFR 1910.7, ''Definition and requirements for a nationally recognized testing laboratory.'' To be recognized by OSHA, an organization must: (1) Have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of the manufacturers, vendors, and users of the products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) establish effective reporting and complaint handling procedures.

OSHA requires NRTL applicants (i.e., organizations seeking initial recognition as an NRTL) to provide detailed information about their programs, processes and procedures in writing when they apply for initial recognition. OSHA reviews the written information and conducts on-site assessments to determine whether the organization meets the requirements. OSHA uses a similar process when an NRTL (i.e., an organization already recognized) applies for expansion or renewal of its recognition. In addition, the Agency conducts annual audits to ensure that the recognized laboratories maintain their programs.

The NRTL Program is an effective public and private partnership. Rather than performing testing and certification itself, OSHA relies on private sector organizations to accomplish it. This helps to ensure worker safety, allows existing private sector systems to perform the work, and avoids the need for the government to maintain facilities.

Currently, there are 16 NRTLs operating 40 sites in the U.S., Canada, and the Far East. The NRTL Program has grown significantly in the past few years, both in terms of numbers of laboratories and sites, as well as the number of test standards included in their recognition.

OSHA has devoted significant resources in the last two years to improving the management of the NRTL Program, ensuring its viability, and enhancing its credibility with the public. This has included a process improvement project; audits of all the NRTL sites; reduction of the backlog of applications for recognition, expansion, and renewals; and development of application guidelines and information about our procedures to help people understand the process of NRTL recognition. A web page on the NRTL Program is now available to provide

information about the recognized labs and the scope of their recognition, as well as a description of the NRTL Program. (See web page address in above ''Contact'' information.) We also have prepared a new training program for our compliance staff to increase awareness within the Agency of NRTL requirements.

The size of the NRTL Program, and the amount of work involved in maintaining it, have resulted in large costs for the Agency, both in terms of human resources and in direct costs such as travel. For example, OSHA's goal is to audit every site once a year. This involves about 40 annual visits, given the current number of sites recognized, not only to locations in the U.S. but also to many foreign locations. Time and travel costs are obviously much higher for foreign locations. Because international trade in many of the types of products OSHA requires to be tested and certified is increasing substantially, the Agency anticipates there will be more applications for laboratories or sites in locations outside the U.S. In particular, under the terms of a recent Mutual Recognition Agreement (MRA) with the European Union, a number of European laboratories are expected to submit applications for NRTL recognition.

The number of people who can be assigned to work in a particular area in OSHA, as well as the travel money that can be used, is dependent on the overall funding the Agency receives from Congress in a given year. The potential for reduced funding, leaving OSHA with inadequate money to properly implement the Program, led to discussions about the possibility of assessing fees. Having a consistent funding process related specifically to the time and travel needed to maintain the Program would help OSHA ensure that the NRTL Program can continue to function and can be perceived as a viable and credible part of OSHA's overall approach to workplace safety.

In 1995, OSHA sent a letter to the existing NRTLs regarding its plan to explore the possibility of assessing fees (Ex. 1), and received twelve responses. Nine responses were conditionally in favor of establishing fees (Exs. 2–2, 2–4, 2–5, 2–6, 2–7, 2–8, 2–9, 2–11, 2-12). The favorable responses generally were conditioned on OSHA utilizing the funds generated from the fees for the NRTL Program to improve the services provided to the NRTLs.

At a September 24, 1996, meeting with the NRTLs, OSHA released a draft **Federal Register** notice for a proposed revision of 29 CFR 1910.7 allowing the Agency to collect fees. Comments received on the September 1996 draft indicated that most of the NRTLs supported the concept of a fee schedule, although the specific approach they favored was not necessarily the one included in the notice (see, e.g., Exs. 2–13, 2–17, 2–21, 2–22, 2–24). OSHA considered all of the comments it received in developing this proposed rule. We are not going to address the specific comments received at that time in this preamble because the approach in the draft rule that was distributed is not the approach that is being proposed in this notice. However, we believe that those who commented will find that many of their concerns have been addressed in this revised approach.

OSHA has reviewed a number of legal precedents concerning the assessment of fees by Federal agencies. Based on this review, the Agency believes that it can charge fees for services it provides to users of the NRTL recognition process, i.e., the NRTLs and NRTL applicants, and does not propose, at this time, to assess fees to cover all the costs of the program.

In response to the fee issue, OSHA requested specific authority from Congress to collect and retain fees. In its Fiscal Year 1997 appropriations for OSHA, Congress authorized the Secretary of Labor to collect and retain fees for services provided to NRTLs and to use such fees to administer the NRTL Program. Congress has renewed this authorization annually.

OSHA decided to implement the improvements in the Program described above before undertaking rulemaking to establish fees. The process of implementing these improvements also allowed OSHA to better estimate the time involved in providing certain services to NRTL applicants or existing NRTLs, and the travel costs associated with onsite visits. This information helped to refine the approach being proposed. In addition, the Agency has examined legal authority issues; the practices of other Federal agencies that assess fees; and the fees of other organizations that recognize or accredit laboratories. Our findings in these areas are described below in the description of the proposed requirements and the explanation of the approach.

In addition to addressing the issue of fees, OSHA proposes to reduce the time allowed for public comment on **Federal Register** notices required under the Program. OSHA has considered a number of ways to improve the program's application handling process and believes that a reduction in the comment period is an appropriate way to help make such improvements. This proposed reduction is partly in response to the informal comments from NRTLs regarding the length of time the Agency takes to process applications. We do not believe this reduction will reduce the opportunity for public input; however, we solicit comments on this issue.

II. Discussion of Proposed Fees

A. Statutory Authority

OSHA is basing its proposed fees structure on the Office of Management and Budget's (OMB's) policies for user fees imposed by Federal Agencies. These policies are contained in OMB Circular A–25, ''User Fees,'' dated 7/8/93. Some key portions of Circular A–25 are as follows:

—''General Policy: A user charge. * * * will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.''

—''For example, a special benefit will be considered to accrue and a user charge will be imposed when a Government service. * * * enables the beneficiary to obtain more immediate or substantial gains or values than those that accrue to the general public,'' * * * or * * * is performed at the request of or for the convenience of the recipient, and is beyond the services regularly received by other members of the same industry or group or by the general public.''

—''* * * user charges will be sufficient to recover the full cost to the Federal Government. * * *''

OMB developed Circular A–25 in accordance with Title V of the Independent Offices Appropriations Act of 1952 (IOAA), codified at 31 U.S.C. § 9701. The criteria established by the IOAA to guide agency heads in the establishment of fees were that the fees be ''fair'' and be based on:

(A) the costs to the Government;

(B) the value of the service or thing to the recipient;

(C) public policy or interest served; and

(D) other relevant facts.

31 U.S.C. § 9701(b)

As discussed below, the U.S. Supreme Court has decided in two key cases that the intent of the IOAA was to require fees to be based on ''value to the recipient'' and not upon ''public policy or interest served [or] other [relevant] * * * facts.''

In a rider to OSHA's Fiscal Year 1999 appropriations, Congress specifically authorized the Secretary of Labor to collect and retain the fees proposed under this rule: ''* * * the Secretary of Labor is authorized, during the fiscal year ending September 30, 1999, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory

recognition programs that ensure the safety of equipment and products used by workers in the workplace: * * *'' P.L. 105–277 (112 STAT. 2681–343). Through this rider, OSHA has the necessary authority to retain the fees, which otherwise would be credited to the general fund of the Treasury as explained in OMB Circular A–25.

B. Legal Basis for Assessing the Fees

To determine a proper basis for assessing the fees, OSHA has reviewed a number of legal precedents and analyzed the costs and activities for the functions undertaken for the NRTL Program. The legal precedents centered on the application of the IOAA and its interpretation by federal agencies. The most pertinent precedents are two decisions by the U.S. Supreme Court, and four cases of the U.S. Court of Appeals for the D.C. Circuit.

In March 1974, the Supreme Court decided the companion cases of *National Cable Television Ass'n.* v. *United States and FCC*, 415 U.S. 336 (1974) and *Federal Power Commission* v. *New England Power Co.*, 415 U.S. 345 (1974). In *National Cable*, the Court expressed the view that an agency may charge a ''fee'' for services based on ''value to the recipient.'' The Court essentially ruled out the other bases permitted in the IOAA, which, in the court's opinion, could change an assessed ''fee'' into the levy of a ''tax.'' In *Federal Power Commission*, the Court held that only specific charges for specific services to specific individuals or companies may be recouped by the fees permitted by the IOAA.

The first of the Court of Appeals decisions was *National Cable Television Ass'n Inc.* v. *Federal Communications Commission* (FCC), 554 F.2d 1094 (1976). The Court of Appeals upheld the charging (by the FCC, in this case) of both an application fee and an annual fee, provided the agency makes clear which activities are covered by each of these fees to prevent charging twice for the same activity. The court acknowledged that fees based on reasonable approximations for costs of services rendered would be acceptable. The court stated the following: ''It is sufficient for the Commission to identify the specific items of * * * cost incurred in providing each service or benefit * * *, and then to divide the cost among the * * * [recipients] in such a way as to assess each a fee which is roughly proportional to the ''value'' which that member has thereby received.'' Id. at 1105–06.

In *Electronic Industries Ass'n* v. *F.C.C.*, 554 F.2d 1109 (D.C. Cir. 1976), the court indicated that a fee for services may be charged for private benefits ''although they may also create incidental public benefits as well.'' Id. at 1115. In the case of NRTLs, the services that OSHA provides to NRTLs and NRTL applicants result primarily in private benefits to these parties, as described below. In *Capital Cities Communications, Inc.* v. *F.C.C.*, 554 F.2d 1135 (D.C. Cir. 1976), the court held that a fee for services should bear a reasonable relationship to the cost to the government to provide the service.

Finally, in *Miss. Power and Light* v. *U.S. Nuclear Regulatory Comm'n* (NRC), 601 F.2d. 223 (5th Cir. 1979), the court upheld a fee for agency services. The NRC calculated its fees based upon the costs of providing the services to the private parties. OSHA is using a similar method to calculate the NRTL application and administration fees in this proposed rule.

Based in large part on the results of the foregoing six cases and on the guidelines of OMB Circular A–25, OSHA proposes to charge fees to NRTLs for specific benefits that they receive as a result of the specific services that OSHA provides them for initial or continued recognition. The fees will reflect the costs of providing these services, and the costs will be reasonably itemized to the smallest unit practical.

C. Special Benefits and Services Provided, and Fees

OSHA will establish a schedule of fees based on the ''full cost'' to OSHA of the activities it undertakes for NRTLs. ''Full cost'' is defined in Section 6d of OMB Circular A–25 [1]. To help clarify the basis for the fees in this proposed rule, the following describes how OSHA handles applications and continuing services under the NRTL Program.

When an organization submits its application, the NRTL Program staff thoroughly review it for completeness and adequacy. Each organization applies for a specific scope of recognition. This scope consists of the specific safety test standards, locations or sites, and programs for which the organization seeks recognition. OSHA has broadly grouped the activities an NRTL may perform in testing and certifying products into nine categories of ''programs and procedures,'' or just ''programs.'' (See 60 FR 12980, March 9, 1995)

When the NRTL Program staff determine that the application is complete and adequate, the staff perform an in-depth on-site review of the applicant's organization, programs, and facilities. Based upon the information obtained primarily through the on-site review, the staff prepare a report and recommendation. The report and the application provide the main basis for a preliminary finding on the application. OSHA publishes a notice of this finding in the **Federal Register** to allow for public comment. Following a 60-day comment period (which OSHA is proposing to modify in this notice), OSHA must publish a final decision and response to comments in the **Federal Register**. Publication makes the recognition official for successful applicants and officially denies the recognition for unsuccessful applicants.

NRTL recognition is valid for five years. During this period, OSHA program staff audit the NRTL to assure that it continues to meet the requirements for recognition. NRTLs may also on occasion request to expand their scope of recognition to include additional test standards, facilities, or programs. At the end of its initial recognition period, the NRTL may apply for renewal of its recognition. OSHA processes requests for expansion and renewal following a process similar to

[1] OMB Circular A–25, Section 6. General policy: A user charge, as described below, will be assessed * * *

a. Special benefits

1. * * *

2. Determining the amount of user charges to assess.

(a) Except as provided in Section 6c, user charges will be sufficient to recover the full cost to the Federal Government (as defined in Section 6d) of providing the service, resource, or good when the Government is acting in its capacity as sovereign. * * *

d. Determining full cost and market price

1.''Full cost'' includes all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service. These costs include, but are not limited to, an appropriate share of:

(a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. Retirement costs should include all (funded or unfunded) accrued costs not covered by employee contributions as specified in Circular No. A–11.

(b) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment. If imputed rental costs are applied, they should include:

(i) depreciation of structures and equipment, based on official Internal Revenue Service depreciation guidelines unless better estimates are available; and

(ii) an annual rate of return (equal to the average long-term Treasury bond rate) on land, structures, equipment and other capital resources used.

(c) The management and supervisory costs.

(d) The costs of enforcement, collection, research, establishment of standards, and regulation, including any required environmental impact statements.

(e) Full cost shall be determined or estimated from the best available records of the agency, and new cost accounting systems need not be established solely for this purpose.

that used for initial applications for recognition.

Program staff work closely with attorneys of the Department of Labor on a regular basis for both initial recognition and continuing recognition activities. These attorneys review the **Federal Register** notices. They also advise the program staff on issues and other matters that directly relate to the services covered by the fees.

In addition to application processing and audits, NRTL Program staff also perform a number of activities that are essential to the normal operation of the NRTL Program. These activities include administration of program, budgetary, and policy matters; assistance in training OSHA personnel about the program; inter-agency and international coordination; response to requests for information related to the program; and participation in meetings with stakeholders and outside interest groups. Although necessary to the continued functioning of the program, these activities are incidental to the direct services of application processing and the audits of the NRTLs. Accordingly, costs for these activities are not covered by this proposed rule.

NRTLs accrue ''special benefits'' from the services that OSHA renders to them. These ''special benefits'' are the product of OSHA's initial and continuing evaluation of their qualifications to test and certify products used in the workplace, e.g., the acknowledgment of their capability as an NRTL. The primary special benefits of NRTL recognition are the resulting business opportunities to test and certify products for manufacturers. A manufacturer then sells these products to employers, enabling them to comply with product approval requirements in OSHA standards. The services rendered by OSHA that confer these ''special benefits'' to NRTLs are: (1) processing of applications for initial recognition as an NRTL and for expansion and renewal of an existing NRTL's recognition, and (2) audits (''post recognition reviews''), which enable the NRTL to maintain the recognition from OSHA. As a result, OSHA proposes to charge two categories of fees.

First, the Agency will charge fees to cover the full costs of application processing. These costs consist mainly of the salary and benefits of office and field personnel, travel costs, and other direct and indirect costs necessary to the processing and related support activities. The fees will equal the estimated cost of staff time and the actual cost of travel for these activities. These activities mainly include the following: performing the office review of the application, preparing for and performing the on-site review of the organization's testing and administrative facilities, resolving findings of deficiencies in the application, drafting and finalizing the on-site review report, and preparing and publishing the Federal Register documents. OSHA will collect part of this category of fees at the time the application is submitted and the remainder following publication of the initial, i.e., preliminary, notice in the **Federal Register**.

Second, the Agency will charge fees to cover the full costs of performing the audits of the NRTL that ensure its continued compliance with the recognition requirements. These costs consist mainly of the salary and benefits of office and field personnel, travel costs, and other costs necessary to the audit and related support activities. The fees will equal the estimated cost of staff time and the actual cost of travel for those activities. These activities mainly include the following: preparing for and performing the office or on-site audit of the NRTL, drafting and finalizing necessary reports or documentation, resolving findings of deficiencies in the NRTL's operations, and reviewing and processing audit reports. OSHA will impose these fees annually or more frequently if OSHA determines it must perform more than one audit in a given year.

Many other Federal agencies charge fees for services they provide to specific recipients. The following is a list of some of these agencies, along with a citation to the regulations pertaining to the fees they charge:

FEDERAL AGENCIES THAT CHARGE FEES FOR SERVICES

Agency	Regulation
Federal Communications Commission.	47 CFR 1.1151.
Federal Maritime Commission.	46 CFR 514.21.
Environmental Protection Agency.	40 CFR 152.400.
National Voluntary Laboratory Accreditation Program (NVLAP); US Department of Commerce.	15 CFR 285.
Mine Safety and Health Administration; Department of Labor.	30 CFR 5.10.
Bureau of Indian Affairs; Department of the Interior.	25 CFR 143.4.
Food Safety and Health Services; Department of Agriculture.	9 CFR 218.21 and 391.5.
Federal Aviation Administration; Department of Transportation.	14 CFR 187.1.

With the exception of the FCC and NVLAP, the above agencies also derive their authority for charging the fees from the IOAA.

OSHA has also examined the fee schedules for other organizations that accredit or recognize testing laboratories or certification bodies. Although the fees proposed in this notice are specific to the costs to OSHA, the practices of these other organizations may be of interest to rulemaking participants.

FEES CHARGED BY VARIOUS ACCREDITATION ORGANIZATIONS

Organization	Activity	Fee (as of 3/8/99)
Standards Council of Canada—Fees for Certification Organizations.	Application fee	$15,000.
	Fees for assessments and audits	Per person on a per diem basis + travel expenses.
	Annual accreditation fee	$9,000 + a business volume fee (up to $36,000).
ANSI Accreditation for Certification Programs.	Application fee	$2,000.
	Accreditation fees	$1,200/day per professional staff time + travel expenses.
	Continuing accreditation	$1,200/day for professional staff time related to audits + travel expenses; plus, Percent of gross revenues related to the certification program, up to $40,000.
National Voluntary Laboratory Accreditation Program (NVLAP).	Application fee	$500.
	Assessment fee (for accreditation and every two years).	per program/field, $1,600 to $3,000 or variable.

FEES CHARGED BY VARIOUS ACCREDITATION ORGANIZATIONS—Continued

Organization	Activity	Fee (as of 3/8/99)
	Annual support fee	per program/field, $3000 to $3,925 less $2,200 for more than one field.
	Annual proficiency testing fee	per program/field, $0 to $5,405 or variable.
American Association for Laboratory Accreditation (A2LA).	Application fee	$800.
	Assessment fee (for accreditation and every two years).	Deposit of $3,000 + $1,500/extra field/lab, actual costs billed at $750/day + travel expenses (fee also paid for surveillance visit in 2nd year).
	Annual fee	$1,100 for first field/lab, less for two or more fields/labs.
American Industrial Hygiene Association—Laboratory Quality Assurance Programs.	Application fee	$250.
	Site visit fee	$675/day or $2,400 outside North America + expenses.
	Annual fee (also due with application).	$300/program ($150/program with application after June 30)
	Proficiency analytical testing program fee.	program/sample specific, also based on # of samples, $86 to $1,800.

III. Estimated Program Costs

Until now, OSHA has not accounted separately for the costs of the NRTL Program. The personnel and other costs associated with performing activities and functions related to the Program involve a number of different offices throughout the Department of Labor. In preparing the proposed fee schedule presented in this notice, OSHA has evaluated the total resources that it has committed to the NRTL Program overall and has then estimated the costs that are involved solely with the approval and periodic review functions. It is these costs alone that OSHA seeks to recover through its proposed fees. Personnel costs are the wages, salary, and fringe benefit costs of the staff positions involved and the number of full time equivalent (FTE) personnel devoted to the NRTL approval and review activities. These estimates also include travel and other costs of these activities. The Agency believes these estimates are fair and reasonable.

Based on the total estimated costs and the total estimated FTE, OSHA has calculated an estimated equivalent cost per hour (excluding travel). This equivalent cost per hour includes both the direct and indirect costs per hour for ''direct staff'' members, who are the staff that perform the application, on-site, and legal reviews and the other activities involved in application processing and audits. Direct costs are expenses for direct staff members. Indirect costs are expenses for support and management staff, equipment, and other costs that are involved in the operation of the program. Support and management staff consists of program management and secretarial staff. Equipment and other costs are intended to cover items such as computers, telephones, building space, utilities, and supplies, that are necessary or used in performing the services covered by the proposed fees. Although essential to the services provided, these indirect costs are not readily linked to the specific activities involved in application processing and audits and, as explained later, are therefore allocated to the activities based on direct staff costs.

Figure 1 is an itemization of the estimated costs and the equivalent cost per hour calculated. OSHA believes that the costs shown fairly reflect the full cost of providing the services to NRTLs, but OSHA mainly uses these costs to illustrate how the fees will be calculated.

FIGURE 1.—CURRENT ESTIMATED ANNUAL COSTS OF NRTL PROGRAM

Cost description	Est. FTE	Aver. cost per FTE (including fringe)	Total est. costs
Direct Staff Costs	4.2	$83,860	$352,200
Travel	na	na	40,000
Indirect Staff & Other Costs	na	na	76,300*
Total Est. Program Costs			468,500
Avg. direct staff cost/hr ($352,200 ÷ 4.2 FTE (2,080) hours)			40
Equivalent avg. direct staff cost/hr ($428,500 ÷ 4.2 FTE hours) (includes direct & indirect costs)			49

*This amount consists of $29,800 of indirect staff costs and $46,500 for equipment and other costs.

The use of an ''equivalent average direct staff cost per hour'' measure is a convenient method of allocating indirect costs to each of the services for which OSHA will charge fees. The same result is obtained if direct staff costs are first calculated and then indirect costs are allocated based on the value, i.e., dollar amount, of the direct staff costs, which is an approach that is consistent with Federal accounting standards. To illustrate, assume a direct staff member spends 10 hours on an activity; the direct staff costs would then be calculated as follows:

Direct staff costs = 10 hours × $40/hour = $400.

The $40/hour is the direct staff cost/hour amount shown in Figure 1. The indirect costs would be allocated by first calculating the ratio of indirect costs to direct staff costs, again using the costs shown in Figure 1. This ratio would be as follows:

Indirect costs/direct staff costs = $76,300/$352,200 = 0.217.

Next, the indirect costs would be calculated based on the $400 estimate of direct staff costs:

Indirect costs = $400 × 0.217 = $87.

Finally, the total costs of the activity are calculated:

Total costs = direct staff costs + indirect costs = $400 + $87 = $487.

Taking into account the rounding shown in Figure 1, the actual amount calculated would be $490.

After estimating program costs, the Agency then estimated the time it spends on specific activities or functions. These estimates were performed, in part, for the information collection package for the NRTL Program submitted to OMB in September 1997 under the Paperwork Reduction Act. OSHA calculated time estimates for each major service category. These categories are: initial applications, expansion and renewal applications, and audits. OSHA further divided each category into the major activities performed and estimated the staff time and travel costs for each of these activities. The Agency then calculated the cost of each major activity using the time estimates, the equivalent costs per hour, and the estimate of travel costs. These costs then serve as the basis for the fees later shown in the proposed fee schedule. Examples of the calculations are shown in Figures 2, 3, and 4.

FIGURE 2.—ESTIMATED COSTS FOR INITIAL APPLICATION

Major activity	Average hours	Average costs*
Initial Application Review		
Staff time: (includes review by office and field staff)	80	$3,924
On-Site Assessment—first day		
Staff time: (includes 16 hours preparation, 4 hours travel, 8 hours at site)	28	1,373
travel:		670
Total (per site, per assessor)		2,043
On-Site Assessment—addnl. day		
Staff time	8	392
Travel amount: (to cover per diem)		70
Total (per site, per assessor)		462
Final Report & Federal Register notice		
Staff time: (includes work performed by field staff and office staff)	160	7,848

FIGURE 3.—ESTIMATED COSTS FOR EXPANSION OR RENEWAL APPLICATION

Major Activity	Average Hours	Average Costs*
Initial Application Review (expansion)		
Staff time: (includes review by office and field staff)	32	$1,570
(Note for renewals: 2 hours, i.e. $98, are allotted for processing the NRTL's request)		
On-Site Assessment—first day		
Staff time: (includes 8 hours preparation, 4 hours travel, 8 hours at site)	20	981
Travel:		670
Total (per site, per assessor)		1,651
On-Site Assessment—addnl. day		
Staff time	8	392
Travel amount: (to cover per diem)		70
Total (per site, per assessor)		462
Final Report & Federal Register notice		
Staff time: (includes work performed by field staff and office staff)	88	4,316

FIGURE 4.—ESTIMATED COSTS FOR ON-SITE AUDIT

Major Activity	Average Hours	Average Costs*
Pre-site Review		
Staff time: (field staff only)	8	$392
On-Site Audit—first day		
Staff time: (includes 4 hours travel)	12	589
Travel:		670
Total (per site, per assessor)		1,259
Final Report & Federal Register notice		
Staff time: (includes work performed by field staff and office staff)	16	785
Total costs		**2,436

* Average costs for staff time equal average hours × equivalent average direct staff cost/hr ($49)

** Based on a one day audit. The costs for any additional days are the same as the per-day costs for an assessment.

In deriving the fee amounts shown in the fee schedule, OSHA has generally rounded the costs shown in Figures 2, 3, and 4, up or down, to the nearest $50 or $100 amount.

OSHA believes that its proposed fee schedule, shown in Table A, accurately reflects costs to the Agency for the staff time and travel involved in performing and administering the application processing and auditing activities. The amounts shown in the proposed schedule reflect the Agency's current reasonable estimation of the costs involved for the services rendered. As previously mentioned, OSHA is not attempting to recover the entire costs of the NRTL Program through the proposed fees but only the costs of providing these services. OSHA will publish the fee schedule in the **Federal Register** with the final rule.

IV. Proposed New Paragraph

OSHA proposes a new paragraph ''(f) Fees'' under 29 CFR 1910.7 to provide for the assessment and payment of fees for certain services rendered to NRTLs and NRTL applicants. This new paragraph consists of five parts, which provide the general framework that OSHA will use to calculate, charge, and collect the fees. OSHA will provide the specific details for calculating, charging, and collecting the fees through appropriate OSHA Program Directives, consistent with the framework laid out in this notice.

A. Obligation to Pay and Fee Assessment

OSHA proposes that the first part of paragraph (f) would read as follows:

(1) Each applicant for NRTL recognition and each existing NRTL must pay fees for services provided by OSHA. OSHA will assess fees for the following activities:

(i) Processing of applications for initial recognition, expansion of recognition, or renewal of recognition, including on-site reviews; review and evaluation of the applications; and preparation of reports, evaluations and **Federal Register** notices; and

(ii) Audits of sites.

The Agency proposes that applicants seeking OSHA recognition (i.e., NRTL applicants) and organizations that OSHA has recognized as NRTLs must pay fees required for the specific services that OSHA provides to them. As previously described, the services for which the Agency would charge fees are: (1) processing of applications for initial recognition, expansion of recognition, or renewal of recognition, and (2) audits, i.e, post-recognition on-site or office reviews. The activities involved in providing these services have already been described in general, and are described in more detail later in this notice.

NRTL applicants would pay fees related only to initial application processing. NRTLs would pay fees for applications for expansions and renewal of recognition and for audits of the sites they use for their NRTL operations. Typically, OSHA audits only the sites it has recognized for an NRTL and contemplates assessing fees mainly for on-site audits of these sites. However, the Agency allows NRTLs that have appropriate controls to use non-recognized sites, such as testing sites of other laboratories or even manufacturers, to conduct testing or other activities necessary in certifying products. OSHA may need, for good cause, to audit such sites to determine whether the NRTL or the site properly controls the NRTL-related activities. For example, OSHA may need to audit a manufacturer to determine how well it controls the NRTL's certification mark or maintains production or quality controls. NRTLs would pay for these ''special'' audits and would be billed accordingly.

B. Fee Calculation

OSHA proposes that the second part of paragraph (f) would read as follows:

(2) The fee schedule established by OSHA reflects the estimated cost of performing the tasks and functions for each activity. OSHA calculates the fees based on the average time required to perform the work necessary; the staff costs per hour (which include wages, fringe benefits, and expenses other than travel for personnel that perform or administer the activities covered by the fees); and an estimate of the average costs for travel when on-site reviews are involved. The formula for the fee calculation is as follows:

Activity Fee = Average Hours to Complete the Activity × Staff Costs per Hour + Travel Costs.

Each activity represents tasks and functions that OSHA performs to accomplish a particular phase of the service the Agency provides to the recipients (i.e., NRTLs or NRTL applicants). OSHA would compute the fees on the basis of the average time spent on each task or function. This will simplify the accounting for the NRTL and for OSHA.

The tasks and functions for which OSHA currently plans to charge a fee are: initial, expansion, and renewal applications; on-site assessment (per person, per site—first day) and on-site assessment (per person, per site—each additional day); review and evaluation (per standard)—initial and expansion applications; final report/**Federal Register** notice—initial and expansion or renewal applications; on-site audit (per site) and office audit (per site); and miscellaneous. The fee for each task or function—which equals the estimated cost of the work involved—would equal the average estimated staff time to perform the work multiplied by an equivalent staff cost per hour, plus an estimate of average travel costs for on-site assessment or audit activities. Figure 1 describes how the equivalent staff cost per hour is derived.

OSHA would include as direct and indirect costs the estimated expenses described in Section III above.

C. Annual Review of Fee Schedule and Issuance

OSHA proposes that the third part of paragraph (f) would read as follows:

(3) OSHA will review costs and estimates annually and will propose a revised fee schedule, if warranted. In its review, OSHA will apply the formula established in paragraph (f)(2) of this section to the current estimated costs for the NRTL Program. If a change is warranted, OSHA will follow the schedule in paragraph (f)(4) of this section. OSHA will issue all fee schedules in the **Federal Register**. Once issued, a fee schedule remains in effect until it is superseded. Any member of the public may request a change to the fees included in the current fee schedule. Such a request must include appropriate documentation in support of the suggested change.

The first proposed fee schedule is set forth in Table A. Once issued, the fee schedule would remain in effect until it is superseded by another schedule. OSHA would annually review the costs and estimates of the program to determine whether any changes to the fees are warranted. In addition, OSHA would consider requests for changes to the fee schedule that it receives from the public. In performing any review, OSHA will apply the formula established in this regulation to the current estimated costs for the program to determine whether any changes to the fee schedule are warranted. If change is warranted, OSHA would publish a notice to provide the NRTLs and other members of the public an opportunity to comment on such changes. The Agency would follow the implementation schedule shown in paragraph (f)(4) of this proposed rule. OSHA would issue the initial and all subsequent fee schedules in the **Federal Register**. In addition, OSHA would provide more specific details regarding implementation of the fees proposed in this rule through appropriate program directives.

D. Fee Implementation

OSHA proposes that the fourth part of paragraph (f) would read as follows:

(4) OSHA will implement fee assessment, collection, and payment as follows:

Approximate dates	Action required
Application Fees	
Time of application.	Applicant must pay the applicable fees shown in the Fee Schedule when submitting the application; OSHA will not begin processing until fees are received.
Publication of preliminary notice.	Applicant must pay remainder of fees; OSHA cancels application if fees are not paid when due.s0
Audit Fees	
November 1 ...	OSHA will publish proposed new Fee Schedule in the **Federal Register**, if OSHA determines changes in the schedule are warranted.
November 16	Comments due on the proposed new Fee Schedule.
December 15	OSHA will publish the final Fee Schedule in the **Federal Register**.
January 1	OSHA will bill each existing NRTL for the audit fees shown in the Fee Schedule, including estimated travel costs.
February 1	NRTLs must pay audit fees; OSHA will assess late fee if audit fees are not paid.
February 15 ...	OSHA will send a letter to the NRTL requesting immediate payment of the audit fees and late fee.
March 1	OSHA will publish a notice in the **Federal Register** to revoke recognition for NRTLs that have not paid audit fees for the year.

We discuss application fees under paragraph E below and under Fee Schedule and Description of Fees, Section V of this notice. OSHA would assess an applicant the fees in effect on the submission date of the application.

Regarding the remainder of the schedule, OSHA needs approximately 30 days after the close of the government fiscal year (GFY), September 30, to obtain the estimates and costs for its annual review of the fee schedule. Therefore, approximately on November 1 of each year, when warranted, OSHA would publish a proposed new Fee Schedule, including a report on the estimated costs that are the basis of the fees. The period for comments would be no less than 15 calendar days. Approximately 30 days thereafter, OSHA would officially issue the Fee Schedule in the **Federal Register**.

In January of each year, OSHA would bill each NRTL for the appropriate audit fee shown in the Fee Schedule in effect at the time the bill is mailed. OSHA anticipates that most of the bills would be for on-site audits. The Agency would include the appropriate supplemental amounts for travel outside the 48 contiguous states, if applicable. The NRTL would be automatically assessed the late fee, shown in the Fee Schedule, if OSHA does not fully receive the amount billed within 30 days. Fifteen days thereafter, OSHA would also issue a letter notifying the NRTL of the failure to pay the fees for the audit and requesting immediate payment, including a late fee. If the NRTL fails to fully pay those fees within 15 days of the issuance of the letter, OSHA would publish a notice in the **Federal Register** announcing its intent to revoke the NRTL's recognition. OSHA would then proceed with permanent revocation of the NRTL's recognition. In revoking recognition due to non-payment of fees, OSHA would follow the procedures described in this paragraph and not those under II.E of Appendix A to 29 CFR 1910.7.

OSHA would bill the NRTL separately for additional audits of a site or for any ''special'' audits. OSHA would bill the NRTL for these fees prior to the commencement of such an audit and would follow the same collection process here as described above for a regular audit. OSHA would refund the audit fee for any audit, whether or not annual, that it does not perform. OSHA would follow similar collection procedures for any additional or special assessment that it must perform in connection with an application.

E. Details for Payment

OSHA proposes that the fifth and last part of paragraph (f) would read as follows:

(5) OSHA will provide the details regarding how to pay the fees through appropriate OSHA Program Directives.

For application processing, OSHA anticipates that it will bill the NRTL applicant or NRTL for balance of fees due, including actual travel expenses, at the time the preliminary notice is published; the Agency will also refund any balances due at that time. Also, for expansions and renewals, applicants would not pay the assessment fee at time of application, but OSHA would bill an applicant for these fees if it determines an assessment is necessary. In such cases, OSHA will not begin the assessment until fees are received. For audits, additional days of audit time will be billed after an audit. Also, any difference between actual travel expenses and the travel amounts in the fee schedule will be billed or refunded to the NRTL. For applications and audits, any fees that are not paid when due would result in cancellation of application or revocation of recognition, as appropriate. OSHA also anticipates that all fees must be paid in U.S. dollars by certified check or money order drawn on a U.S.-based institution or organization. The fee schedule would include appropriate details about fee payments.

Additionally, the Agency plans to implement the fees 30 calendar days after the effective date of this rule. Any application received by OSHA on or after that date will be subject to the fees. Also, any pending application (i.e., an application that OSHA has not yet completed processing) on this effective date will be subject to the fees for the activities that OSHA has not yet commenced. OSHA would bill applicants, accordingly.

V. Fee Schedule and Description of Fees

OSHA proposes the following fee schedule:

TABLE A.—FEE SCHEDULE; NATIONALLY RECOGNIZED TESTING LABORATORY PROGRAM (NRTLP)

Fee Schedule (Effective _____*)

Type of Service	Fee Category (per application unless noted otherwise)	Fee Amount
Application Processing	Initial Application Fee [1]	3,900
	Expansion Application Fee [2]	1,550
	Renewal Application Fee [2]	100
	Assessment Fee—Initial Application (per person, per site—first day) [3, 4, 8].	2,050

TABLE A.—FEE SCHEDULE; NATIONALLY RECOGNIZED TESTING LABORATORY PROGRAM (NRTLP)—Continued

Fee Schedule (Effective _____*)

Type of Service	Fee Category (per application unless noted otherwise)	Fee Amount
	Assessment Fee—Expansion or Renewal Application (per person, per site—first day) [3, 4, 8].	1,650
	Assessment Fee (per person, per site—each addnl. day) [3, 4, 8] ...	450
	Review & Evaluation Fee (per standard) [5] (for initial or expansion applications).	50
	Final Report/Register Notice Fee—Initial Application [5]	7,850
	Final Report/Register Notice Fee—Expansion or Renewal Application [5].	4,300
Audits	On-site Audit Fee (per person, per site—one day) [6, 8] (each additional day is billed at $450 per day).	2,450
	Office Audit Fee [6]	400
Miscellaneous	Staff Costs Fee (per day) [7]	400
	Late Payment Fee	50

Notes:

[1] Only NRTL applicants must pay the Initial Application Fee. These fees must be included with the application.

[2] An NRTL must pay the Expansion Application Fee for each request to expand its recognition. An NRTL must pay the Renewal Application Fee for its initial renewal request or for any notification to certify its continuing compliance. These fees must be included with the application.

[3] An NRTL applicant must pay the first day and the additional day Assessment Fees. These fees must be included with the application. For expansion and renewal applications, OSHA will bill the NRTL for the appropriate Assessment Fees if an assessment is necessary. The NRTL must pay the fee before OSHA commences any assessment activities.

[4] The appropriate supplemental fee must be included for sites located outside the 48 contiguous U.S. states (see Supplemental Travel Costs table). OSHA will assess actual travel costs and actual number of assessment days in the bill mentioned in note 5. See note 8 for possible refund of Assessment Fees.

[5] OSHA will bill NRTL applicants and NRTLs for the Review and Evaluation and the appropriate Final Report/Register Notice Fees at the time it publishes the preliminary FEDERAL REGISTER notice. OSHA will cancel applications if payment is not received when due.

[6] OSHA will bill the NRTL annually for the audit fee (on-site or office, as deemed necessary) and will include the appropriate supplemental fee for sites located outside the 48 contiguous U.S. states (see Supplemental Travel Costs table). OSHA will revoke the NRTL's recognition for failure to pay an audit fee. OSHA will assess actual travel costs after any on-site audit.

[7] Current estimated equivalent staff costs per hour = $49.

[8] Refund of Fees: Except for the Assessment and On-site Audit Fees, OSHA will not refund any fees after it receives payment. Assessment and On-site Audit Fees will be refunded as follows:

Refund = 100% of Assessment Fee paid, for withdrawn applications, if preparation for on-site not started, or OSHA does not perform assessment.

Refund = 100% of Assessment Fee paid less Staff Costs Fee, for withdrawn applications if only preparation for on-site started.

Refund = 0% of Assessment Fee paid, if travel for on-site visit commences

Refund = 100% of On-site Audit Fee paid, if OSHA does not perform audit (even if preparation for on-site started).

Refund = 0% of On-site Audit Fee paid, if travel for on-site visit commences.

* Applicants must pay the application fees in effect on the date it submits the application. NRTLs must pay the audit fee in effect on the date OSHA sends the bill for the audit. [Note: for the initial fee schedule, any pending application (i.e., an application that OSHA has not yet completed processing) on this effective date will be subject to the fees for the activities that OSHA has not yet commenced.]

The fee schedule shows the current activities for which OSHA plans to charge fees. However, the Agency may find, after it has gained experience charging the fees or based upon suggestions it receives, that it may be better to further break down or even combine some fee categories. OSHA would give the public an opportunity to comment on any such changes. However, these changes would merely reapportion costs or further detail the fees; they would not apply to different services than those described in this proposed rule. In evaluating any changes to a fee schedule, OSHA would also consider the following in determining the fees it needs to charge for its services: (1) actual expenditures (direct and indirect) of the most recently completed government fiscal year for rendering the services for which fees will be charged, and (2) estimated costs (direct and indirect) of the upcoming government fiscal year for rendering the services for which fees will be charged.

OSHA proposes that an organization applying for either an initial NRTL recognition or a renewal must include the application fee and on-site review (''assessment'') fee with the application. Applications received solely for an expansion of NRTL recognition would include only the application fee. OSHA would bill the NRTL for the assessment fee if it must perform an on-site review for the expansion request. The Agency would not perform the review until it receives the assessment fee. This would ensure that OSHA's costs will be reimbursed, regardless of how the application process turns out. If an applicant withdraws its application prior to commencement of on-site assessment activities, the Agency would refund any on-site assessment fee it has collected. However, if OSHA has commenced preparation for the on-site visits, it would refund only a portion of the assessment fee. The amount refunded would equal the assessment fee collected less the daily assessor rate (currently, 8 hours × $49/hr, rounded to $400 in the fee schedule). The Agency would not refund the assessment fee if the on-site visit had commenced. Also, OSHA would bill the organization for the balance of the fees at the time of publication of the initial **Federal Register** notice.

The following is a description of the tasks and functions currently covered by each type of fee category, e.g., application fees, and the basis used to charge each fee.

Application Fees: This fee would reflect the technical work performed by office and field staff in reviewing application documents to determine whether an applicant submitted complete and adequate information. The application review does not include a review of the test standards requested, which is reflected in the review and evaluation fee. Application fees would be based on average costs per type of application. OSHA plans to use average costs since the amount of time spent on the application review does not vary greatly by type of application. This is

based on the premise that the number and type of documents submitted will generally be the same for a given type of application. Experience has shown that most applicants follow the application guide that OSHA provides to them.

Assessment Fees: This fee would be different for initial and for expansion or renewal applications. It is based on the number of days for staff preparatory and on-site work and related travel. Three types of fees are shown, and each one would be charged per site and per person. The two fees for the first day reflect time for office preparation, time at the applicant's facility, and an amount to cover travel in the 48 contiguous states. A supplemental travel amount (to be included with the fee schedule) would be assessed for travel outside this area. These travel amounts are only estimates for purposes of submitting the initial fees. The applicant or NRTL would be billed actual expenses, based on government per diem and travel fares. Any difference between actual travel expenses and the travel amounts in the fee schedule will be reflected in the final bill or refund sent to the applicant or NRTL.

Similar to the application fee, the office preparation time generally involves the same types of activities. Actual time at the facility may vary, but the staff devote at least a full day for traveling and for performing the on-site work. The fee for the additional day reflects time spent at the facility and an amount for one day's room and board.

Review and Evaluation Fee: This fee would be charged per test standard (which is part of an applicant's proposed scope of recognition). The fee reflects the fact that staff time spent in the office review of an application varies mainly in accordance with the number of test standards requested by the applicant. The fee would be based on the estimated time necessary to review each standard to determine whether it is ''appropriate,'' as defined in 29 CFR 1910.7, and whether it covers equipment for which OSHA mandates certification by an NRTL. The fee also covers time to determine the current designation and status (i.e., active or withdrawn) of a test standard by reviewing current directories of the applicable test standard organization. Furthermore, it includes time spent discussing the results of the application review with the applicant. The actual time spent will vary depending on whether an applicant requests test standards that have previously been approved for other NRTLs. The current estimated average review time per standard is one hour.

Final Report/Register Notice Fees: Each of these fees would be charged per application. The fee would reflect the staff time to prepare the report of the on-site review (i.e., assessment) of an applicant's or an NRTL's facility. The fee also reflects the time spent making the final evaluation of an application, preparing the required **Federal Register** notices, and responding to comments received due to the preliminary finding notice. These fees are based on average costs per type of application, since the type and content of documents prepared are generally the same for each type of applicant.

Audit (Post-Recognition Review) Fees: These fees would reflect the time for office preparation, time at the facility and travel, and time to prepare the audit report of the on-site audit. A separate fee is shown for an office audit conducted in lieu of an actual visit. Each fee is per site and does not generally vary for the same reasons described for the assessment fee and because the audit is generally limited to one day. As previously described, the audit fee would include amounts for travel, and, similar to assessments, OSHA will bill the NRTL for actual travel expenses.

Miscellaneous Fees: The sample fee schedule only shows the average cost for one full day of staff time. OSHA would use this fee primarily in cases of refunding the assessment fee. OSHA will also charge a fee for late payment of the annual audit fee.

The amount for the late fee is based on 1 hour of staff time.

VI. Reduction of Public Comment Period

OSHA proposes to amend provisions in Appendix A to 29 CFR 1910.7 to reduce the 60-day comment period currently required for the ''preliminary'' **Federal Register** notices. ''Preliminary'' refers to the first of the two notices that OSHA must publish to initially recognize an organization as an NRTL, or to expand or renew an NRTL's recognition. The notice is termed preliminary since it announces OSHA's ''preliminary finding'' on an initial, expansion, or renewal application. In recent years, OSHA has received few or no comments on the preliminary notices. The few comments received, even when substantive, could have been prepared and submitted in much less than 60 days.

Regarding expansions, NRTLs must routinely adopt new test standards for the products that are within their testing and certification capability. Many of the new test standards include new or additional tests to meet new or revised national or international safety criteria or requirements, and supersede those for which OSHA has already recognized the NRTL. As a result, the NRTL must often apply to OSHA to ''expand'' its recognition as an NRTL to enable it to use those new test standards. While the NRTL may ''expand'' its recognition primarily to attain or maintain an economic benefit, timely recognition of those new test standards for the NRTL could also affect safety in the workplace. The shorter periods would speed up approval of those expansions.

Also in support of the shorter periods, **Federal Register** notices are currently accessible to the public through the Office of the Federal Register web site on the day they are published. Given the rapid telecommunication (e.g., Internet, electronic mail, fax) capabilities that now exist throughout the world, comments or requests for an extension of the comment period can be filed in much less time than 60 days. Therefore, OSHA proposes to amend the provisions in Appendix A to provide a 30-day comment period for applications for initial recognitions as an NRTL. This period is consistent with that provided for the Agency's rulemaking notices.

OSHA also proposes to amend Appendix A to provide a 15-day comment period for requests by an NRTL for expansion or renewal of its recognition. The shorter period reflects the nature and scope of the Agency's evaluation of these requests and the anticipated issues that such requests will present to anyone who believes that the NRTL's request affects them. OSHA does not view either of the shorter periods as a way to limit comments, since reviewers of the notice can always request an extension of the comment period if they need more time for presenting any comments. OSHA will include a statement regarding such extensions in the preliminary notices.

VII. Preliminary Economic Analysis

Executive Order 12866 and the Regulatory Flexibility Act require Federal agencies to analyze the cost, and other consequences and impacts, of proposed and final rules. Consistent with these requirements, OSHA has prepared this preliminary economic analysis to accompany a proposal by OSHA that would allow the Department of Labor to charge and retain fees for services provided to Nationally Recognized Testing Laboratories (NRTLs). The analysis includes a description of the industry, an estimation of the costs of compliance, and an evaluation of the economic and

other impacts of the proposed rule on firms in this sector. The analysis also examines the costs and impacts of the proposal on affected small entities, as defined by the Small Business Administration.

Affected Industry

The standards adopted and mandated in OSHA regulations stipulate that certain equipment and materials used in the workplace meet minimum criteria for performance or safety. In 29 CFR Parts 1910 (governing hazards in general industry) and 1926 (governing hazards in the construction industry), there are more than 160 paragraphs that require certain equipment to be either safety tested, listed, or approved in order for that equipment to be used in the workplace. Table 1 provides a listing of the types of equipment that require testing, listing or approval by NRTLs. The requirements to test, list or approve equipment are necessary to ensure that employees use appropriate safe equipment[2]. Although it is ultimately the employer's responsibility to provide safe equipment, few, if any, have the technical capabilities to test items such as electrical conductors and equipment, the fire resistance properties of materials, the lifting capacity of scaffold hoists, etc., for safety.

Table 1. Categories of Equipment/Materials Required by Various Provisions in OSHA's Standards to Be Certified by an NRTL.

Electrical Conductors or Equipment
- Automatic Sprinkler Systems
- Fixed Extinguishing Systems (Dry chemical, water spray, foam or gaseous agents)
- Fixed Extinguishing Systems Components and Agents
- Portable Fire Extinguishers
- Automatic Fire Detection Devices and Equipment
- Employee Alarm Systems
- Self-Closing Fire Doors
- Fire (B) Doors
- Windows (Frames)
- Heat Actuated (Closing) Devices (Dip Tanks)
- Exit Components
- Spray Booth Overspray Filters
- Flame Arresters, Check Valves, Hoses (Transfer Stations), Portable Tanks, and Safety Cans—Flammable Combustible Liquids)
- Pumps and Self-Closing Faucets (for Dispensing Class I Liquids)
- Flexible Connectors (Piping, Valves, Fittings)
- Service Station Dispensing Units (Automotive, Marine)
- Mechanical or Gravity Ventilation Systems (Automotive Service Station Dispensing Area)
- Automotive Service Station Latch—Open Devices for Dispensing Units
- New Commercial and Industrial LPG Consuming Appliances
- Flexible Connectors (Piping, Valves, Fittings)—LPG
- Powered Industrial Truck LPG Conversion Equipment
- LPG Storage and Handling Systems (DOT Containers, Cylinders)
- Automatic Shut-off Devices (Portable LPG Heaters Including Salamanders)
- LPG container assemblies (non-DOT) for interchangeable installation above or under ground.
- Fixed electrostatic apparatus and devices (coating operations).
- Electrostatic hand spray apparatus and devices.
- Electrostatic fluidized beds and associated equipment.
- Each appurtenance (e.g., pumps, compressors, safety relief devices, liquid-level gauging devices, valves and pressure gauges) in storage and handling of anhydrous ammonia.
- Gasoline, LPG, diesel, or electrically powered industrial trucks used in hazardous atmospheres.
- Acetylene apparatus (torches, regulators or pressure-reducing valves, generators [stationary and portable], manifolds).
- Acetylene generator compressors or booster systems.
- Acetylene piping protective devices.
- Manifolds (fuel gas or oxygen)—separately for each component part or as assembled units.
- Scaffolding and power or manually operated units of single-point adjustable suspension scaffolds.
- Hoisting machine and supports (Stone setters' adjustable multiple-point suspension scaffold).
- Hoisting machines (Two-point suspension; Masons' adjustable multiple-point suspension scaffold).

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis, 1997.

A product testing lab tests equipment in accordance with test criteria, such as those standards established by Underwriters Laboratories (UL), Factory Mutual Research Corporation (FMRC), the American National Standards Institute (ANSI), or the American Society for Testing and Materials (ASTM). These standards typically contain requirements concerning the design specifications of the equipment, the specific physical tests to be performed, the criteria for passing these tests, etc. The development of a product test standard for a particular type of product is a deliberate, lengthy, and expensive process that involves a team of engineers and scientists. In addition, test standard development is a dynamic process in which test standards are constantly revised. For example, UL generally reviews each of its test standards at least once every 3 years. Further, at any point in time, between 10 and 20 percent of the UL test standards have been changed during the preceding 6 months. In light of this effort and expense, very few organizations develop their own product test standards.

Independent testing labs are entities that are separate from any manufacturer, trade association, or equipment vendor. They typically test a variety of products or substances within one or more general testing disciplines (e.g., electrical, thermal, mechanical) for many clients, such as manufacturers, trade associations, physicians, and state agencies. Most of the smaller labs specialize in testing specific types of products within one or two general testing disciplines. Even the larger testing labs tend to specialize within one or two general testing disciplines and do not test every type of product within a general testing discipline.

According to the 1992 Census, there are approximately 4,704 independent testing labs in the United States, of which 4,540 are profit making and 164 are not-for-profit (see Table 2). Of the 4,704 testing labs, 1,776 perform chemical or biological testing[3] and about 2,928 concentrate on product testing [1]. The second category of testing labs performs such types of tests as electrical resistance or capacity, fire resistance of materials, materials strength, acoustic and vibration testing, etc. Some of these testing labs will be affected by the proposed rule. Total combined receipts for taxable and non-taxable establishments were $5.13 billion in 1992. Not-for-profit establishments represent 3.4 percent of the total number of testing establishments and 7.2 percent of total revenues.

[2] A substantial amount of equipment tested is used in situations other than those in which OSHA has sole interest. As one example, electrical conductors and equipment installed in buildings must conform with the state and local building code, the National Electrical Code, and any requirements established by the property insurer. In addition, manufacturers have products examined by testing laboratories in order to meet the demands of their product liability insurers as well as to improve the product. Thus, OSHA is not the only organization concerned about the safety of many of these products.

[3] Biological and chemical testing labs perform such tests as chemical composition of substances, blood tests, etc., and would not be affected by the proposed rule.

TABLE 2.—CHARACTERISTICS OF TESTING LABORATORIES

	Number of firms	Number of establishments	Number of employees	Total receipts ($ million)	Percent receipts [b] from testing
Taxable Establishments	3,513	4,540	70,462	$4,764	94.47
Non-Taxable Establishments	[a] 135	164	6,256	371	90.13

Source: US Department of Commerce. 1992 Census of Service Industries. SC92–S–1. February 1995.
(a) Calculated based on the ratio of non-taxable firms to establishments in SIC 873.
(b) Other sources of receipts for taxable and non-taxable labs include physical or biological research and development, engineering consulting and design, and contributions (tax-exempt labs only).

By 1992, the testing industry increased by 40 percent, from a total of 3,458 testing labs in 1987; there are several reasons for this growth. First, as technology grows more complex, fewer personnel within the equipment manufacturing organization have the technical expertise to certify the quality of the finished product, i.e., fewer people in a given organization have the ability to perform the overall product certification function. Product testing laboratories can help to provide this quality assurance function. Second, the increase in product liability suits has encouraged manufacturers to take additional steps to verify the safety characteristics of their products. Third, more information is now being sought on product toxicity [2].

The testing industry employs 76,718 workers. Small establishments with one to nine employees represent 3,002 establishments (64 percent of all establishments), but collectively employ only 11,095 employees (14 percent of all employees).

The proposed rule contains requirements for the payment of fees for services provided by OSHA to the NRTLs. The two distinct groups of testing labs that will be affected by the proposed rule are: (1) testing labs that will seek acceptance by OSHA as ''nationally recognized testing labs'' for particular types of equipment testing, listing, and approval required under Part 1910.7, and (2) existing NRTLs wishing to retain their eligibility for testing and certification of workplace equipment and/or to expand their NRTL program. Testing labs that do not seek OSHA acceptance will not be affected by the proposed rule and will, therefore, incur no costs of compliance.

In 1998, there were 17 testing laboratories that had NRTL status and that operated 40 testing facilities (sites). Table 3 lists the laboratories and the number of sites for these labs. Both domestic and foreign testing laboratories may be affected by this proposal. The Canadian Standards Association (CSA) is a product testing lab that is Canadian-owned and operated and is the only foreign testing lab that has, to any significant degree, entered the American product safety testing market. CSA certification is accepted by some state and local building code authorities.

TABLE 3.—NATIONALLY RECOGNIZED TESTING LABORATORIES (NRTLS)

Testing laboratory	Number of sites
1. American Gas Association Laboratories (AGA)	2
2. Applied Research Laboratories (ARL)	1
3. Canadian Standards Assocaition (CSA)	6
4. Communication Certification Laboratory (CCL)	1
5. Detroit Testing Laboratory (DTL)	1
6. Electro-Test, Inc. (ETI)	2
7. Entela, Inc. (ENT)	2
8. Factory Mutual Research Corporation (FM)	2
9. Intertek Testing Services NA, Inc. (ITS)	8
10. MET Laboratories (MET)	1
11. National Technical Systems	1
12. NSF International	1
13. SGS U.S. Testing Co., Inc. (SGS)	2
14. Southwest Research Institute (SwRI)	1
15. TUV Rheinland of North America, Inc. (TUV)	1
16. Underwriters Laboratories (UL)	7
17. Wyle Laboratories, Inc. (WL)	1
TOTAL	40

Source: US Department of Labor, OSHA, Office of Regulatory Analysis, 1998.

Costs

This section presents preliminary estimates of the costs that will be incurred by firms to come into compliance with the proposed rule for NRTL fees. These costs do not represent new costs to the economy; instead, they represent a new method of paying for the costs of the NRTL certification program. Today, these costs are paid by taxpayers as part of OSHA's budget. This proposal would transfer the payment of these costs to the NRTLs themselves and NRTL applicants. OSHA welcomes comments on the preliminary costs presented and assumptions used in this Preliminary Economic Analysis.

Testing laboratories participating in the OSHA program will be subject to costs for two types of services: (1) application processing for the initial recognition of an organization, and for expansion and renewal of an existing NRTL's recognition; and (2) audits (post-recognition reviews), which enable the NRTL to maintain its recognition from OSHA. The fees for these services are based on the actual cost of the service rendered and will thus vary by circumstances. Table A, previously shown in Part III of this notice, shows the elements of the fee structure and a sample fee schedule. The activities covered by each category of fees are explained in detail in that part.

OSHA relied on a review of the NRTL application information from 1988 to 1996 to develop estimates on the annual number of new applicants, and expansion and renewal requests. On average, OSHA receives about 3 initial applications for NRTLs and 3 applications for renewal, and 7 applications for expansions on an annual basis.

OSHA expects to receive several NRTL application requests from foreign-based testing laboratories as a result of a Mutual Recognition Agreement (MRA) between the United States and the European Union (EU). Through the MRA, foreign labs located in the EU that apply for and are recognized as NRTLs can perform the same activities as US based NRTLs. The fees proposed by OSHA will ensure that US taxpayers are not subsidizing foreign businesses. At this time, there is insufficient information to quantify the number of foreign labs that may apply for NRTL status and their future costs of compliance for these labs.

OSHA estimates that labs will require approximately 0.5 hours of an accountant's time to estimate OSHA-related activities and to process payment. Employee wages are based on the Bureau of Labor Statistics estimate of total employee compensation for the professional specialty of $30.17 per

hour [3]. These costs and the estimated fee costs are shown combined in Table 5.

Estimates of the total cost of full compliance with the requirements of the proposed NRTL fee rule are presented in Table 4. This table also shows OSHA's estimates of the average fee for each type of service costs, as well as a current estimate of total annual fee collections. Total estimated costs for the testing laboratory industry would amount to about $240,000 annually. OSHA estimates that initial recognitions will cost an average of $20,423 per establishment, expansions of recognition application will cost an average of $7,820 per establishment, renewals of recognition will cost an average of $8,641 per establishment, and annual audits will cost an average of $2,436 per establishment.

TABLE 4.—SUMMARY OF TOTAL ESTIMATED FEE COLLECTION BY CATEGORY

Category	Average cost per application or audit	Est No. per year	Estimated fee collection
Initial Recognition Applications	$20,423	3	$61,269
Expansion of Recognition Applications	7,820	7	54,739
Renewal of Recognition Applications	8,641	3	25,924
Annual Site Visits (Audits)	2,436	40	97,432
Total			239,364

Source: Office of Technical Programs and Coordination Activities, 1999.

Economic Impacts

OSHA assessed the potential economic impacts of the costs of compliance with the proposed standard for NRTL fees and has preliminarily determined that the standard is economically feasible for firms in this industry. The proposal would have the advantage of encouraging economic efficiency by pricing the service of the NRTL program rather than providing the service for free. As mentioned above, the cost of the NRTL program is currently borne by taxpayers through OSHA's budget. This proposal would transfer the payment of some of these costs to firms receiving the service from OSHA.

To determine whether the proposed rule's projected costs of compliance would raise issues of economic feasibility for the affected industry, i.e., would adversely alter the competitive structure of the industry, OSHA developed quantitative estimates of the economic impact of the proposed rule on establishments in the affected industry, and thus on the 17 firms already recognized as NRTLs. In this analysis, compliance costs are compared with industry revenues and profits.

Estimates of compliance costs are compared with estimates of annual revenues based on data from the U.S. Department of Commerce, Bureau of the Census, ''Table 3: United States—The Number and Percent of Firms, Establishments, Employment, Annual Payroll, and Estimated Receipts by Industry and Employment Size for 1993,'' while estimates of pre-tax profits for most industries are based on data from Robert Morris Associates [3].

OSHA compared the baseline financial data with total annual compliance costs by computing compliance costs as a percentage of revenues. Table 5 shows compliance costs as a percentage of sales and pre-tax profits. This table is titled a screening analysis because it simply measures costs as a percentage of pre-tax profits and sales and does not predict impacts on these sales and pre-tax profits. The screening analysis is used to determine whether the compliance costs potentially associated with the proposed NRTL fee could lead to significant impacts on the affected firms. The actual impact of the proposal on the profits and sales of firms will depend on the price elasticity of demand for the services provided by the affected firms.

TABLE 5.—SCREENING ANALYSIS TO IDENTIFY POSSIBLE ECONOMIC IMPACTS OF THE PROPOSED NRTL FE

	Annual costs of compliance	Revenues ($1000)	Pre-tax profits ($1000) [1]	Annualized costs of compliance as a percent of	
				Sales	Pre-Tax Profit
Testing Laboratories (SIC 8734)	$239,825	$5,547,796	$316,224	0.004	0.08

Sources: US Department of Labor, OSHA, Office of Regulatory Analysis, 1998; Office of Technical Programs and Coordination Activities, 1999. US Small Business Administration, Office of Advocacy. Table 3: US Establishments, Employment, and Payroll by Industry and Firm Size, 1993.
[1] Revenues do not include foreign laboratories sales.

Price elasticity refers to the relationship between the price charged for a product and demand for that product; that is, the more elastic the relationship, the less able a firm is to pass the costs of compliance through to its customers in the form of a price increase and the more it will have to absorb the costs of compliance from its profit. When demand is inelastic, firms can absorb all the costs of compliance simply by raising the prices they charge for the service; under this scenario, profits are untouched. Where demand is inelastic, the impact of compliance costs that amount to 1 percent of revenues would be a 1 percent increase in the price of the product, with no decline either in demand or in profits. Such a situation would be most likely when there are few, if any, substitutes for the service offered by the affected establishments and where such services account only for a small portion of the income of its consumers. When demand is elastic, firms cannot absorb all of the costs simply by passing the cost

increase through in the form of a price increase; instead, they must absorb some of the increase from their profits. In this case, no increase in price is possible, and before-tax profits would be reduced by an amount equal to the costs of compliance. Under this scenario, if the costs of compliance are a large percentage of the establishment's profits, some establishments might be forced to close. This scenario is highly unlikely to occur, however, because it can only arise when there are other services that are, in the eyes of consumers, perfect substitutes for the services the affected establishments provide. A common intermediate case would be a price elasticity of one. In this situation, if the costs of compliance amount to 1 percent of revenues, then production would decline by 1 percent and prices would rise by 1 percent. In this case, establishments remain in business and maintain the same profit as before but would produce 1 percent less product or service. Consumers would effectively absorb the costs through a combination of increased prices and reduced consumption; this, as the court described in *ADA* v. *Secretary of Labor,* is the more typical case.

As shown in Table 5, the impacts potentially imposed by the proposed rule are not sizeable on the industry. On average, annualized compliance costs would amount to only 0.004 percent of estimated industry revenues and 0.08 percent of estimated profits. Even if no price increase were possible, a 0.08 percent decline in profits would not threaten the viability of the industry. These impacts are overestimated since the revenues do not include foreign organization revenues. Thus, the proposed rule is preliminarily determined to be economically feasible for affected laboratories.

As previously noted, OSHA has received a comment from a ''stakeholder'' that stated the proposed fees would have a significant impact on the manufacturers who are customers of NRTL services [Ex. 2–19]. However, they did not present any information or evidence of such impacts. Testing fees are minor costs compared with the product's development and manufacturing costs. The price of testing entails not only the charges for the direct testing service, but also the length of time taken by the testing process. In other words, the time spent by the manufacturer waiting for the product to be tested is time during which the product is not being sold and the manufacturer is not receiving the income necessary to offset the expenses of designing the product, establishing a production line, etc. In addition to the time component, the market for testing services is highly competitive and the price inelastic because, in general, the price for testing services is a very small component of the overall costs of the product. OSHA estimated in its Final Regulatory Impact Analysis of the Final Rule for 29 CFR Part 1910, Safety Testing of Certification of Certain Workplace Equipment and Materials and Programs, that the actual testing, listing and approval expenditures for tested equipment would be between 0.23 percent and 0.50 percent of the value of these products [2]. Thus, on average, product testing fees are a minor component of the cost of manufacturing equipment and will continue to remain so even after the proposed fees have been implemented. OSHA seeks more information on the impacts of the proposed rule on manufacturers. OSHA also seeks information on the impact of the proposed fee schedule on foreign testing laboratories.

Potential Economic Impacts of the Proposed Standard on Small Entities

This section measures the potential economic impacts of the proposed standard on small entities in the affected testing laboratory industry to determine whether the proposed standard has a significant impact on a substantial number of small firms, as required by the Regulatory Flexibility Act (as amended in 1996). For the purposes of this analysis, OSHA defines small entities using the Small Business Administration's (SBA) Table of Size Standards. The SBA size standards for for-profit firms identify firms with less than $5 million in revenues as small in the testing laboratory service sector.

The Regulatory Flexibility Act addresses impacts on ''small businesses,'' and ''small not-for-profit organizations,'' both of which are referred to in this analysis as ''small entities.'' What constitutes a small entity is defined by the SBA in terms of the number of employees or annual receipts (unless otherwise stated) constituting the largest size that a for-profit enterprise (together with its affiliates) may be and still remain eligible as a small business for various SBA and other Federal Government programs. A ''small organization'' is defined as any ''not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Since this definition would include all of the not-for-profit entities, no separate analysis of small organizations is necessary. OSHA seeks comment on the appropriate definition of a small not-for-profit entity for the purpose of this regulatory flexibility analysis.

The number of establishments operated by small firms and the number of affected workers employed in small firms are based on Bureau of the Census data.[4] The Bureau of the Census data classify firms according to the number of workers employed by the enterprise. The following employment size classifications were used: 1–4, 5–9, 10–19, 20–99, 100–499, 500+. For each firm size classification, data were provided on the total number of firms, establishments, employees and estimated annual receipts.

Based on the SBA size category and the Census data, OSHA has determined that most of the testing labs with NRTL status are of substantial size in terms of both gross revenues and number of employees. The average revenue of these firms, based on the employment size categories provided by the Census data, is estimated to range from $6.9 million to $18.9 million per firm.

The purpose of this analysis is to assess the impacts on business organizations consisting of one or more domestic establishments under common ownership or control, without regard to the number of states in which a business organization may be operating establishments. However, the data provided by the Census do not include the number of enterprises, but rather the number of firms, which, by the Census' definition, is essentially the number of states in which an enterprise operates establishments in a specific industry. Thus, to the extent that enterprises operate establishments in the same industry in multiple states, estimates of the number of entities may be overestimated.

To estimate the number of small entities, average revenues per firm were calculated in each enterprise size category using Census data, and size categories where average revenues per firm were less than the standards set by SBA (i.e., less than $5 million for all other firms), firms in those size categories were assumed to be small entities. Table 6 shows the estimated number of small entities in the industry. Only 9 small businesses and 1 not-for-

[4] The Bureau of the Census defines a ''firm'' as a ''a business organization consisting of one or more domestic establishments in the same state and industry that were specified under common ownership or control,'' and an ''enterprise'' as ''a business organization consisting of one or more domestic establishments that were specified under common ownership or control.'' In other words, if, for example, an enterprise with 100 employees operates nursing homes in four states, the Bureau of Census would count this as four firms in the nursing home industry in the 100 to 499 employment size classification.

profit entity are currently NRTLs and thus certain to be affected. However, the proposed rule could potentially affect any of the 3,170 small independent testing laboratories if such entities wish to become NRTLs. About 87 percent of all independent testing laboratories are estimated to be operated by small entities.

Table 6 presents the results of the regulatory flexibility screening analysis. It shows the estimated annual compliance costs and economic impacts relative to revenues and pre-tax profit for affected small entities. For testing laboratories seeking NRTL status for the first time, the annual compliance cost amounts to only 0.22 percent of revenues and 3.90 percent of profits for small entities. The analysis also shows that for-profit testing labs with current NRTL status have compliance costs that are 0.25 percent of revenues and 4.36 percent of profits. For not-for-profit NRTLs, compliance costs represent 0.10 percent of revenues. Impacts of these magnitudes do not exceed the thresholds OSHA has established for significant impacts.

Thus, because this proposal will not have a significant impact on small entities (as defined by the SBA), OSHA certifies that this proposal will not have a significant impact on a substantial number of small entities.

TABLE 6.—SCREENING ANALYSIS TO IDENTIFY POSSIBLE ECONOMIC IMPACTS OF THE PROPOSED NRTL FEES RULE ON SMALL ENTITIES

	Definition of small entity	Employment size	Number of small firms	Annualized cost per firm	Average revenues per small firm	Pre-tax profits per small firm	Annualized costs of compliance as a percent of	
							Sales (percent)	Pre-tax profit (percent)
Testing Laboratories (SIC 8734).	<$5 milion	<100	NA	$5,359	$2,413,243	$137,555	0.22	3.90
Testing Laboratories with NRTL Status								
For-Profit Firms	<$5 million	<100	9	6,000	2,413,243	137,555	0.25	4.36
Not-For-Profit Firms	Not-for-Profit	500+	1	18,180	18,913,183	.....	0.10	.....

Source: US Department of labaor, OSHA, Office of Regulatory Analysis, 1998; Office of Technical Programs and Coordination Activities, 1999. US Small Business Administration, Office of advocacy. Table 3: US Establishments, Employment, and Payroll by Industry and Firm Size, 1993. Note: As defined by the Small Business Administration's Table of Size Standards.

References

1. US Department of Commerce, Bureau of the Census. 1992 Census of Service Industries: Industry Series: SC92–S–1,–4,–5. Washington, D.C., February 1995.

2. US Department of Labor, OSHA. Final Regulatory Impact Analysis of the Final Rule 29 CFR PART 1910 for Safety Testing of Certification of Certain Workplace Equipment and Materials and Programs. March 1988

3. Robert Morris Associates. Annual Statement Studies. September 1995.

VIII. Other Regulatory Matters

A. Environmental Impact Assessment

In accordance with the requirements of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), Council on Environmental Quality NEPA regulations (40 CFR Part 1500), and the Department of Labor's NEPA regulations (29 CFR Part 11), the Assistant Secretary has determined that this proposed rule will not have a significant impact on the external environment.

B. Federalism

This proposed rule has been reviewed in accordance with Executive Order12612, regarding Federalism. This proposed rule would only set fees for services provided by the Federal Government to private entities and has no impact on Federalism.

C. Paperwork Reduction Act of 1995

OSHA does not plan to develop or implement a form for NRTLs and NRTL applicants to use to pay the fees but will provide instructions on how to calculate the fees, as previously stated. The Agency does not believe a form is needed since the fee calculations are relatively simple. In addition, OSHA has no reporting requirements related to the fees. As a result, there are no additional burden hours associated with the fees.

D. Unfunded Mandates

For the purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Orders 12875 and 13084, this rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, or increased expenditures by the private sector of more than $100 million in any year.

E. State Plan States

The 25 States and territories with their own OSHA approved occupational safety and health plans are not affected by this proposed rule. These 25 states and territories are: Alaska, Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (for state and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

IX. Public Participation

Comments

OSHA invites interested persons to submit written data, views, and arguments with respect to this proposal. OSHA must receive your comments, whether mailed or e-mailed, by October 4, 1999. Submit your comments in duplicate or 1 original (hardcopy) and 1 disk (5¼ or 3½) in WP 5.0, 5.1, 6.0, 6.1, 8.0 or ASCII to the: Docket Officer, Docket NRTL–95–F–1, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, N.W.,Washington, D.C. 20210. The phone number for the OSHA Docket Office is (202) 693–2350. You may transmit your written comments of 10 pages or less by facsimile (fax) to the Docket Office at (202) 693–1648, provided you send an original and one (1) copy to the Docket Office thereafter. You may also submit comments electronically using the following web page address: *http://www.osha-slc.gov/e-comments/e-comments-nrtl.html.* If your submission contains attached

electronic files, the files must be in WordPerfect 5.0, 5.1, 6.0, 6.1, 8.0 or ASCII. When submitting a comment electronically, please include your name and address.

Submit, in duplicate, any information not contained on disk or not provided electronically (e.g., studies, articles). Written submissions must clearly identify the issues or specific provisions of the proposal which are addressed and the position taken with respect to each issue or provision. The data, views, and arguments that you submit will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding. The preliminary economic analysis and the exhibits cited in this document will be available for public inspection and copying at the above address. OSHA invites comments concerning the preliminary conclusions reached in the economic analysis included in this notice.

X. Authority

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. The proposed sections are issued under the authority of section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657); and Secretary of Labor's Order No 6–96 (62 FR 111). The proposed sections are also issued under authority of OMB Circular A–25 (dated 7/8/93); Public Law 105–277; 29 U.S.C. 9a; the Administrative Procedure Act (5 U.S.C. 553); and the Independent Offices Appropriations Act (31 U.S.C. 9701)

List of Subjects in 29 CFR Part 1910

Fees, Laboratories, Occupational safety and health.

Signed at Washington, D.C. this 6 day of August, 1999.

Charles N. Jeffress,

Assistant Secretary.

For the reasons discussed in the preamble, OSHA proposes to amend 29 CFR Part 1910 as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

1. The authority citation for subpart A of 29 CFR part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Numbers 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable.

Sections 1910.7 and 1910.8 also issued under 29 CFR part 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701.

2. Add new paragraph (f) to § 1910.7 to read as follows:

§ 1910.7 Definition and requirements for a nationally recognized testing laboratory.

* * * * *

(f) *Fees.* (1) Each applicant for NRTL recognition and each existing NRTL must pay fees for services provided by OSHA. OSHA will assess fees for the following activities:

(i) Processing of applications for initial recognition, expansion of recognition, or renewal of recognition, including on-site reviews; review and evaluation of the applications; and preparation of reports, evaluations and **Federal Register** notices; and

(ii) Audits of sites.

(2) The fee schedule established by OSHA reflects the estimated cost of performing the tasks and functions for each activity. OSHA calculates the fees based on the average time required to perform the work necessary; the staff costs per hour (which include wages, fringe benefits, and expenses other than travel for personnel that perform or administer the activities covered by the fees); and an estimate of the average costs for travel when on-site reviews are involved. The formula for the fee calculation is as follows:

Activity Fee = Average Hours to Complete the Activity × Staff Costs per Hour + Travel Costs

(3) OSHA will review costs and estimates annually and will propose a revised fee schedule, if warranted. In its review, OSHA will apply the formula established in paragraph (f)(2) of this section to the current estimated costs for the NRTL Program. If a change is warranted, OSHA will follow the schedule in paragraph (f)(4) of this section. OSHA will issue all fee schedules in the **Federal Register**. Once issued, a fee schedule remains in effect until it is superseded. Any member of the public may request a change to the fees included in the current fee schedule. Such a request must include appropriate documentation in support of the suggested change.

(4) OSHA will implement fee assessment, collection, and payment as follows:

Approximate dates	Action required
I. Application Fees:	
Time of application.	Applicant must pay the applicable fees shown in the Fee Schedule when submitting the application; OSHA will not begin processing until fees are received.
Publication of preliminary notice.	Applicant must pay remainder of fees; OSHA cancels application if fees are not paid when due.
II. Audit Fees:	
November 1 ...	OSHA will publish proposed new Fee Schedule in the FEDERAL REGISTER, if OSHA determines changes in the schedule are warranted.
November 16	Comments due on the proposed new Fee Schedule
December 15	OSHA will publish the final Fee Schedule in the FEDERAL REGISTER.
January 1	OSHA will bill each existing NRTL for the audit fees shown in the Fee Schedule, including estimated travel costs.
February 1	NRTLs must pay audit fees; OSHA will assess late fee if audit fees are not paid.
February 15 ...	OSHA will send a letter to the NRTL requesting immediate payment of the audit fees and late fee.
March 1	OSHA will publish a notice in the FEDERAL REGISTER to revoke recognition for NRTLs that have not paid audit fees for the year.

(5) OSHA will provide the details regarding how to pay the fees through appropriate OSHA Program Directives.

3. Revise paragraphs I.B.5.a, II.B.2.a, and II.C.2.a of Appendix A to § 1910.7, to read as follows:

Appendix A to § 1910.7—OSHA Recognition Process for Nationally Recognized Testing Laboratories

* * * * *

I. Procedures for Initial OSHA Recognition

* * * * *

B. Review and Decision Process; Issuance or Renewal

* * * * *

5. *Public review and comment period.*—a. The **Federal Register** notice of preliminary finding will provide a period of not less than 30 calendar days for written comments on the applicant's fulfillment of the requirements for recognition. The application, supporting documents, staff recommendation, statement of applicant's reasons, and any comments received, will be

available for public inspection in the OSHA Docket Office.

* * * * *

II. Supplementary Procedures

* * * * *

B. Expansion of Current Recognition

* * * * *

2. *Procedure.*—a. OSHA will act upon and process the application for expansion in accordance with subsection I.B. of this appendix, except that the period for written comments, specified in paragraph 5.a of subsection I.B. of this appendix, will be not less than 15 calendar days.

* * * * *

C. Renewal of OSHA Recognition

* * * * *

2. *Procedure.*—a. OSHA will process the renewal request in accordance with subsection I.B. of this appendix, except that the period for written comments, specified in paragraph 5.a of subsection I.B. of this appendix, will be not less than 15 calendar days.

* * * * *

[FR Doc. 99–21216 Filed 8–17–99; 8:45 am]

BILLING CODE 4510–26–P

federal register

Wednesday
August 18, 1999

Part VIII

Environmental Protection Agency

40 CFR Part 63

Title V Operating Permit Deferrals for Area Sources: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, Etc.; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6419–4]

Title V Operating Permit Deferrals for Area Sources: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; Ethylene Oxide Commercial Sterilization and Fumigation Operations; Perchloroethylene Dry Cleaning Facilities; Halogenated Solvent Cleaning Machines; and Secondary Lead Smelting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

SUMMARY: This action proposes to continue to allow permitting authorities the discretion to defer title V operating permitting requirements until December 9, 2004 for area sources of air pollution that are subject to five NESHAP for source categories. These amendments would continue to relieve industrial sources, State and local agencies, and the EPA Regional Offices of an undue regulatory burden during a time when available resources are needed to implement the title V permit program for major sources. Under the proposed amendments, sources must continue to meet all applicable requirements, including all applicable emission control, monitoring, recordkeeping, and reporting requirements established by the respective NESHAP.

DATES: *Comments:* We must receive comments on or before September 17, 1999, unless anyone requests a public hearing by September 8, 1999. If anyone requests a hearing, we must receive written comments by October 18, 1999.

Public Hearing: We will hold a public hearing, if requested, to provide anyone an opportunity to present data, views, or arguments concerning the proposed amendments. If anyone contacts us requesting to speak at a public hearing by September 8, 1999, we will hold a public hearing on September 17, 1999, beginning at 9:30 a.m. If we hold a hearing, we will keep the dockets open for 30 days after the hearing for anyone to submit rebuttal or supplementary information as provided by section 307(d)(5) of the Clean Air Act (Act).

Request To Speak at a Hearing: Anyone requesting to speak at a public hearing must contact EPA by September 8, 1999.

ADDRESSES: *Comments:* Send comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (MC–6102), Attention Docket No. A–88–11 (subpart M), or Attention Docket No. A–88–02 (subpart N), or Attention Docket No. A–88–03 (subpart O), or Attention Docket No. A–92–39 (subpart T), or Attention Docket No. A–92–43 (subpart X), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Please send a separate copy to the contact person listed below in the **FOR FURTHER INFORMATION CONTACT** section. For information on submitting comments eletronically see the **SUPPLEMENTARY INFORMATION** section.

Docket: The following dockets, containing supporting information for the original rulemakings, are available for public inspection between 8:00 a.m. and 5:30 p.m., Monday through Friday except for Federal holidays: Docket No. A–88–11, subpart M NESHAP; Docket No. A–88–02, subpart N NESHAP; Docket No. A–88–03, subpart O NESHAP; Docket No. A–92–39, subpart T NESHAP; Docket No. A–92–43, subpart X NESHAP. These dockets are available for public inspection at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street SW, Washington, DC 20460, telephone (202) 260–7548, Room M–1500, Waterside Mall (ground floor). We may charge a reasonable fee for copying.

Public Hearing: Anyone interested in attending the hearing should contact Dorothy Apple, (919) 541–4487, to verify that a hearing will occur.

Request To Speak at a Hearing: Anyone requesting to speak at a public hearing must contact Dorothy Apple, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–4487.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Colyer, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711, telephone number (919) 541–5262, fax number (919) 541–0942, or e-mail: colyer.rick@epa.gov.

SUPPLEMENTARY INFORMATION:

Submitting Electronic Comments

You may also comment on the proposal by electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov. Send electronic comments as an ASCII file to avoid using special characters and any form of encryption. We will also accept comments and data disks in WordPerfect 5.1 or 6.1 file format. Identify all comments and data in electronic form by the docket number. Don't send confidential business information (CBI) through electronic mail. You may file electronic comments on these proposed amendments online at many Federal Depository Libraries.

Technology Transfer Network

The Technology Transfer Network (TTN) is a network of our electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. You can access the TTN through the Internet at ''http://www.epa.gov/ttn/.'' If you need more information on the TTN, call the HELP line at (919) 541–5384.

The preamble outline follows.

I. What types of facilities are potentially affected by these amendments?
II. What is the purpose of these amendments?
III. Why are we proposing to extend the deferral from permitting for area sources?
IV. What are the administrative requirements for these proposed amendments?
A. Docket
B. Executive Order 12866
C. Executive Order 12875
D. Executive Order 13084
E. Unfunded Mandates Reform Act
F. Regulatory Flexibility Act
G. Paperwork Reduction Act
H. Executive Order 13045
I. National Technology Transfer and Advancement Act

I. What Types of Facilities Are Potentially Affected by These Amendments?

The regulated categories and entities potentially affected by this action include:

Category	North American Industry Classification System Codes	Examples of potentially regulated entities
Industry	331492	Secondary lead smelters.
	332, 333, 334, 335, 336, 447	Halogenated solvent cleaning machines at fabricated metal product manufacturing facilities, machinery manufacturing facilities, computer and electronic product manufacturing facilities, electrical equipment, appliance, and component manufacturing facilities, transportation equipment manufacturing facilities, and gasoline stations.

Category	North American Industry Classification System Codes	Examples of potentially regulated entities
	332, 333, 334, 335, 336	Chromium electroplating machines at fabricated metal product manufacturing facilities, machinery manufacturing facilities, computer and electronic product manufacturing facilities, electrical equipment, appliance, and component manufacturing facilities, and transportation equipment manufacturing facilities.
	8123	Dry cleaning and laundry facilities.
	3391	Ethylene oxide sterilizers at medical equipment and supplies manufacturing facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers of the entities likely to be regulated by this action. This table lists the types of entities that we are now aware could be regulated by this action. Other types of entities not listed in this table could also be affected. To determine whether your facility, company, business organization, etc., is regulated by this action, you should carefully examine the applicability criteria in the following sections of title 40 of the Code of Federal Regulations:

- § 63.320, perchloroethylene dry cleaning.
- § 63.340, chromium electroplating.
- § 63.360, ethylene oxide sterilizers.
- § 63.460, halogenated solvent cleaners.
- § 63.541, secondary lead smelters.

If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the ''For Further Information'' section.

II. What Is the Purpose of These Amendments?

The purpose of these amendments is to extend the deadline for certain area sources to submit applications for title V operating permits. The Act requires sources subject to standards or regulations under section 112 to obtain title V operating permits, but allows us to exempt nonmajor sources from the requirement to obtain operating permits if we determine through rulemaking that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories. See section 502(a) of the Act. Under section 112 of the Act, such nonmajor sources are termed ''area sources.'' See CAA section 112(a)(2).[1]

When we issue standards or other requirements under section 112 of the Act, we determine whether to exempt any or all area sources from the requirement to obtain a title V permit at the time that the new standard is promulgated for a particular source category. See 40 CFR 70.3(b)(2), 40 CFR 71.3(b)(2), and 63.1(c)(2). Our general provisions implementing section 112 provide that unless we explicitly exempt or defer area sources subject to a MACT standard from the permitting requirement, they must obtain operating permits. See 40 CFR 63.1(c)(2)(iii).

Since the Act allows an exemption from the permitting requirements, we interpret it to allow a temporary exemption (i.e., a deferral) of those requirements. We previously allowed permitting authorities to defer permitting for area sources subject to five NESHAP (59 FR 61801, December 2, 1994; 60 FR 29484, June 5, 1995; 61 FR 27785, June 3, 1996, and 64 FR 4570, January 29, 1999).[2] Those provisions will expire December 9, 1999. The source categories for which we deferred title V operating permit requirements for area sources were: hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide commercial sterilization and fumigation operations, perchloroethylene dry cleaning facilities, secondary lead smelting facilities, and halogenated solvent cleaning machines. As we approach this December 9, 1999 expiration date, the conditions prompting the allowance for previous deferrals have not changed. We are, therefore, proposing to extend the deferral provisions for the NESHAP for an additional 5 years.

The proposed amendments have been written in ''plain language,'' as directed in President Clinton's June 1, 1998, Executive Memorandum on Plain Language in Government Writing. While we believe the proposed language improves the understandability of the current language, the intent and meaning of the text is unchanged.

III. Why Are We Proposing To Extend the Deferral From Permitting for Area Sources?

On December 13, 1995 (60 FR 64002), we proposed to allow title V permitting authorities to defer the requirement for obtaining title V operating permits for area sources in several source categories for which standards were promulgated under 40 CFR part 63. We finalized that proposal on June 3, 1996 (61 FR 27785). A deferral from the requirement to obtain a part 70 operating permit for halogenated solvent cleaners at area sources was promulgated on December 2, 1994 (59 FR 61805), and amended June 5, 1995 (60 FR 29484).

At the time we established the June 3, 1996, deferral option, we stated we would decide whether to adopt permanent exemptions by the time the allowed deferrals expired. We also stated that during the deferral period we would continue to evaluate the permitting authorities' implementation and enforcement of the standards for area sources not covered by title V permits, the likely benefit of permitting such sources, and the costs and other burdens on such sources associated with obtaining a title V permit. However, we do not yet have sufficient information to determine whether permit exemptions are warranted for most area sources and are continuing to evaluate the above-noted considerations. Thus, we are not yet prepared to make decisions that either permanently relieve these area sources from title V, or that allow them to become immediately subject to the permitting requirement. In light of this, we believe the most reasonable approach is to extend the status quo (i.e., defer the title V permitting requirements), rather than to ''decide'' by default through letting the current deferral expire this December.

Many permitting authorities are having difficulty issuing permits even to major sources, and some agencies have initially underestimated the resources

[1] Generally, an area source under section 112 is a source whose potential to emit air pollutants is below the levels that define a major source. A ''major source'' under section 112 is any source that emits or has the potential to emit at least 10 tons per year of an individual hazardous air pollutant (HAP) or at least 25 tons per year of a combination of HAP (or such lesser quantity, or different criteria in the case of radionuclides, as established by the Administrator). You should consult section 112(a)(1) and (2) of the Act, and 40 CFR 63.2 to determine if you have a area source.

[2] In this rulemaking, we continue to rely upon the rationale provided in the prior rulemakings, in addition to the rationale discussed in today's action, and in the action extending the deferral for halogenated solvent cleaning machines to part 71 (64 FR 37683; July 13, 1999).

necessary to prepare large and complex permits for many major sources. If we discontinue the title V permit deferral for the tens of thousands of area sources subject to the five NESHAP that are the subject of these proposed amendments, owners and operators of such area sources would require assistance from the permitting staff at permitting agencies due to their relative lack of technical and legal expertise, resources, and experience in dealing with environmental regulation. Since many of these owners or operators have little or no permitting expertise, a substantial amount of permitting authority staff time would be needed to provide the administrative and technical support to owners and operators of area sources to prepare and submit permit applications. As noted above, this staff time would scarcely be available, which in turn would cause many area sources to be unable to obtain technical and procedural assistance to help them file timely and complete applications, unless they have paid consultants to prepare applications for them. This scenario would constitute an impracticable, infeasible and unnecessary burden on these area sources, most of which are small businesses, especially considering that by definition they emit less than majors. This would also compound the difficulties permitting authorities are currently having in processing and timely issuing initial title V permits to major sources under their developing title V programs. Similarly, EPA regions are just beginning to permit major sources in Indian country and would find it administratively very difficult to focus on area sources at the same time. The net result is a basic impracticability for these area sources and permitting authorities to develop and process title V operating permits in the near future.

We believe that it is reasonable and fair to allow permitting authorities to defer title V permitting for area sources for an additional five years, since this would allow deferral for one more cycle of permitting. Title V permits have not been issued for many major sources, and permitting resources are currently directed to completing those. We anticipate another 5-year term of permit issuance should fully complete the outstanding initial permitting of major sources and other subject sources such as solid waste incineration units. By that time, we anticipate that permitting authorities' resources may be more available to aid area sources in developing permit applications. But in order to allow permitting authorities to continue to be able to focus on the critical and immediate task of issuing permits to major sources, the most feasible remedy is to allow permitting authorities to defer permitting of these area sources for an additional five-year permit cycle.

In sum, and as described in prior rulemakings granting the deferral option, requiring area sources subject to the NESHAP that are the subject of this rulemaking to obtain title V permits at this time would constitute an impracticable, infeasible and unnecessary burden on these area sources and would be an additional burden on the permitting agencies.

We note that this deferral is an option at the permitting authority's discretion under part 70 permit programs and not an automatic deferral that the source can invoke. Some permitting authorities may decide that area sources in one or more of the above-mentioned source categories warrant permitting, or they have in place a streamlined permitting mechanism for area sources that minimizes the burden both on the authority and the source, e.g., a general permit (see §§ 70.6(d) and 71.6(d)). In areas where no part 70 program has been approved, and part 71 permitting is administered by EPA, we propose deferral for these area sources until December 9, 2004.

IV. What Are the Administrative Requirements for These Proposed Amendments?

A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of these proposed amendments. The docket is a dynamic file, because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Act.)

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one 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 that these proposed amendments do not qualify as a ''significant regulatory action'' under the terms of Executive Order 12866 and, therefore, are not subject to review by OMB.

C. Executive Order 12875

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

Today's proposed amendments do not create a mandate on State, local, or tribal governments. These proposed amendments do not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to these proposed amendments.

D. Executive Order 13084

Under Executive Order 13084, the EPA may not issue a regulation that is

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

These proposed amendments do not alter the control standards imposed by part 63, subparts M, N, O, T, and X, for any source, including any that may affect communities of the Indian tribal governments. Under the proposed amendments, sources must continue to meet all applicable requirements, including all applicable emission control, monitoring, recordkeeping, and reporting requirements established by the respective NESHAP. Hence, today's proposed amendments do not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to these proposed amendments.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that these proposed amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in aggregate, or the private sector in any 1 year, nor do they significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. Thus, today's proposed amendments are not subject to the requirements of section 202 and 205 of the UMRA.

F. 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 business, small not-for-profit enterprises, and small governmental jurisdictions. These proposed amendments would not have a significant impact on a substantial number of small entities, because they impose no additional regulatory requirements on owners or operators of affected sources and would relieve owners or operators of such sources of regulatory requirements that may otherwise apply if this action is not taken. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

These proposed amendments do not require the collection of any information. Therefore, the requirements of the Paperwork Reduction Act do not apply.

H. Executive Order 13045

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 Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 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 Executive Order has the potential to influence the regulation. These proposed amendments are not subject to Executive Order 13045 because they do not establish an environmental standard intended to mitigate health or safety risks.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency

decides not to use available and applicable voluntary consensus standards.

These proposed amendments do not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 6, 1999.

Carol M. Browner,

Administrator.

For the reasons cited in the preamble, the Environmental Protection Agency proposes to amend 40 CFR part 63 as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart M—[Amended]

2. Section 63.320 is amended by revising paragraph (k) to read as follows:

§ 63.320 Applicability.

* * * * *

(k) If you are the owner or operator of a source subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR part 70 or part 71, as applicable. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

Subpart N—[Amended]

3. Section 63.340 is amended by revising paragraph (e)(2) to read as follows:

§ 63.340 Applicability and designation of sources.

* * * * *

(e) * * *

(2) If you are the owner or operator of a source subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR part 70 or part 71, as applicable. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

Subpart O—[Amended]

4. Section 63.360 is amended by revising paragraph (f) to read as follows:

§ 63.360 Applicability.

* * * * *

(f) If you are the owner or operator of a source subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR part 70 or part 71, as applicable. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

* * * * *

Subpart T—[Amended]

5. Section 63.468 is amended by revising paragraph (j) to read as follows:

§ 63.468 Reporting requirements.

* * * * *

(j) The Administrator has determined, pursuant to section 502(a) of the Act, that if you are an owner or operator of any batch cold solvent cleaning machine that is not a major source and is not located at a major source, as defined under 40 CFR 63.2, 70.2, or 71.2, you are exempt from title V permitting requirements under 40 CFR part 70 or part 71, as applicable, for that source, provided you are not otherwise required to obtain a title V permit. If you own or operate any other solvent cleaning machine subject to the provisions of this subpart, you are also subject to title V permitting requirements. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

* * * * *

Subpart X—[Amended]

6. Section 63.541 is amended by revising paragraph (c) to read as follows:

§ 63.541 Applicability.

* * * * *

(c) If you are the owner or operator of a source subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR part 70 or part 71, as applicable. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

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Part IX

Department of Education

Special Education: State Program Improvement Grants Program; Inviting Applications for New Awards for Fiscal Year 2000; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.323A]

Special Education: State Program Improvement Grants Program Notice inviting applications for new awards for fiscal year (FY) 2000

Note to applicants: This notice is a complete application package. Together with the statute authorizing the program and the applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this program.

Purpose of Program: The purpose of this program, authorized under the Individuals with Disabilities Education Act (IDEA) Amendments of 1997, is to assist State educational agencies to establish a partnership with local educational agencies and other State agencies involved in, or concerned with, reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

Eligible Applicants: A State educational agency of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

General requirements: (a) Projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA); and

(b) Projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, D.C. during each year of the project.

Deadline for Transmittal of Applications: December 15, 1999.

Deadline for Intergovernmental Review: February 13, 2000.

Available Funds: $7 million.

Estimated range of awards: Awards will be not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and not less than $80,000, in the case of an outlying area. This means that the Department will reject and will not consider any application that proposes a budget that exceeds the maximum award amount or is less than the minimum award amount for any single budget period of 12 months. The Secretary sets the amount of each grant after considering:

(1) The amount of funds available for making the grants;

(2) The relative population of the State or outlying area; and (3) The types of activities proposed by the State or outlying area.

Estimated Average Size of Awards: $1,000,000.

Estimated Number of Awards: 7.

Note: The Department of Education is not bound by the estimated size and number of awards in this notice.

Project Period: Not less than one year and not more than five years.

Page Limits: The application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. An applicant must limit the narrative to the equivalent of no more than 100 double-spaced pages, using the following standards: (1) A ''page'' is 8½″ × 11″ (one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than three lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to the cover sheet; the budget section (including the narrative budget justification); the assurances and certifications; or the one-page abstract, appendices, resumes, bibliography, and letters of support. However, all of the application narrative must be included in the narrative section. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

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) The selection criteria for this program are drawn from EDGAR in 34 CFR 75.210.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Description of Program: The statutory authorization for this program and the application requirements that apply to this competition are set out in sections 651–655 of the IDEA.

Findings and Purposes

(a) States are responding with some success to multiple pressures to improve educational and transitional services and results for children with disabilities in response to growing demands imposed by ever-changing factors, such as demographics, social policies, and labor and economic markets.

(b) In order for States to address those demands and to facilitate lasting systemic change that is of benefit to all students, including children with disabilities, States must involve local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations in carrying out comprehensive strategies to improve educational results for children with disabilities.

(c) Targeted Federal financial resources are needed to assist States, working in partnership with others, to identify and make needed changes to address the needs of children with disabilities into the next century.

(d) State educational agencies, in partnership with local educational agencies and other individuals and organizations, are in the best position to identify and design ways to meet emerging and expanding demands to improve education for children with disabilities and to address their special needs.

(e) Research, demonstration, and practice over the past 20 years in special education and related disciplines have built a foundation of knowledge on which State and local systemic-change activities can now be based.

(f) That research, demonstration, and practice in special education and related disciplines have demonstrated that an effective educational system now and in the future must—

(1) Maintain high academic standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that students who are children with disabilities have maximum opportunities to achieve those standards and goals;

(2) Create a system that fully addresses the needs of all students, including children with disabilities, by addressing the needs of children with

disabilities in carrying out educational reform activities;

(3) Clearly define, in measurable terms, the school and post-school results that children with disabilities are expected to achieve;

(4) Promote service integration, and the coordination of State and local education, social, health, mental health, and other services, in addressing the full range of student needs, particularly the needs of children with disabilities who require significant levels of support to maximize their participation and learning in school and the community;

(5) Ensure that children with disabilities are provided assistance and support in making transitions as described in section 674(b)(3)(C) of the Act;

(6) Promote comprehensive programs of professional development to ensure that the persons responsible for the education or a transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children;

(7) Disseminate to teachers and other personnel serving children with disabilities research-based knowledge about successful teaching practices and models and provide technical assistance to local educational agencies and schools on how to improve results for children with disabilities;

(8) Create school-based disciplinary strategies that will be used to reduce or eliminate the need to use suspension and expulsion as disciplinary options for children with disabilities;

(9) Establish placement-neutral funding formulas and cost-effective strategies for meeting the needs of children with disabilities; and (10) Involve individuals with disabilities and parents of children with disabilities in planning, implementing, and evaluating systemic-change activities and educational reforms.

(10) Involve individuals with disabilities and parents of children with disabilities in planning, implementing, and evaluating systemic-change activities and educational reforms.

Absolute Priority: Under section 653 and 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only those applications that meet this absolute priority.

This priority supports projects that assist State educational agencies and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

State Improvement Plan. Applicants must submit a State improvement plan that—

(a) Is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965 and the Rehabilitation Act of 1973, if appropriate;

(b) Identifies those critical aspects of early intervention, general education, and special education programs (including professional development, based on an assessment of State and local needs) that must be improved to enable children with disabilities to meet the goals established by the State under section 612(a)(16) of the Act. Specifically, applicants must include:

(1) An analysis of all information, reasonably available to the State educational agency, on the performance of children with disabilities in the State, including—

(i) Their performance on State assessments and other performance indicators established for all children, including drop-out rates and graduation rates;

(ii) Their participation in postsecondary education and employment; and

(iii) How their performance on the assessments and indicators compares to that of non-disabled children;

(2) An analysis of State and local needs for professional development for personnel to serve children with disabilities that includes, at a minimum:

(i) The number of personnel providing special education and related services; and

(ii) Relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals described in paragraph (b)(2)(i) with temporary certification), and on the extent of certification or retraining necessary to eliminate those shortages, that is based, to the maximum extent possible, on existing assessments of personnel needs;

(3) An analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities; and

(4) An analysis of other information, reasonably available to the State, on the effectiveness of the State's systems of early intervention, special education, and general education in meeting the needs of children with disabilities;

(c) Describes a partnership agreement that—

(1) Specifies—

(i) The nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

(ii) How those agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

(2) Is in effect for the period of the grant;

(d) Describes how grant funds will be used in undertaking the systemic-change activities, and the amount and nature of funds from any other sources, including funds under part B of the Act retained for use at the State level under sections 611(f) and 619(d) of the Act, that will be committed to the systemic-change activities;

Describes the strategies the State will use to address the needs identified under paragraph (b), including how it will—

(1) Change State policies and procedures to address systemic barriers to improving results for children with disabilities;

(2) Hold local educational agencies and schools accountable for educational progress of children with disabilities;

(3) Provide technical assistance to local educational agencies and schools to improve results for children with disabilities;

(4) Address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of children with disabilities, including a description of how it will—

(i) Prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities, including how the State will work with other States on common certification criteria;

(ii) Prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities;

(iii) Work with institutions of higher education and other entities that (on

both a pre-service and an in-service basis) prepare personnel who work with children with disabilities to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet State and local needs;

(iv) Work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation;

(v) Work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel;

(vi) Enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and others;

(vii) Acquire and disseminate, to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, and how the State, if appropriate, will adopt promising practices, materials, and technology;

(viii) Recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are underrepresented in the fields of regular education, special education, and related services;

(ix) Integrate its plan, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other Federal and State laws that address personnel recruitment and training; and

(x) Provide for the joint training of parents and special education, related services, and general education personnel;

(5) Address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel;

(6) Disseminate results of the local capacity-building and improvement projects funded under section 611(f)(4) of the Act;

(7) Address improving results for children with disabilities in the geographic areas of greatest need; and

(8) Assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective; and

(9) Coordinate its improvement strategies with public and private sector resources.

Required partners. Applicants must:

(a) Establish a partnership with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities; and

(b) Work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including—

(1) The Governor;

(2) Parents of children with disabilities;

(3) Parents of nondisabled children;

(4) Individuals with disabilities;

(5) Organizations representing individuals with disabilities and their parents, such as parent training and information centers;

(6) Community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

(7) The lead State agency for part C of the Act;

(8) General and special education teachers, and early intervention personnel;

(9) The State advisory panel established under part B of the Act;

(10) The State interagency coordinating council established under part C of the Act; and

(11) Institutions of higher education within the State.

Optional partners. A partnership established by applicants may include agencies such as—

(a) Individuals knowledgeable about vocational education;

(b) The State agency for higher education;

(c) The State vocational rehabilitation agency;

(d) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice; and (e) Other individuals.

Reporting procedures. Each State educational agency that receives a grant shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. The reports must describe the progress of the State in meeting the performance goals established under Section 612(a)(16) of the Act, analyze the effectiveness of the State's strategies in meeting those goals, and identify any changes in the strategies needed to improve its performance. Grantees must also provide information required under EDGAR at 34 CFR 80.40.

Use of funds. Each State educational agency that receives a State Improvement Grant under this program—

(a) May use grant funds to carry out any activities that are described in the State's application and that are consistent with the purpose of this program;

(b) Must, consistent with its partnership agreement established under the grant, award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State improvement plan;

(c) May award contracts and subgrants to other public and private entities, including the lead agency under part C of the Act, to carry out that plan;

(d)(1) Must use not less than 75 percent of the funds it receives under the grant for any fiscal year—

(i) To ensure that there are sufficient regular education, special education, and related services personnel who have the skills and knowledge necessary to meet the needs of children with disabilities and developmental goals of young children; or

(ii) To work with other States on common certification criteria; or

(2) Must use not less than 50 percent of those funds for these purposes, if the State demonstrates to the Secretary's satisfaction that it has the personnel described in paragraph (d)(1).

Selection Criteria: (1) The Secretary uses the following selection criteria in 34 CFR 75.210 to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(a) *Need for project.* (19 points).

The Secretary considers the need for the proposed project.

In determining the need for the project the Secretary considers the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Significance.* (19 points).

The Secretary considers the significance of the proposed project.

In determining the significance of the proposed project, the Secretary considers the likelihood that the proposed project will result in system change or improvement.

(c) *Quality of the project design.* (19 points).

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the

Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed activities constitute a coherent, sustained program of training in the field.

(iv) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(v) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(vi) 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.

(d) *Quality of project personnel.* (8 points).

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, 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.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel.

(ii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(e) *Adequacy of resources.* (8 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 factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(iii) The extent to which the budget is adequate to support the proposed project.

(iv) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(v) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

(f) *Quality of the management plan.* (8 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 factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) 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.

(g) *Quality of the project evaluation.* (19 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 are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(iii) 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.

(iv) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR Part 79.

One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. The addresses of individual State Single Point of Contact are in the Appendix to this notice.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.323A, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME **ADDRESS** AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Instructions for Transmittal of Applications: If an applicant wants to apply for a grant, the applicant must:

(1) Mail the original and six copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.323A), Washington, DC 20202–4725.

or

(2) Hand-deliver the original and six copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of

Education, Application Control Center, Attention: (CFDA# 84.323A), 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) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

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 suffix letter, if any, of the competition under which the application is being submitted.

Application Instructions and Forms: The appendix to this notice is divided into three parts, plus a statement regarding estimated public reporting burden, additional non-regulatory guidance, and various assurances, certifications, and required documentation. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions. The budget section of the application form requires all applicants for multi-year projects to provide detailed budget information for the total grant period requested. The Department will establish, at the time of initial award, the funding levels for each year of the grant award. By requesting detailed budget information in the initial application for the total grant period, the need for a formal noncompeting continuation application in the remaining years has been eliminated. A performance report will be required annually to determine substantial progress, rather than a non-competing continuation application.

Part III: Application Narrative.

Additional Materials

The following forms and other items must be included in the application: a. Estimated Public Reporting Burden.

b. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.

c. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

d. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014) and instructions. (NOTE: ED Form GCS–0014 is intended for the use of grantees and should not be transmitted to the Department.)

e. Certification of Eligibility for Federal Assistance in Certain Programs (ED 80–0016)

f. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. The document has been marked to reflect statutory changes. See the notice published by the Office of Management and Budget in the **Federal Register** (61 FR 1413) on (January 19, 1996).

g. Addresses of the individual State Single Point of Contact.

h. Table of Contents.

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. All applicants must submit *ONE* original signed application, including ink signatures on all forms and assurances, and THREE copies of the application. Please mark each application as ''original'' or ''copy''. No grant may be awarded unless a completed application has been received.

For Applications and General Information Contact: Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 400 Maryland Avenue, S.W., room 3317, Switzer Building, Washington, D.C. 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Individuals with disabilities may obtain a copy of this notice or the application packages referred to in this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above. 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

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of a document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/intex.html

Dated: August 11, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1820–0620. The time required to complete this information collection is estimated to average between 50–130 hours 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 time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651. If you have any comments or concerns regarding the status of your individual submission of this form, write directly to: Office of

Special Education Programs, U.S. Department of Education, 400 Independence Avenue, SW., Washington, D.C. 20202–2641.

Application Narrative

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Provide position descriptions, not resumes.

Budget

Budget line items must support the goals and objectives of the proposed project and be directly applicable to the program design and all other project components.

Final Application Preparation

Use the above checklist to verify that all items are addressed. Prepare one original with an original signature, and include three additional copies. Do not use elaborate bindings or covers. The application must be mailed to the Application Control Center (ACC) and postmarked by the deadline date of December 15, 1999.

Questions and Answers

Following is a series of questions and answers that will serve as guidance for State Educational Agency in completing the grant application for a State Improvement Grant (SIG) as authorized by the Individuals with Disabilities Education Act (IDEA). The questions were chosen to provide additional insight into the statutory requirements contained in the grant application. The questions were generated from a number of sources including parents of students with disabilities, Regional Resource Centers, the Federal Resource Center, State Directors of Special Education, State Educational Agency staff and staff from the Office of Special Education Programs.

Eligible Applicants

1. Who may apply for a State Improvement Grant?

A State Educational Agency of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).[1] (Sections 602(18), 602(27), 652(a), and 655(a)(1)(2)).

2. Can two or more SEAs apply jointly for a SIG?

No. A State applying for a State Improvement Grant shall submit an individual application. However, included in the application will be a description of how: (1) the State will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation; and (2) the State will work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel (Section 653(c)(3)(D)(iv) and (v)).

Partners

3. With whom is the State supposed to form partnerships and how are such partnerships structured?

Part D Subpart 1—State Program Improvement Grants for Children with Disabilities, Section 652 (b) describes three types of State partners. In order to be considered for a State Improvement Grant, a State educational agency must establish a partnership with individuals and organizations considered ''Required Partners.'' Required partners are made up of two subsets of partners—those called ''Contractual partners'' and those called ''Other partners.'' The SEA's contractual partners are local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities. These partners are called contractual because they must be parties to a formal ''partnership agreement'' that is explained further below in question four.

The ''other partners'' are individuals and organizations involved in, and concerned with, the education of children with disabilities, with whom the SEA must work in partnership to implement the State improvement grant. Other partners may be, but the SEA is not required to make them, parties to the formal partnership agreement. Those ''other partners'' must include the Governor; parents of children with disabilities; parents of nondisabled children; individuals with disabilities; organizations representing individuals with disabilities and their parents, such as parent training and information centers;[2] community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities; the lead State agency for Part C; general and special education teachers, and early intervention personnel; the State advisory panel established under Part B; the State interagency coordinating council established under Part C; and institutions of higher education (IHEs) within the State. The State is encouraged to only partner with those IHEs that are currently implementing or, based on the partnership Agreement, will develop and implement, training programs that are consistent with the principles of IDEA 97 (e.g., training that facilitates access to the general education curriculum; training that facilitates inclusionary practices; joint training of general educators, special educators and parents, where appropriate; training that targets pedagogical practices that focus on accommodating and modifying instruction to meet State standards). Based on the needs assessment, the State must focus at least 75% of the funds received under the State Improvement Grant on the professional development and training of regular education, special education, or related services personnel (only 50% of the funds must be used on professional development if the State can demonstrate to the Secretary that it has sufficient personnel; see question 13 for additional clarification). In order to ensure that the perspectives of school based staff are represented in the grant activities, the State is encouraged to incorporate into its partnership agreement and partnership activities, professional organizations that negotiate for and may represent school-based staff. In addition to required partners, the SEA, at its option, may include as partners individuals and organizations called Optional Partners. The SEA may include ''optional partners'' as parties to the formal partnership agreement or work in partnership with them, without them being parties to the partnership agreement. Those optional partners may include individuals knowledgeable about vocational education, the State agency for higher education, the State vocational rehabilitation agency, public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice and other individuals.

4. What is the partnership agreement and what must it include?

Each State Improvement Plan submitted with the State's application shall include a description of the partnership agreement entered into by the SEA with its contractual partners and with any ''other'' and ''optional''

[1] Unless otherwise noted, the term ''State'' refers to the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the outlying areas (United States Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands).

[2] States in which Community Parent Resource Centers are located are encouraged to include these organizations as ''other partners.''

partners who will be parties to the partnership agreement. As specified in the grant application package, the partnership agreement must specify the nature and extent of the partnership among the SEA, the LEAs, and other State agencies involved in, or concerned with, the education of children with disabilities. It must specify the respective roles of each member of the partnership in the implementation of the State improvement plan. The partnership agreement must also specify how the SEA, LEAs, and other State agencies identified above, will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities (these would be the ''other partners'' and any ''optional partners''), and must specify the respective roles of each of these persons and organizations (Section 53(c)(1)(B)). The partnership agreement must indicate that it is in effect for the period of the grant. The terms of the partnership agreement will determine whether the SEA will award subgrants or contracts to any of the partners listed in Section 654(a)(2)(A).

5. What is the connection between the partnership agreement and the SEA's use of funds?

The SEA shall, as appropriate, award contracts or subgrants to LEAs, IHEs, and parent training and information centers identified in the partnership agreement to carry out the State improvement plan. To carry out the State improvement plan, the SEA may also award contracts and subgrants to other public and private entities, including the lead agency under Part C and other agencies that are partners, as well as public and private entities that are not partners. It is anticipated that an SEA will need and desire the resources of other individuals and organizations to develop and implement all of the systemic change, technical assistance, in-service and pre-service training, dissemination and assessment activities designated in the State improvement plan. There is, however, no required amount of funds that must be used for contracts or subgrants (Section 654(a)(2)).

Funding Availability and Levels

6. What are the grant amounts to States?

The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is: (1) not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and (2) not less than $80,000, in the case of an outlying area (United States Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands (Section 655(a)). This means that the Department will reject and will not consider any application that proposes a budget that exceeds the maximum award amount or is less than the minimum award amount for any single budget period of 12 months.

7. How will decisions be made regarding the amount of funds that states will receive if approved for a State Improvement Grant?

The Secretary will set the amount of each grant, within the limits outlined in the response to question 6, after considering: (1) the relative population of the State; (2) the types of activities proposed by the State; and (3) the amount of funds available for making the grants (Section 655(c)). Using the same considerations, the Secretary funded successful applications for fiscal year 1998 at the following levels:

Vermont	$500,000
Utah	$578,551
New Hampshire	$600,000
Hawaii	$600,000
Idaho	$625,000
Iowa	$875,526
Kansas	$900,000
Kentucky	$1,000,000
Massachusetts	$1,009,000
Alabama	$1,025,000
Georgia	$1,060,000
Maryland	$1,095,000
Missouri	$1,145,000
Virginia	$1,240,000
Ohio	$1,320,000
Pennsylvania	$1,320,000
Michigan	$1,320,000
California	$1,840,000

8. How will the connection between grant amounts and ''need'' be determined?

As previously stated in the response to question 7, the Secretary shall set the amount of each grant after considering: (1) the relative population of the State; (2) the types of activities proposed by the State or outlying area; and (3) the amount of funds available for making the grants. ''Need'' will be determined through the quality of the needs assessment performed under Section 653(b) including: (i) an analysis of all information, reasonably available to the State educational agency, on the performance of children with disabilities in the State; (ii) an analysis of State and local needs for professional development for personnel to serve children with disabilities; (iii) an analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities; and (iv) an analysis of other information, for example, findings made by the Secretary's Office for Civil Rights, reasonably available to the State, on the effectiveness of the State's systems of early intervention, special education, and general education in meeting the needs of children with disabilities.

9. What will the Secretary consider in making an award on a competitive basis?

Using the selection criteria identified elsewhere in this application package, the Secretary expects to select for funding applications from States that demonstrate a need for improvement and effective strategies to meet those State needs. The application should show how the State plans to fulfill the purpose of the State Improvement Grant, which is to assist State educational agencies and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities. The Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews (Section 653(d)).

Improvement Strategies and Use of Funds

10. Can funds from the State Improvement Grants be distributed to LEAs on a competitive basis?

Yes. The statute does not provide a particular method for States to use when distributing State Improvement Grant funds to LEAs or other entities. When awarding and administering subgrants, under 34 CFR § 80.37(a), the State must follow state law and procedures. As long as the SEA's plan to contract or subgrant SIG funds is consistent with the partnership agreement and the funds are used to support the activities specified in the approved grant application, there is no statutory prohibition against the funds being distributed to LEAs on a competitive basis.

11. Can charter schools be involved as partners in the State Improvement Grant?

Yes. Charter schools are schools under contract—or charter—between a public agency and groups of parents, teachers, community leaders or others who want to create alternatives and choice within the public school system.

Charter schools can be involved as partners in the State Improvement Grant, either as an LEA or as part of an

existing LEA, consistent with the State charter schools law.

12. Does the ''service obligation'' apply to the use of State Improvement Grant funds if they are being used for scholarships?

No. The ''service obligation'' contained under the Personnel Preparation discretionary grant program provides that a recipient of a scholarship funded by the Personnel Preparation program under Section 673(b), (c), (e), and to the extent appropriate (d), shall subsequently perform work in the field in which they were trained or repay the cost of the financial assistance. The service obligation only applies to scholarships awarded under the Personnel Preparation program.

13. Can funds be used to prepare early intervention personnel?

Yes, but only in limited circumstances. Under Section 654(b)(1) a State educational agency that receives a grant shall use not less than 75 percent of the funds it receives under the grant for any fiscal year to work with other States on common certification criteria or to ensure that there are sufficient regular education, special education, and related services personnel who have the skills and knowledge necessary to meet the needs of children with disabilities and developmental goals of young children. This section ensures that based on the needs assessment, the State focuses at least 75% of the funds received under the State Improvement Grant on the professional development and training of regular education, special education, or related services personnel. Only 50% of the funds must be used on professional development if the State can demonstrate to the Secretary that it has sufficient personnel. Training that prepares personnel to deliver early intervention services that could not also be considered regular education, special education, or related services would not be a permissible use of the 75%, or 50% as the case may be, of the funds. However, it would be permissible for early intervention personnel to participate in training in those areas of special education and related services that would be useful to them, even if the training is funded using the 75% of the funds. There is no limitation on the use of the remaining 25% of the funds received under the SIG; it can be used to train personnel to provide early intervention services or for any other activity in an approved SIG.

14. How does a State demonstrate that it meets the requirement to use at least 75% (or 50% if applicable) of the grant funds for professional development?

States should structure the presentation of their budget so that the Department can easily determine that the State has met the 75% or 50% requirement as the case may be.

15. What is the relationship of the SIG to the State set aside under Part B?

In order to carry out the activities proposed in the State's SIG application, a State may choose to supplement the State Improvement Grant award with funds from the IDEA Part B State set aside (i.e., the portion of the IDEA, Part B grant awards retained for use by the SEA under Sections 611(f) and 619(d) of the Act for discretionary purposes).

16. Can funds from sources other than the SIG be used to support the required activities for awards under this program?

Yes. In addition to the SIG award, funds from other sources (e.g., other IDEA discretionary grants, Part B State set aside funds, preschool grants) may be used, so long as those activities are permissible under the funding statute and regulations to carry out any activities described in the State's SIG application. States may also use funds from private sources (e.g., foundations) to carry out activities described in the State's application. In its State Improvement Plan, the State must describe the amount and nature of funds from any other sources, including the Part B funds retained for use under Sections 611(f) and 619(d) of the Act and Part D discretionary funds that will be committed to the SIG program.

17. Can SIG funds be used for direct services to children with disabilities?

Yes. The statute does not forbid the use of SIG funds for direct services to children with disabilities; however, funding for these services must come from the 25% or 50% of the grant award, as the case may be, not obligated by statute to fund professional development activities or to work with other States on common certification criteria. In addition, the need for direct services must be one of the critical aspects of early intervention, general education and special education identified in the State's needs assessment. The direct services improvement strategy must be described in the State's application and be consistent with the purpose of the grant, which is to assist State educational agencies and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

Strategies Used to Address Identified Needs

18. Is interstate personnel preparation mandatory?

No. The State is required to describe how it will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within the State to justify support or development of such a program of preparation (Section 653(c)(3)(D)(iv)). If the State demonstrates, through its needs assessment, that there is sufficient demand within the State to support its own personnel preparation programs, then interstate collaborative agreements are not required.

19. Is training of general education personnel required?

Yes. In its application, the State is required to include a description of how the State will prepare general as well as special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities (Section 653(c)(3)(D)(i)).

20. Is training of parents required?

Yes. In its application, the State is required to include a description of how the State will provide for the joint training of parents and special education, related services, and general education personnel (Section 653(c)(3)(D)(x)).

Role of Regional Resource Center/ Technical Assistance and Dissemination Projects

21. What role can the Regional Resource Center (RRC) play in the development of the State Improvement Plan and grant application?

The RRC is encouraged to provide general technical assistance to States in the development of their State Improvement Plans. An RRC is funded to provide technical assistance and resources to all states within its region and must do so on an equitable basis across those States. Helping States improve their special education programs is the central mission of the RRCs and many State activities related to the State Improvement Grant program will be crucial in these improvement efforts. It would be inappropriate, however, for an RRC to help a State in drafting its grant application or even to provide technical assistance on strategies to improve the competitiveness of a State's application because it could be viewed as providing a competitive advantage to one potential applicant over another. On the other

hand, helping States, for example, with data analyses, needs assessments, and facilitating meetings concerning planning the States' improvement activities could be, except as noted above, a part of the RRC's technical assistance activities to the States in their region. RRCs can also assist States in their implementation of a State Improvement Grant once those grants are awarded.

22. Can the State use SIG funds to subcontract or contract with the University or entity in which the RRC is located to carry out SIG activities?

Yes. The State can use SIG funds to subgrant or contract with the University or entity in which the RRC is located to carry out SIG activities. However, the University or other entity would need to ensure that personnel time and other resources covered by the RRC's cooperative agreement with the Department are not used to work on SIG activities performed under such a subgrant or contract and that work done under such other subcontract or contract is not represented as being performed as part of the cooperative agreement with the Department of Education.

23. Can Technical Assistance and Dissemination (TA&D) projects funded by OSEP play a role in SIG activities?

Similarly to RRCs, TA&D projects funded by OSEP must ensure that the services they provide are fairly and evenhandedly available to their respective audience (under the terms of their OSEP funding agreement/grant/ contract) in all States, that the proposed SIG activity is permissible under the terms of the particular Project's funding agreement/ grant/contract/ with OSEP and that Projects do not accept SIG funds under contract or grant with an SEA for activities they are currently receiving Federal funds to provide. In addition, TA&D projects, like the RRCs, should not engage in activities that could be seen as providing a competitive advantage to any one State over others in the SIG competition.

Relationship between State Improvement Plan and other Federal Statutes and Requirements

24. What is the link between the Comprehensive System of Personnel Development (CSPD) and the SIG? What are the similarities and differences?

The requirements for a CSPD as amended by IDEA 97 must be implemented by July 1, 1998 regardless of whether or not a State receives a SIG. Under Section 612(a)(14) of IDEA, in order to be eligible for funding under Part B, a State must have in effect a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education, regular education, related services, and early intervention personnel and that meets the requirements contained in the personnel development sections of the State Improvement Plan addressing needs assessment and improvement strategies. It is intended that the CSPD meet the SIG personnel development requirements so that it may serve as the framework for the State's personnel development part of a SIG grant application.

25. To what extent does this plan have to be linked to the Elementary and Secondary Education Act of 1965 (ESEA) and the Rehabilitation Act of 1973?

To the ''maximum extent possible'' State Improvement Plans must be linked to State plans under ESEA and the Rehabilitation Act of 1973. The IDEA Amendments of 1997 emphasize that children with disabilities have access to the general curriculum and general educational reforms. Although the legislation does not mention integration with any other state plans under any other Federal statute, because the State Improvement Plan is focused on systems change for students with disabilities, integration with relevant state plans or projects would be beneficial (Section 653(a)(2)(A)).

26. What is the relationship between the performance goals and indicators a State must have to be eligible for Part B and the State Improvement Plan?

Under Part B (612(a)(16)), in order to be eligible to receive financial assistance under Part B, the State must have in place by July 1, 1998 performance goals for children with disabilities that must promote the purposes of the IDEA and be consistent, to the maximum extent appropriate, with other goals and standards developed for children established by the State and performance indicators to assess progress toward achieving those goals. A State must have developed those performance goals and indicators in order to apply for a State Improvement Grant because in conducting the needs assessment required as part of its application, the State shall identify those critical aspects of early intervention, general education, and special education programs that must be improved to enable children with disabilities to meet the performance goals and indicators established by the State for the performance of children with disabilities under Section 612(a)(16). In submitting the required SIG performance reports to the Secretary under Section 653(f), the State shall describe the progress of the State in meeting the performance goals established under section 612(a)(16), analyze the effectiveness of the State's strategies in meeting those goals, and identify any changes in the strategies needed to improve its performance.

Monitoring and Corrective Action Plans

27. How is the State Improvement Grant aligned with Federal compliance reviews?

There are three areas in which the State Improvement Grant aligns with Federal compliance reviews. First, the State improvement plan must include an analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities (Section 653(b)(2)(C)). The second is that the State improvement plan must include a description of strategies that will address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel (Section 653(c)(3)(E). The third area of alignment with monitoring is that in determining competitive awards the Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews (Section 653(d)(2)).

28. Can the State Improvement Grant funds be used to address deficiencies identified in Federal compliance reviews?

Yes, if the activities to address the deficiencies are consistent with the purposes of the grant and described in the State's application. If, for example, a Federal compliance review identified that a personnel shortage impacted on the provision of a free appropriate public education to students with disabilities, then it would be consistent with the purposes of the grant to use grant funds to address the personnel shortage.

Applications, Length of Awards, and Reapplication

29. Can the first grant be written as a planning grant?

No. The purpose of the SIG program is to assist State educational agencies, and their partners referred to in Section 652(b), in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities. In order to be funded a State must include in its application improvement strategies that were developed to address State and local needs identified in the State needs

assessment. The purpose of the needs assessment is to provide the necessary information to facilitate the development of a State improvement plan that identifies those critical aspects of early intervention, general education, and special education programs that must be improved to enable children with disabilities to meet the goals established by the State under Section 612(a)(16). In conjunction with the needs assessment, the improvement strategies (Section 653(c)) subsumed in the State Improvement Plan constitute the State's plan for the use of SIG funds.

30. What grant period can a State request in its initial application?

A state may request a grant of from one to five years. However, the Secretary may award a grant that is shorter than the state requests, but not less than one year, if the state's application does not sufficiently justify the full requested duration.

31. If a project is funded for less than five years, can it be extended later?

No, with the exception of relatively short ''no-cost'' extensions that are sometimes given to allow the completion of project activities. These extensions do not award new funds or approve new activities.

32. After a state completes one State Program Improvement Grant, can it apply for another? If so, will it compete against all applicants or only against other states that have received previous grants?

Yes, a state can apply for another SIG after it completes one. It will be in competition with all applicants, not just those with previous grants. The Secretary may give priority to applications on the basis of need (Section 653(d)(2)).

33. If a state applies unsuccessfully in one year, will it be able to apply again?

Yes.

34. Will a project be approved and funded all at once or a year at a time?

At the time of the initial grant award, the project duration of one to five years will be determined and budgets for all years of the grant will be established. However, funds can only be awarded one year at a time. States receiving multi-year grants will submit annual performance reports to demonstrate that their grants are making ''substantial progress.'' Funding for project years after the first will be based, in part, on these reports. This is not part of the competitive process of awarding funds, and it is expected that funding will be continued each year for the duration of the project, provided that substantial progress is demonstrated and that Congress continues to fund the program.

35. Does funding have to be the same for all years of the project?

No, but cannot exceed $2 million or be less than $500,000.

BILLING CODE 4000–01–P

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
   - B County
   - C Municipal
   - D Township
   - E Interstate
   - F Intermunicipal
   - G Special District
   - H Independent School District
   - I Public College or University
   - J Private, Non-Profit College or University
   - K Indian Tribe
   - L Individual
   - M Private, Profit-Making Organization
   - N Other *(Specify)*: _____
7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:
   - *—PreApplication*
     - ☐ Construction
     - ☐ Non-Construction
   - *—Application*
     - ☐ 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.

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

[FR Doc. 99–21301 Filed 8–17–99; 8:45 am]
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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.

S. 1543/P.L. 106–47

To amend the Agricultural Adjustment Act of 1938 to release and protect the release of tobacco production and marketing information. (Aug. 13, 1999; 113 Stat. 228)

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